

Municipal Research News

Spring 2006

Municipal Research and Services Center of Washington

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Ethics in Government *Should I Tattle?*

What should an official do if he or she believes a colleague has committed an unethical (or maybe even a criminal) act? Do you confront the person? Go to the press? Look the other way?

Eight suggestions on how to proceed are offered in an article "Navigating the Perils of Public Service."¹ Here is a summary of the article's suggestions, followed by a table outlining some of the more common ways an official can get into trouble and the consequences or penalties if he or she does so.

So, what should you do?

1. **Pause and consider what your motives are.** Is the desire to report an actual or perceived violation rooted in improving the public's view of government or to aid the agency's operation, or is it based upon seeking personal or political advantage? If a violation of law is suspected, is the violation significant, with serious consequences, or is it more a technical violation, with little or no real impact. If the moving force behind the

concern is personal or political, or if the ethics violation is relatively inconsequential, it may be better to delay, if not forgo, action.

2. **Determine what the ethical or criminal violation is.** Laws, whether adopted locally or by the state or federal government, dictate what a person *must* do or not do. Ethics involve what people *should* do, based upon community values; they may be encapsulated in laws, but do not necessarily need to be. Sometimes a violation will be clear, other times it is not so clear, especially if there are competing standards.

Some cities and counties have adopted local codes of ethics for their officials. If your community has, refer to those standards to determine what the suspected violation is.

3. **What happens if you don't act? Or if you do?** The chart on page 4-5 outlines some of the possible consequences if violations are reported, investigated, found to be true, and punished. Merely reporting a suspected transgression, though, may itself result in consequences beyond those provided by law or official policy; they may create negative press, personal embarrassment, strained relations, the need for and cost of legal counsel, and an impact on future elections. Before proceeding, one should

¹The August and September 2005 issues of the League of California Cities publication, *Western City*, presented an excellent two-part article, "Navigating the Perils of Public Service." The article, which discusses ethics in government, provides information on what an official should do if he or she believes another official is performing in an unethical manner. This article is inspired by the *Western City* article and draws upon its suggestions as to how one should proceed, if wrongdoing is suspected.

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weigh the harm associated with the offending action with the consequences likely to occur if the action is reported or not.

4. **Speak with others to determine whether they share your concerns, or whether you are acting alone.**

Gain a better idea about what is going on and whether the suspect action is in fact unethical or unlawful. A colleague, supervisor, human resources person, or legal counsel (city, town, or prosecuting attorney) may be able to provide perspective and, if necessary, correct any misperceptions that may exist as to whether there actually is an ethics breach or other problem.

5. **Discuss the issue with the person involved.**

If you, or someone on your behalf, talks to the person involved, it may be possible to either stop an on-going violation or prevent one from occurring in the future. Try to find out why the person has decided to engage in inappropriate or unlawful behavior. Has the person thought his or her decision through, and, in doing so, is logic being applied, or is the person merely supplying unjustifiable excuses for taking the action? And has the person considered the legal, ethical, personal, and operational consequences of the action? Given the potential consequences, can the person be persuaded to alter or forgo his or her questionable behavior? Depending upon the answers, you can then better assess how to proceed.

6. **Does it make sense to conduct an internal investigation?**

If there is any doubt about the ethics or legality of the behavior involved, an internal investigation might help confirm or deny those doubts. An internal investigation may allow the city or county an opportunity to react to the conduct. If the suspect activity is merely a violation of an internal rule or policy, an internal

investigation may allow an easy resolution. However, if there has been a violation of law, the prosecuting, city, or town attorney should be contacted to see if an internal investigation would be useful or counterproductive. If there is an investigation, findings should be prepared and a course of action outlined.

7. **Should external enforcement authorities be contacted?**

If it is determined that additional, external assistance or enforcement is required, there are a variety of persons or agencies that can be contacted, depending upon the nature of the suspected violation. For example, the county prosecutor can be contacted if there is a suspected violation of state law. The Public Disclosure Commission could be contacted if there is a campaign violation. The state auditor and attorney general might intervene if a conflict of interest is alleged, or there is an open meetings violation. A private action could be begun if recall is sought or if records have been improperly withheld. While the press could be contacted, they may not be the best place to start if an investigation is needed or corrective action is sought.

8. **What can be done to prevent the behavior from happening again?**

Education may be the key to correcting or preventing inappropriate behavior, and there are agencies prepared to help, if asked. The Public Disclosure Commission provides detailed information on campaign laws, and it will offer opinions on issues, if asked. The attorney general's office has recently issued model rules to help local governments comply with public disclosure requests. Agency attorneys can be consulted for information on how to identify and comply with laws and procedures affecting government operation. The city and county associations, including the Municipal Research

and Services Center, can provide training and materials to help officials live within the law and promote public trust in government.

Whether suspected illegal or unethical behavior exists and, if so, what to do about it, are not easy issues. Analyzing the acts and their consequences, though, may help assure a positive result, with improved behavior, less embarrassment, and improved public trust.

By Paul Sullivan, Legal Consultant
Municipal Research and Services Center

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The following chart details some of the state laws that establish rules for local officers and the consequences if the rules are violated.

Prohibition against Interests in Contracts (Chapter 42.23 RCW)

Acts prohibited With certain exceptions, no municipal officer may be beneficially interested, directly or indirectly, in any contract which may be made by, through, or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person beneficially interested in the contract. RCW 42.23.030.

Penalties Five hundred dollars, in addition to such other civil or criminal liability or penalty that might otherwise be imposed upon the officer by law. RCW 42.23.050.

Forfeiture of office A violation may be grounds for forfeiture of office. RCW 42.23.050.

Effect on Contract The contract is void, which may mean that the contracting jurisdiction will not be required to pay for the goods and services covered by the contract. RCW 42.23.050.

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Personal Use of Public Resources (Article 8, section 7 of state constitution)

Acts prohibited No officer or employee of a municipality may receive property or services, or a loan of money or credit, from the municipality for personal use without providing equivalent consideration to the municipality, unless the receipt was made for the necessary support of the poor and infirm.

Must recover value Personal use of public property or services constitutes a gift and is a violation of the state constitution; the jurisdiction from which the "gift" was taken may (and likely must) recover the value of the property or service given. See *Tacoma v. Lillis*, 4 Wash. 797 (1892), and *Hillyard v. Collier*, 133 Wash. 249 (1925).

Crime Improper use, dependent upon the facts, could also be classified as a theft of goods or services, a crime punishable upon conviction as a misdemeanor or felony, based upon the value of the goods or services involved. See RCW 9A.56.030-.050.

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Use of Office or Facilities for Political Campaign (RCW 42.17.130)

Acts prohibited Except in certain qualifying situations, no elected or appointed official or employee of a government agency may use agency or office facilities (such as postage, machines, vehicles, work time) to, directly or indirectly, assist a campaign for election or promote or oppose any ballot proposition. RCW 42.17.130.

Penalties A person who makes improper use of a facility may be subject to a civil penalty of not more than \$10,000 for each violation. RCW 42.17.390(3). In addition, a court may require payment of costs, including those for the investigation and trial, and reasonable attorney fees. If the violation is found to have been intentional, the judgment, which includes the costs, may be trebled. RCW 42.17.400(5).

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Open Public Meetings Act (Chapter 42.30 RCW)

Act's requirements All meetings of a governing body of a public agency are to be open and public and all persons permitted to attend any meeting of the governing body, except as otherwise provided by law (e.g., during executive sessions). RCW 42.30.030.

Effect on action Any action taken at a meeting that is not in compliance with the Open Public Meetings Act is null and void. RCW 42.30.060(1).

Personal Liability Any official who attends a meeting held in violation of the Open Public Meetings Act, if he or she has knowledge that the meeting is in violation of the Act, is subject to personal liability for a civil penalty of \$100. RCW 42.30.120(1). The penalty is assessed by a superior court judge in an action that may be brought by any person. There is no criminal penalty for a violation.

Recall If an elected official has knowledge that a meeting is being conducted in violation of the Open Public Meetings Act, he or she may be subject to recall for malfeasance. See *Bocek v. Bayley*, 81 Wn.2d 831 (1973), overruled on other grounds, *Cole v. Webster*, 103 Wn. 2d 280 (1984) See, also, *In re Recall of Anderson*, 131 Wn.2d 92 (1997).

Costs and attorney fees A person who prevails against a public agency in an action may be awarded all costs, including reasonable attorney fees, incurred in connection with the legal action. RCW 42.30.1120(2).

Mandamus/injunction In order to prevent a violation of the Open Public Meetings Act, a person may file a lawsuit in superior court to either mandate (require) that action be taken or enjoin (prevent) an action from taking place. RCW 42.30.130.

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Public Records (RCW 42.17.250-.348)

Act's requirements Unless a record is exempt or its release is prohibited, a municipality must make its records available for public inspection or copying. RCW 42.17.260.

Penalty and costs If a person is improperly denied the opportunity to inspect or copy a public record, and a court action is pursued, the court may require the agency involved to pay the costs incurred in the litigation, including reasonable attorney fees, plus an amount not less than five dollars nor more than \$100 for each day the record was improperly withheld. RCW 42.17.340(4).

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Statutory Ethics Provisions (RCW 42.23.070)

Acts prohibited No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others. No municipal officer may, directly or indirectly, give or receive, or agree to receive, any compensation, gift, reward, or gratuity from a source, except the employing municipality, for a matter connected with or related to the officer's services as such an officer, unless otherwise provided for by law. No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her, by reason of his or her official position, to disclose confidential information acquired by reason of his or her official position. And no municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit. RCW 42.23.070.

Penalties Five hundred dollars, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon the officer by law. RCW 42.23.050.

Forfeiture of office A violation may be grounds for forfeiture of office. RCW 42.23.050.

Crime Depending upon the type of action alleged, an officer could be charged with a crime. Bribery is a class B felony; requesting unlawful compensation, receiving or granting unlawful compensation is a class C felony, as is trading in public office or trading in special influence. RCW 9A.68.010-.050. The maximum penalty for a class B felony is a prison term of ten years, or a \$20,000 fine, or both; a class C felony is punishable by a prison term of five years, or a \$10,000 fine, or both. RCW 9A.20.021(1).

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Misconduct in Office (Article 1, sections 33-34 of state constitution; RCW 29A.56.110)

Recall An elective public official is subject to possible recall and removal from office, if he or she commits an act of misfeasance or malfeasance while in office, or if he or she violates the oath of office. RCW 29A.56.110.

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Election Law Violations (Chapter 29A.68 RCW)

Election contest Any registered voter may contest the right of a person declared elected to an office to be issued a certificate of election for, among other things, the following reasons: the person is ineligible for office; the person was convicted of a felony; the person has given a bribe; or more than one vote was cast by a single voter. RCW 29A.68.020.

Quo Warranto A *quo warranto* action can be begun to determine whether a person has a right to public office. *Green Mountain School Dist. No. 103 v. Durkee*, 56 Wn.2d 154, 159 (1960).

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Whistleblower Protection (Chapter 42.41 RCW)

Whistleblowers are protected It is unlawful for a governmental official or employee to take retaliatory action against an employee because the employee provided information that an improper governmental action occurred. RCW 42.41.040(1).

Penalty If there has been retaliation, an administrative law judge may reinstate the employee, with or without back pay, provide injunctive relief to return the employee to the position he or she held before the retaliatory action, and, to prevent any recurrence, award costs and reasonable attorney fees. In addition, a personal civil penalty may be imposed of up to \$3,000, payable to each person found to have been retaliated against. RCW 42.41.040(7) and (8). The judge may also recommend that the retaliator be suspended, with or without pay, or dismissed.

ASK MRSC

Summaries of recent inquiries answered by MRSC consultants

Disclosing GIS Data – May a city or county charge the public for its cost in preparing GIS maps?

If the maps have already been prepared and it is just a matter of providing copies, then only copying costs could be charged. If the city or county must prepare maps from data specifically for a request, the city or county can charge the public the actual cost of preparation, including staff time, because it is creating a record. If the city or county has to pay for additional materials, such as orthophotography, to respond to the request, then these costs could also be passed on to the person making the request. However, if these materials were needed by the city or county for general development of the GIS rather than for the specific requestor, then the costs could not be passed on.

Even if the requestor intends to market the GIS data to others for a profit, this is not a basis for denying disclosure. Any person or any entity can request GIS data as a public record, and the city or county must provide it. The city or county can charge copying costs and this is not limited to fifteen cents a page since it is clear that there are higher costs for copying these kinds of records. But the limitations on charges in the public records law do still apply.

We are not aware of any cases on point as to the issue of charging costs, but in a superior court case, *Drummond v. Bellevue*, King County Docket No. 93-2-22537-7, the court concluded that a GIS record is not protected by the Trade Secrets Act in RCW 19.108.010(4) or the exemption from disclosure in RCW 42.17.310(1)(h). It was held to be a public record fully available to the public. Although the case is not binding precedent in other courts, the same conclusion is likely if the issue were litigated elsewhere.

Mileage Reimbursement Rate – What is the maximum mileage reimbursement rate for 2006?

Effective January 1, 2006, the federal (and Washington State) mileage reimbursement rate for privately owned vehicles is \$0.445 per mile.

This reimbursement rate is the maximum that can be reimbursed as non-taxable. The rate of reimbursement does not have to conform to the state rate, and local governments may set lower rates. Many cities do use the same rate of reimbursement as the state. Also note that the federal reimbursement rate was higher in September - December 2005; but since gasoline prices are now lower, the rate has been adjusted downward for 2006.

Prevailing Wage – Is there an exemption from prevailing wage requirements for handicapped workers?

Yes. There is an exception on an individual employee basis, upon application to the Washington State Department of Labor & Industries. RCW 39.12.022 states:

The director of the department of labor and industries, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations provide for the employment of individuals whose earning capacity is impaired by physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the prevailing rate applicable under RCW 39.12.020 and for such period as shall be fixed in such certificates.

Labor & Industries has issued regulations in WAC 296-127-400 through 296-127-460, which deal with the issuing of

such special certificates. See also “Application for Special Certificate to Employ a Vocationally Handicapped Worker at a Subprevailing Wage Rate” on the Department of Labor & Industries Website at <http://www.lni.wa.gov/Forms/pdf/700122af.pdf>.

Surplus Real Property – May a county sell surplus real property to another municipal corporation on a real estate contract?

We have opined in the past that a city may sell its property under a real estate contract, without running afoul of the lending of money or credit prohibition in article 8, section 7 of the state constitution. We are not aware of any reason why the same reasoning would not apply to a county. The important factor here is that the county charge sufficient interest. See AGO 1978 No. 13, Question #2.

In this case, since the purchaser is a public entity, the prohibition in article 8, section 7 does not even come into play, because that prohibition does not apply to gifts or lending of money or credit to another governmental entity. *Anderson v. O'Brien*, 84 Wn.2d 64 (1974); *Rands v. Clark County*, 79 Wash. 152 (1914).

Also, note RCW 39.33.010, which authorizes intergovernmental transfers of property “on such terms and conditions as may be mutually agreed upon.” That statutory authorization is, however, tempered somewhat by RCW 43.09.210. See AGO 1997 No. 5. As long as the county would be receiving “full value” for the property here, RCW 43.09.210 would not present a problem.

Lastly, note RCW 39.30.010, which authorizes a county to enter into an “executory conditional sales contract” for the purchase of real or personal property with another governmental entity or private party, as long as “the entire

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Staff Meetings – Friend or Foe?

The following article was taken from the “HR Advisor” column appearing regularly on the MRSC Website.

What follows is an all too familiar scenario that may be occurring somewhere in your own organization.

A workgroup has become engaged in on-going conflict, disagreement, and strained communications. In staff meetings, employees take the opportunity to be disrespectful of each others’ ideas, make snide comments, argue, or simply won’t communicate with each other at all. As a result, the last thing that employees want to do is attend or participate in a staff or team meeting. The supervisor breaks out in a cold sweat if the subject of a staff meeting is even mentioned. As a result, the weekly staff meeting is often cancelled several times a month and eventually disappears altogether.

While eliminating staff meetings might seem like the best quick fix solution, doing so usually increases the problems in the workgroup, rather than calming them down. In most instances, the decision to eliminate staff meetings or conduct them intermittently causes the existing negativity and dysfunctionality within the workgroup to increase and spread throughout the entire work unit and sometimes the organization.

Why should it matter if there are staff meetings? In the absence of regular face to face communications with employees about workplace issues, employees are left to create their own reality. As a result, in a workgroup that is already suffering from dysfunctionality, employees begin to participate in gossip, speculation, and rumor to fill in the void. Although gossip, rumor, and speculation are often very painful and personally damaging, it quickly becomes the usual form of communications for the workgroup. As the gossip, rumors, and speculations increase, conflicts inevitably result as employees become offended by the latest rumor being spread about them and in turn retaliate. In addition, negativity increases as employees

respond in fear to workplace rumors that oftentimes have very little basis in truth.

Thus, the main purpose of the staff meeting is to provide accurate and up-to-date communications to your employees and to shut down unsubstantiated rumors, gossip, and speculation about workplace issues. In addition,

staff meetings provide a forum for employees to share their perspectives about changes that may be occurring in the workplace in a controlled environment, as opposed to having employees act out their reaction to the change in a negative fashion in the workplace.

At a minimum, staff meetings should focus on the following topics:

- Information about policies and procedures, especially if a change has occurred. Even if there are no new policies and procedures, however, the supervisor should take the opportunity to focus on one high risk policy per month, such as discrimination, harassment, whistleblowing, ethics, use of city equipment, workplace expectations, etc. and allow employees to ask questions. Employees routinely share with us that they appreciate these policy discussions in staff meetings as it increases their comfort level regarding what is expected of them.
- Changes in priorities and/or recent developments in what work needs to be performed that may directly or indirectly impact the employees; e.g., new building acquisitions, new hires. Sometimes supervisors are afraid to share this information because they only have small pieces of the information, not all of it. They know that employees will have questions that they don’t have the answers for, and therefore decide it is easier not to talk about the changes at all. Resist that temptation. Let employees know up-front that you do not yet have all the

information, but wanted to share with them what you do know so that everyone can be on the same page. Assure employees you will share more information as it becomes available. Acknowledge that you have questions too and that you will be doing your best to get the answers. Then meet that commitment by sharing additional information as it does become available.

- Any changes in personnel assignments and/or budget revisions.
- Reinforcement of goals and objectives as well as the progress in accomplishing the prior goals and objectives. Discussing progress helps employees recognize that they are working together to achieve the common goals and objectives, which often gives them a sense of pride and shuts down that feeling that nothing ever really happens in the workplace.

At first, if employees are not comfortable with each other and/or the supervisor, they may not respond to the information being shared by the supervisor. This can be painful for the supervisor (it can feel like paint dries faster) as it can feel like you are talking to an empty room. Do not be discouraged. The time you take to share the information, even if it appears employees are not responding, is still more effective than the time you are spending chasing down the rumors and gossip. In addition, as employees begin to see that you are making a true effort to improve staff meetings and make them more meaningful, they are more likely to start participating.

There are many techniques supervisors can use to try and make the meetings flow better, be more systematic and remain respectful.

To keep the meeting progressing, prepare an agenda well in advance of the meeting. Permit employees to submit topics for the meeting, and once the

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Staff Meetings continued from page 7

agenda has been published make clear that no other topics can be brought up during the meeting. The use of an agenda reduces the chaos that occurs when the meeting is not formatted. In addition, a closed agenda reduces the chance of the meeting being sabotaged by random and undirected questioning.

In order to encourage more participation, consider assigning tasks, reports, learning opportunities, and the oversight of the meeting progression to different staff members. Rotate the assignments throughout the staff until everyone on the staff has contributed.

Finally, to keep communications respectful, the workgroup may benefit from having a set of guidelines for how attendees will treat each other during the meeting. The following suggested guidelines, if enforced, will assist in keeping the meeting focused and respectful:

- Respect each other and the speakers by arriving at the meeting on time;
- Arrive at the meeting prepared to focus on the information and conversation being offered;
- Be respectful of others and don't engage in side bar conversations with a colleague;
- Speak as an individual using "I" when making reference to your perspective;
- Speak to the idea being offered by the individual without criticizing the individual offering the idea
- If emotions become heated, set the topic aside for further discussion later on. In this case, be sure to report back to the larger group the outcome of the later discussion.

With a little work staff meetings can be a very positive experience for everyone and no longer a dreaded task.▶

By Janice Corbin and Janet May
Sound Employment Solutions, LLC

Janet May is an attorney with over 15 years of experience in the labor and employment law field, and has represented both management and labor.

Janice Corbin has over 20 years of human resources experience with the Seattle Police Department and the International Harvester Truck Company. She has worked in the law enforcement field for over 22 years.

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amount of the purchase price specified in such contract does not result in a total indebtedness in excess of . . . the maximum amount of nonvoter-approved indebtedness authorized in such county." Our understanding is that a real estate contract is a form of executory conditional sales contract. See AGO 51-53 No. 336.

Traffic Cameras – Can traffic cameras be used to enforce speed limits in residential areas?

Traffic safety cameras can be used to enforce speed limitations in school zones but not in other areas of the city. The cameras can also be used to enforce stoplight and railroad crossing violations.

The legislation passed in 2005 (Chapter 167, Laws of 2005) is fairly restrictive. See RCW 46.63.170 which reads, in part, as follows:

Traffic safety cameras.

(1) The use of automated traffic safety cameras for issuance of notices of infraction is subject to the following requirements:

(a) The appropriate local legislative authority must first enact an ordinance allowing for their use to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations. At a minimum, the local ordinance must contain the restrictions described in this

section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance.

(b) Use of automated traffic safety cameras is restricted to two-arterial intersections, railroad crossings, and school speed zones only.▶

How to "Ask MRSC." Assistance from MRSC may be obtained by **Phone** (206) 625-1300 or 1-800-933-6772 for long-distance calls; **Letter** 2601 4th Avenue, Suite 800, Seattle, WA, 98121-1280; **Fax** (206) 625-1220; or **E-mail** mrsc@mrsc.org. Telephone inquiry service is available from 8:00 a.m. to 5:00 p.m. If a consultant is not immediately available, you can record a detailed request on voice mail 24-hours a day, and a staff member will call back as soon as possible.

HEADS UP

Emerging information for local government

Think Spring

Spring brings a city to life. Residents begin the tradition of spring cleaning of homes and yards. Many local governments organize city clean-up days that include public grounds. Streets become adorned with flower baskets and banners, public markets open, annual street fairs begin, and the ever present yard sales multiply. If you need assistance with developing policies, or are seeking ideas related to "spring activities," check out these MRSC Web pages:

- Garage and Yard Sales <http://www.mrsc.org/subjects/legal/garage.aspx>
- Public Markets <http://www.mrsc.org/Subjects/Econ/ed-farmmarket.aspx>
- City Clean Up <http://www.mrsc.org/Subjects/Legal/nuisances/nu-property.aspx>
- Street Banners <http://www.mrsc.org/subjects/pubworks/strbanners.aspx>
- Street Beautification <http://www.mrsc.org/subjects/planning/streetscape.aspx>
- Street Fairs <http://www.mrsc.org/subjects/pubworks/fairs.aspx>

Advanced Energy Initiatives

The President's State of the Union address highlighted the Advanced Energy Initiative, which includes changing the way we fuel our vehicles. See <http://www.whitehouse.gov/stateoftheunion/2006/energy/#section3>

Around Chelan County, a number of organizations, including Wenatchee Valley College, Washington State University, and Chelan County Public Utility District, are partnering in an Advanced Vehicle Initiative (AVI) for North Central Washington. The goal is to establish the region as a center for research and design, production prototype testing, training, demonstrations, and maintenance and manufacturing activities for advanced

vehicles and fuels. The Port of Chelan County's economic development director, Ron Johnston-Rodriguez, envisions the county as a home for testing programs and for transforming the Wenatchee area into a community that is less dependent on gasoline with better air quality. The partnering AVI organizations see a future in the hybrid car industry, with a part of that future thriving in the Wenatchee area. For more information see the AVI Website at <http://www.ncwctc.com/205.html>.

Exploring Electric Car Use in the San Juan Islands

San Juan County citizens have urged the county council to make provisions for using Neighborhood Electric Vehicles (NEV) on public roads around the islands. The San Juan County Council decided in February to explore policies and possible legislation that would allow the vehicles to be operated on some of the county roads.

In 2003, the legislature provided that licensed NEVs may be driven on roads in Washington with posted speed limits of 35 mph or less. NEVs cannot cross any road with a speed greater than 35 mph, unless that crossing begins and ends on a road with a speed of 35 mph or less and occurs at an intersection of approximately ninety degrees. Local authorities may not authorize the operation of NEVs on streets and highways that are part of the state highway system subject to the provisions of Title 47 RCW (RCW 46.61.725).

What is the \$ Value of Trees

An article in the Winter 2006 *Planning Commissioner Journal* reports on a study done by American Forests for Garland, Texas that estimated the city's existing canopy of trees to be worth \$5.3 million per year. The tree canopy covers 10.6 percent of the city's surface area.

This article prompted a Web search on the dollar value of trees to a community. Here are a few other randomly selected statistics:

- Each urban tree with a 50-year lifespan provides an estimated \$273 a year in reduced costs for air conditioning, erosion control, stormwater control, air pollution, and wildlife shelter. (Source: city of Portland, Oregon)
- Every 1,000 urban trees we plant in the Northwest today will save our region more than a million dollars in stormwater management, pollution abatement, and energy costs. (Source: Center for Urban Forest Research, Davis, California) (The above two statistics appear on "Tree Facts" on the Friends of Trees Website at http://www.friendsoftrees.org/tree_resources/facts.php.)
- In the Puget Sound region, trees remove 78 million pounds of pollutants per year. This represents a value of \$19.5 million if the air were cleaned by industrial means. (See "Greenbacks in the Greenery: Never forget the economic value of trees, parks and open spaces," by Catherine Benotto, Weber + Thompson, DJC, April 18, 2002, at <http://www.djc.com/news/en/11132516.html>.)

The American Forests, a nonprofit citizens' conservation organization, provides information and resources to measure a region's or city's tree canopy and calculate its dollar worth. The Regional Ecosystem Analysis, a process developed by American Forests, uses a combination of satellite data, field surveys, CITYgreen software, and other Geographic Information Systems technology. For further information see its Urban Forests page at <http://www.americanforests.org/resources/urbanforests/>.

A section on measuring the value of trees has been added to the MRSC "Urban Forestry" Web page at

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<http://www.mrsc.org/Subjects/Environment/urbanforest/benetrees.aspx>.

Creating Rain Gardens

Rain gardens offer a low-impact solution for dealing with stormwater runoff, both for local governments and individual property owners. A rain garden intercepts and infiltrates stormwater on the site. The garden is planted with appropriate native plants that absorb stormwater run-off. For ideas, here are some Web pages to view:

Rain Gardens of West Michigan (Grand Rapids) - An environmental education program focused on stormwater education and on the value of using rain gardens and native plants in the landscape to improve urban and suburban water quality. <http://www.raingardens.org/Index.php>

10,000 Rain Gardens (Kansas City) - This is an initiative calling upon the creativity of citizens, corporations, educators, and non-profit organizations to join with government to voluntarily reduce the amount of runoff that pollutes the waterways. In 2004 and 2005, consultants for the Kansas City, Missouri Water Services Department conducted interviews throughout the region to determine how stakeholders viewed the issues of stormwater runoff and sewage overflowing into rivers and streams. Stakeholders included neighborhood activists, elected officials, government employees, developers, economic development officials, educators, corporate citizens, and civic leaders. There was consensus on the importance of these issues to the community's quality of life. The stakeholders wanted a regional approach. They suggested more "green solutions" to the problems of flooding and runoff polluting streams and rivers, and suggested a comprehensive public education plan that would help citizens become more actively engaged. <http://www.rainkc.com/ABOUT/INDEX.ASP>

Bellingham's Rain Gardens - In 2003, the city of Bellingham chose to advance

its knowledge and commitment to protect the quality of water in its watershed by retrofitting two parking areas with a new technique to manage stormwater runoff. Rather than using a conventional control, such as an in-ground vault which tends to be very costly, the city chose to install two "rain gardens" and saved 75 to 80 percent in construction costs. Workers from the city and the Washington Conservation Corps installed the rain gardens at Bloedel Donovan Park near Lake Whatcom and at City Hall. For more information on this project, see the publication *Reining in the Rain: A case study of the city of Bellingham's use of rain gardens to manage stormwater*, March 2004, Puget Sound Action Team at http://www.psat.wa.gov/Publications/Rain_Garden_book.pdf.

More on Pandemic Influenza - Bumping Elbows in Lieu of Shaking Hands?

A recent *New York Times* article, "Greetings Kill: Primer for a Pandemic," by Donald G. McNeil, Jr, February 12, 2006, talks about measures for "social distancing" during a flu outbreak, including getting people to wear masks and using the "elbow bump" in lieu of a handshake to prevent germ transmission from hands. The latter has been used, principally to set an example, by World Health workers in Africa during disease outbreaks. It is suggested that in a pandemic flu epidemic "nothing seems too far fetched to try."

As Seen on the Web

Clark County has a nine-minute video on its Website called "Day in the Life of Clark County Government." The video, produced by Vancouver Clark Television, presents a chronology of activities that occur during a day, covering many of the services that the county provides. The video opens at the 911 center at 2:18 a.m. and moves through the day, showing various departments at work. The video ends at 11 p.m. on a community patrol. See <http://www.clark.wa.gov/pio/index.html#DayInTheLife>.▶

LIBRARY LISTINGS

New resource materials now available

New Acquisitions

This list contains new publications, ordinances, and other materials recently received by the MRSC library. We also prepare a more comprehensive list of new acquisitions each month which is posted on our Web site at www.mrsc.org/library/newacq.htm. If you would like to borrow one or more of these publications, please contact Electra Enslow in our library at (206) 625-1300 or library@mrsc.org.

Elections

Initiative and Referendum Guide for Washington City and Charter Counties, Municipal Research and Services Center, 2006

Finance

Governmental Accounting Made Easy, Warren Ruppel, 2005

Personnel

Personnel Policy Manual, City of Prosser, 2004

Planning and Land Use

Neighbor Power: Building Community the Seattle Way, Jim Diers, 2004

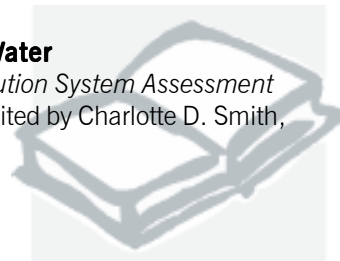
Skinny Streets and Green Neighborhoods: Design for Environment and Community, Cynthia Girling and Ronald Kellett, 2005

Transportation and Traffic

Shared Parking, Mary S. Smith, 2005

Utilities - Water

Water Distribution System Assessment Workbook, edited by Charlotte D. Smith, 2005▶



Monitoring the Budget

Right about now you may be saying, “Whew, the budget is done and we can get on with other things!” WRONG! Now the real work begins - monitoring the budget. This is as important a function as the creation of the budget itself. In a nutshell, without this the budget means nothing. This is where you evaluate your results.

Shortly after the budget is adopted, sometime during February, it is prudent to stop for a moment, and review the previous year’s budget. Familiarize yourself with what it was you hoped to accomplish, how the revenue projections actually ended up, how your expenditures ended relative to your projections, and whether or not you accomplished those capital projects as expected.

This process is both the beginning and ending of the budget cycle; it closes the circle that starts over and over again each year. Why is this important? One of the bigger problems we have been encountering over the past several years is, for lack of a better word, anger, from our citizens over the amount they pay for the services they get. The budget monitoring process gets right at this issue. This is where we can self-evaluate and provide accountability for our “bottom line.” We can also measure our effectiveness and efficiency in meeting the goals we have set for ourselves. So it is important to take the time, right now, to ask these questions:

- (1) How have your revenue forecast assumptions been playing out? Have you under-forecast, or over-forecast, and why? This tells you whether you need to make adjustments to the budget you just adopted and will inform future forecasts. In other words, in light of the actual results from the year just ended, do you need to change any of the assumptions you have made about the current budget?
- (2) How did each department’s budget come out at the end of the year? Did they under-spend or

over-spend? One of the major “budget myths” is that under-spending is inherently good and over-spending is inherently bad. Not true. For example, “business” may have been very good for your police department this year, resulting in the arrests of far more “customers” than expected. However, as a consequence, their jail budget has also gone through the roof. In another department, several planned projects, for one reason or another, were not completed. So one department has over-spent, while the other has under-spent, its budget. Neither is good and neither is necessarily bad. It is just important to understand the reasons for these outcomes. The real question is - are you satisfied with their performance?

- (3) As a follow-on to the previous question, did any of your departments make requests for supplemental funding during the year? If so, you need to determine whether this is an indication of an on-going problem or just a fluke. If they are always asking for more, it may be that you are just not adequately funding the department. Or you may have another problem altogether. You need to find out which one it is.
- (4) Did the capital projects you budgeted for get completed? If yes, were they fully or just partially completed? If they were not completed, then why not? How did the actual project costs compare with the budgeted costs? Do you need to adjust the current year’s budget now to accommodate what did or did not happen in the previous year’s budget? Again, are you satisfied with the performance?
- (5) If you established goals for the year, review each of them to see where you are. You may need to

amend your current year’s budget to carry some of them over, or you may need to adjust your goals.

The budget monitoring process provides you with information for policy-makers on which to base future improvements as well as accountability for citizens. Interestingly enough, it will also assist you with the very first step required for next year’s budget – deciding what you want to eliminate, enhance, or create.

Although this initial review is the most important, monitoring the budget should ideally be done on a quarterly basis. It should also be in written form so you can review and share the information with others.

Do you need to change course or are things progressing as you thought they would? Has something happened either internally or externally, perhaps as a consequence of some regional or national event, which will require you to change your course? The best way to answer these and other related questions is to implement an on-going budget monitoring process.

If you want more information on budget monitoring, go to the Government Finance Officer’s Association’s “Budget Practices” Web page at <http://www.gfoa.org/services/nacslb/>. ■

By Gayla Gjertsen, Finance Director
City of Tumwater

Gayla L. Gjertsen has been the Finance Director for the city of Tumwater for over 15 years and was previously the Director of Administration for the city of Milton for 13 years. She has also served as president of the Washington Finance Officer’s Association. Gayla has been a presenter at the annual Budget and Fiscal Management Workshops held each summer for many years, and periodically conducts other workshops and writes about local government finance issues.

Stay Informed with MRSC's New *In Focus* E-Newsletter

MRSC's new *In Focus* e-newsletter is designed to keep Washington city and county elected officials and staff informed and up-to-date with all of the latest news and information relating to local government issues and trends in Washington. Here's what you get: (1) the latest reports and news from all of the major local government officials' organizations, professional associations, think tanks, and other local government information sites; (2) the latest news clippings from around the state; (3)

selected MRSC inquiry responses; (4) the current HR and Finance Advisor articles; and (4) a variety of other new and interesting material received in our library. MRSC's bi-weekly *In Focus* e-newsletter is a must read for all elected officials and staff who want to stay informed about the very latest news, research, events and trends affecting Washington city and county governments. You can subscribe to MRSC's free *In Focus* e-newsletter at: <http://www.mrsc.org/updates.aspx>. ■



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