

UPTOWN

MASC establishes cable franchise advisory service

Negotiating cable franchises can be challenging for municipalities seeking modern systems capable of serving the community's current and future needs and interests.

MASC offers a new technical assistance program designed to help S.C. municipalities with cable franchise management: the Cable Franchise Advisory Program. The program offers municipal governments access to experts in the cable franchise field. For a fee based on population, municipalities can obtain assistance in:

- Negotiating new cable franchises.
- Negotiating new terms and conditions for cable television franchise renewals, including preparing the franchise document.
- Processing requests from companies to transfer an existing cable franchise.

These services may include:

- Developing and implementing a community needs assessment to determine future cable-related needs and interest.
- Determining companies' compliance with existing franchise terms and conditions, including franchise fee payment review.
- Negotiating pole attachment agreements for electric cities.
- Negotiating for and implementing public, educational and governmental channels (PEGs).
- Developing institutional networks, if applicable. Institutional networks provide telecommunications transmission paths for voice, video and data signals between government entities.

MASC has contracted with Lilburn, Ga.-based Local Government Services to provide these services. Local Government Services President Greg Fender, the program's principal consultant, has assisted more than 200 cities in negotiating cable television franchise renewals, transfer requests and pole attachment agreements. He has also assisted numerous cities in responding to cable and telecommunications franchise right-of-way issues.

Local Government Services works in conjunction with the Moss and Barnett law firm and William F. Pohts, an engineer specializing in emerging telecommunications and electronic systems technologies.

"We believe this will be a beneficial program for S.C. municipalities,"

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1411 Gervais now fully leased

MASC's office building, 1411 Gervais, is now 100 percent leased. The newest tenant, Jordan, Jones & Goulding (JJ&G), is an engineering firm that works with many S.C. municipalities. The company is one of MASC's Corporate Patrons and has exhibited at several of MASC's Annual Meetings. JJ&G expects to move into the building in early 2003.

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Model ordinance helps municipalities prepare for drought

Although recent rains push the thought of drought to the back of our minds, it is a perpetual problem for municipalities. Recognizing this, the General Assembly passed the South Carolina Drought Response Act of 2000 requiring local governments supplying water to enact a drought response ordinance. This ordinance spells out a plan to handle drought conditions before and as they occur.

With input from the Municipal Association of South Carolina and others, the S.C. Department of Natural Resources (DNR) has prepared a model drought response ordinance, which is available on MASC's Web site (at www.masc.sc under "Research/ Resources"). The act requires municipalities to adopt an ordinance based on the model by May 2003.

Municipal drought response ordinances must contain:

- A description of alternate water sources, including time, costs and problems associated with putting alternate sources online.
- A water-use reduction plan and schedule for moderate, severe and extreme drought conditions.
- An implementation plan.

Municipalities that supply water must submit their proposed ordinances to DNR by May 30, 2003. The ordinances must be adopted and enacted by Oct. 30, 2003.

"The drought cycle we're in is likely to continue, so municipalities need a regulatory step-by-step process in place to implement during future droughts," said Gary Cannon, MASC's director of intergovernmental relations. "Creating a drought response ordinance not only allows municipalities to comply with the law — it also helps them to continue meeting citizens' needs during tough times."

For more information, call Gary Cannon at 803.933.1203 or e-mail gcannon@masc.sc.

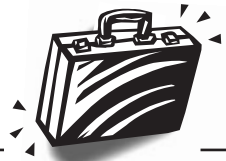
Cable continued from cover

said Miriam Hair, MASC's deputy executive director. "The Cable Franchise Advisory Program allows municipalities access to experts in the field at a very economical cost."

Newberry, Hardeeville, Walterboro and Bluffton already are realizing the benefits of cable franchise agreement assistance. "We are pleased with the services being provided by Greg Fender," said Eric Budds, administrator for Newberry. "We are impressed by his knowledge of the cable industry and how to negotiate franchises. We believe he is providing us with invaluable assistance."

For more information on the Cable Franchise Advisory Program, call Miriam Hair at 803.933.1204 or e-mail mhair@masc.sc.

News Briefs



■ Betty Slade, clerk for the City of Camden, was awarded the Certified Municipal Clerk designation from the International Institute of Municipal Clerks for achieving its high educational, experience and service requirements.

■ In October, S.C. Business Licensing Officials Association members elected their 2002-2003 board of directors. President — Jodie Dudash, ABL, Greenville; vice president — Steffanie Dorn, Greenwood; secretary/treasurer — Darrell "Rusty" Lameo, ABL, Kiawah Island; members at-large — Britt Miller, ABL, Charleston County, Linda Cox, Spartanburg and Lex Kirkland, Aiken; past president — Kim Stanley, Irmo.

■ In October, S.C. Municipal Finance Officers, Clerks and Treasurers Association members elected their 2002-2003 board of directors. President — Belinda Harper, CMC, Seneca; vice president — Thomas Chandler, Florence; secretary/treasurer — Tina Wicker, Newberry; members at-large — Charlotte L. Cheatham, CMC, Edgefield, Hilda Hopper, CMFA, Clover, Dennis Locke, Spartanburg and Steve Thomas, Conway; past president — David Vehaun, CMC, Rock Hill.

■ The S.C. City/County Management Association will hold its Winter Meeting on Jan. 23-25 at the New Radisson Myrtle Beach Convention Center. For more information, call Belinda Irby at 803.777.1268 or e-mail birby@sc.edu.

■ The International City/County Management Association (ICMA) is sponsoring the 2nd Annual New Partners for Smart Growth Conference: Building Safe, Healthy and Livable Communities on Jan. 30-Feb. 1 at the Sheraton New Orleans Hotel. For more information, visit www.icma.org or call ICMA at 202.289.4262.

Imminent domain names

New Web address options can leave cities open to domain snatchers

Several new domain names (Web site addresses) are available for municipalities to reserve. The National League of Cities (NLC) and MASC are encouraging municipalities to purchase new domain name options for Internet addresses: “dot-gov” (.gov) and “dot-US” (.us).

“It’s important for municipalities to purchase the most obvious domain names containing their city’s name so they cannot be used by inappropriate Web sites, such as pornography sites,” said Howard Duvall, MASC’s executive director. “Municipalities do not have to change their current Web addresses to

the new ones they purchase — they just need to reserve the name so no one else can use it.”

The .us domain, previously restricted to government and public service entities, will be open for purchase by the general public next year. NeuStar, a Washington, D.C.-based technology firm, is managing the .us domain names. According to NeuStar, “legacy” .us domain names, generally configured as ci.cityname.state.us, will not be turned over to the public. However, names such as www.cityname.us will be offered to the public next year if not previously reserved by municipalities.

NeuStar is holding about 50,000 Web addresses with the .us domain, including many with South Carolina municipalities’ names. These addresses, such as www.cityofchicago.us, have been reserved for local governments until Jan. 30. After this date, the addresses become available for anyone to register — a municipality could find its name pointing to an Internet site that has no affiliation with local government. View a list of reserved city names at www.neustar.us/reserved/state/.

The National League of Cities suggests municipalities consider reserving **DOMAIN NAMES continued on page 4**

Why reserve multiple domain names?

It’s important to reserve domain names that include obvious versions of your municipality’s name, even if you don’t plan to use them. Not reserving the domains leaves you open to attack by cyberpirates, who will use domain names containing your municipality’s name for sites unaffiliated with your municipality, such as pornography sites or sites bashing your municipality.

It’s important to keep track of when your domain registrations expire — often, domain snatchers are waiting for domain names to become available.

A recent issue of *Computerworld* offered the following tips for domains:

- Take inventory of your domain names and make sure you need all the ones you have.
- Organize them so you know when they will expire.
- Centralize the responsibility for renewing the domain names; otherwise, when someone leaves the organization, the renewal may lapse.

- Know which domain names are registered with whom. Consider consolidating.
- Renew names for longer periods than one year, lessening the chance of a domain name registration lapsing. Multiyear registrations can also mean lower registration fees.

Here are a couple of examples of what can happen when the lease on domain names lapse.

- According to the *Fayetteville Observer*, recent visitors to the Fayetteville Chamber of Commerce Web page saw a message regarding aliens from outer space. The message appeared because the chamber did not renew its domain name in time to prevent someone in Russia from snapping it up.

Chamber officials said executives with Advance Internet Technologies (AIT) worked on behalf of the chamber to buy back the domain for an undisclosed amount of money. “Most people don’t ever think about this until

it happens. Once it happens to them, it never will again,” said Roy Adams, vice president of AIT.

“These guys sit there with software and do nothing but watch for when domain names are going to expire,” he said. “If for some reason it isn’t renewed in a timely fashion, they go out and grab it. When they do, you end up having to negotiate with these guys or changing your domain name that is on all your literature, your search engines and every piece of advertising you have.”

- According to the International City/County Management Association, an award-winning police department’s Web site domain name was sold to a pornography site. The switch happened after the department’s domain name lease ended, and the provider did not notify them that the lease was up and payment was required.

As complaints about the site have piled up, police have tried to protect children from the site and scrambled unsuccessfully to recover the domain name.

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domain names that might be mistaken for their site. "Municipalities have three options when it comes to the .us domain names — do nothing with the names and risk having those names used by anyone in the public; reserve the domain name permanently even if you choose not to use it; or pay to get that domain name registered, either on a periodic or lifetime basis," said Marc Shapiro, manager of Internet services at NLC.

Reserving the .us name does not activate it for use — it just saves the name so no one else can use it. Registering the

name activates it so municipalities can use it for their Web site.

"Dot-gov"

The .gov domain, previously limited to the federal government, will be open to state and local governments pending final approval of regulations proposed by the national Office of Governmentwide Policy. Because there are no plans to release .gov domains to the public, there is little risk of unaffiliated sites appearing using .gov domain names.

Municipalities can reserve their .gov domain name at the General Service Administration (GSA) Domain Registration Page (www.nic.gov/index.html). The GSA site provides detailed information on eligibility requirements and the registration process. Currently, there is no charge to register for a .gov domain. However, GSA most likely will begin charging for the .gov domain in 2003.

For more information on the .us or .gov domain names, call NLC's Marc Shapiro at 202.626.3019 or e-mail shapiro@nlc.org.

Cities participating in TECH program

The following S.C. municipalities are participating in MASC's Technology Enhanced City Hall (TECH) program. VC3, MASC's TECH program ally, offers these modules and others to local governments.

Municipality	Service
Aiken	ServiceRequest Module
Abbeville	CitizenRequest Module and Technology Services
Appalachian COG	Information Technology Assessment and Services
Columbia	ServiceRequest Module
Chester	Web Site Design and Hosting
Fort Mill*	Information Technology Assessment and Services
Fountain Inn*	Technology Services
Georgetown	Information Technology Assessment, Web Site Hosting and Content Management Tool
Kiawah Island	Information Technology Assessment and Services
Kingstree	Information Technology Assessment
Lancaster	Information Technology Assessment and Services, Outsourced Technical Support and Web Site Hosting
Lexington*	Information Technology Assessment
Municipal Assoc. of S.C.	Information Technology Assessment and Software Development
Myrtle Beach*	CitizenRequest, Tax and Utility Bill Modules
North Augusta	Tax and Utility Bill Modules
Port Royal	Information Technology Assessment and Services
Seneca	Information Technology Assessment
Sullivan's Island	Information Technology Assessment
Sumter	Information Technology Assessment, ServiceRequest Module and Technology Services
Union	Information Technology Assessment
Walterboro	Information Technology Services
York	ServiceRequest Module, Outsourced Technical Support and Web Site Hosting

If you have any questions, call Alan Tumey at 803.933.1233 or e-mail atumey@masc.sc, or call VC3's Jeff Polizzotto at 803.261.3333 or e-mail JeffP@vc3.com.

* New Participant

Sample domain name prices

NeuStar has set up several pricing options for registering a .us domain name:

- Lifetime registration for \$395
- Five-year registration for \$180
- Three-year registration for \$168
- Permanent reservation (but not activation) for \$152



Classifieds

■ The City of Rock Hill is accepting applications for police chief. Position requires bachelor's degree in criminal justice, public administration or related field and 10 years' progressively responsible experience, most recently at the senior level. Send resumes by March 7, 2003 to Human Resources Department, City of Rock Hill, PO Box 11706, Rock Hill, SC 29731. EEO/ADA.

For more information on this and other job opportunities, visit MASC's Web site at www.masc.sc.

2002 Achievement Award Winner

Population Category 10,001-20,000: City of Orangeburg

City combines water storage needs with new park

The City recognized it needed to increase its treated water storage capacity. The existing water treatment plant, located in the middle of Edisto Memorial Gardens, required Orangeburg to think of a creative way to install a 4-million-gallon tank without destroying the gardens' beauty. To meet the City's water needs and blend in with the gardens, the City decided to place the tank below ground and build a park complex above it.

Because regulations require the top of a finished water reservoir be at least two feet above ground surface, the City needed to make special provisions to qualify for a variance to allow the tank to be located completely underground. The area around the new reservoir was graded to prevent any standing water within 50 feet of the tank. The top of the concrete tank was sloped and covered with gravel to direct subsurface water to collection pipes. A heavy-duty, flexible membrane was used to cover the top of the

tank. Orangeburg received the first variance for this type of project, which will pave the way for future similar projects in other municipalities.

The new City of Orangeburg Department of Utilities Centennial Park, located directly above the new reservoir, commemorates the department's 100 years of service to the community. The complex includes an upper plaza with brick pavers, a fountain and an amphitheater-style lower plaza leading to a gazebo and stage area. Benches, landscaping and decorative lighting enhance both plaza areas. The City purchased additional land to expand parking for the gardens and construct new restrooms. The entire facility is handicapped accessible. Since its completion, the park has been used for numerous community functions and weddings.



Local children enjoy a refreshing drink of bottled city water at the City of Orangeburg Department of Utilities Centennial Park.

This project, which received a first-place Engineering Excellence Award in Water and Wastewater from the Consulting Engineers of South Carolina, allowed Orangeburg to continue supplying high-quality drinking water while providing a scenic outlet for outdoor recreation.

Contact: Mark Weber, 803.268.4103

Don't miss MASC's Winter Meeting

Mark your calendars now to attend MASC's Winter Meeting on Feb. 26 at the Adam's Mark Hotel in Columbia. Besides offering many educational sessions to make you aware of major legislative issues affecting municipalities, the Winter Meeting is an excellent opportunity to discuss these issues with your senators and representatives during a morning visit to the Statehouse or the evening Legislative Reception at the Adam's Mark Hotel.

Meeting topics you won't want to miss

- Keynote address by Governor-elect Mark Sanford (invited)
- Luncheon address by Darla Moore of the Palmetto Institute
- Municipal liability issues (law enforcement, labor related and elected officials)
- Municipal finance issues
- In-depth legislative information, including the Telecommunications Act and private property rights
- S.C. Retirement Systems update, including what's new with police and fire retirement

MASC will mail registration information and post it on MASC's Web site (www.masc.sc) in early January.

For more information, call Nancy Walborn at 803.933.1205 or e-mail nwalborn@masc.sc.

Are you an employee or independent contractor?

Determining whether your clerk or a police officer is considered an employee is not a hard call to make. But what about the mayor, council members or volunteer firefighters? It is critical for all employers to classify workers correctly. Proper worker classification affects how you pay federal income tax and Social Security and Medicare taxes. Failure to withhold taxes and file appropriate returns can lead to hefty penalties and potential tax deficiencies for prior tax years.

All employers must withhold appropriate federal employment taxes from employees' compensation and supply them with a Form W-2 each January. For independent contractors, payers must file and furnish Forms 1099.

The IRS determines whether a person is considered an employee or independent contractor by analyzing three main categories of evidence. Several factors are listed under each category, such as giving instructions, reimbursement of business expenses and payment of benefits such as insurance and pensions. The three categories are:

- Behavioral control
- Financial control
- Relationship of the parties

In general, an individual is an employee when the entity or person for whom the services are performed has the right to direct and control the individual doing the work. The degree of direction and control is an important determining factor. A high degree of control may be indicative of an employee/employer relationship, while little control over how a person does the job may be a characteristic of dealing with a person who is an independent contractor.

An independent contractor usually

- Does not receive detailed instructions on how work is to be done.
- Has made a significant investment in the work.
- Has an opportunity for profit or loss.
- Is not eligible to receive employee benefits.
- Often is certified or licensed by the state to perform certain jobs.

Although they may not work full time, elected officials and volunteer firefighters are normally considered employees, not independent contractors.

"Under Internal Revenue Code Section 3401(c), elected officials, city officers, employees, board and commission members are generally considered employees and are subject to federal income tax withholding," said Denver Gates, IRS federal state local government specialist. "The IRS bases this determination on the high degree of direction and control imposed on these individuals by oaths of office, penalties for dereliction of duty, the existence of superiors and subordinates, and the fact that certain elected officials are subject to recall."

Gates emphasized that federal law applies when determining worker classification for IRS purposes. A state or federal agency may use other criteria for classifying individuals for such things as workers' compensation or minimum wage, but this criteria does not affect whether the IRS considers a person an employee or contractor.

Under certain circumstances, compensation received by a "volunteer" could be defined by the IRS as a wage and be subject to Social Security and Medicare taxes* if the worker is an employee. For example, volunteer firefighters might not receive a salary, but may be reimbursed for certain expenses

incurred while performing their duties or receive other taxable in-kind benefits that fall under the IRS definition of wages.

The reimbursement of *actual* expenses incurred by volunteer firefighters is not subject to employment taxes if paid under an accountable plan. An accountable plan includes:

- A requirement to provide documentation to the employer for the actual expenses.
- Does not reimburse workers for undocumented expenses.
- A requirement to return to the employer any amount of unsubstantiated reimbursements within a reasonable amount of time.

If *all three* items above are met, the reimbursements are made under an accountable plan. Accountable plans do not involve reporting requirements or tax consequences for the employer or the employee if maintained correctly. Reimbursements not paid under an accountable plan are subject to income tax withholding and Social Security and Medicare taxes. A *per diem*, *per call* or *fixed amount* paid to a volunteer firefighter that does not reimburse actual documented expenses is counted as income and is subject to income tax withholding and Social Security and Medicare taxes.

Volunteer firefighters do not qualify for the "temporary emergency services" found in Internal Revenue Code Section 3121(b)(7)(F)(iii). Services of a volunteer firefighter are not *temporary* in nature, as they are on call and work regularly but intermittently.

For more information, refer to Publication 963, the *Federal-State Reference Guide*. It can be found on the IRS's Web site at www.irs.gov or by calling 1.800.TAX.FORM.

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Is inmate labor covered by your insurance?

As municipalities are forced to keep tightening their fiscal belts, the use of inmates as “free” labor has become more popular. If an inmate is injured while working for the city, the cost of using “free” labor may end up far from being free, especially if the inmate is not covered by workers’ compensation insurance.

Harvey Mathias, MASC’s director of risk management services, encouraged municipalities to check with their workers’ compensation carrier before using inmate labor. This will help municipalities make a more educated decision on whether inmate labor is the best choice. “If your insurer does not offer workers’ compensation coverage to inmates, keep in mind the municipality could be liable if an inmate is injured.”

Mathias stressed that regardless of whether inmates are covered by their workers’ compensation insurance, municipalities should use discretion on how the inmates are used. “They especially need to make sure the inmates are properly trained and supervised,” he said. “Municipalities choosing to

use inmates should assign the inmates jobs that do not expose them to high risk.”

Mathias warned municipalities to think twice before using inmates from the S.C. Department of Corrections (DOC). Recently, DOC began requiring municipalities to sign a contract that includes a provision giving DOC “sole discretion” to determine if a municipality is responsible for an inmate’s injuries. If DOC decides the municipality was negligent, the municipality becomes responsible for **all** medical bills, instead of just initial medical care.

“On the strong advice of attorneys who have looked at the contract, no municipality should sign a contract with DOC with that wording included,” said Mathias. “Although DOC will not allow a municipality to use their inmates without signing the contract, we believe the contract leaves municipalities open to too much liability.”

For municipalities using inmates from county facilities, Mathias recommended signing an agreement with the county spelling out who is responsible for initial medical care and any additional medical or workers’ compensation costs. Many S.C. counties are covered through the S.C. Association of Counties, whose workers’ compensation coverage does cover inmates.

“That coverage normally extends to inmates injured while working for a municipality, but this does not stop an injured inmate from bringing legal action against the municipality if he believes the municipality’s negligence caused his injury,” he explained. Mathias reiterated the importance of choosing appropriate, low-risk jobs for inmates to limit liability in case an inmate is injured.

Limiting your liability

When using inmate labor, be sure to follow these steps:

- Determine whether inmates are covered by your workers’ compensation carrier.
- Choose low-risk jobs.
- Provide proper training.
- Provide proper supervision.

Why are inmates often not covered?

South Carolina statutes are not clear about who can provide workers’ compensation treatment for inmates, nor do they define inmates as employees. The statutes give clear authority to the state and counties to provide this coverage, but there is no statutory authority for a municipality to provide workers’ compensation coverage to an inmate. Inmates are generally not considered employees when working for a municipality.

The board of S.C. Municipal Insurance Trust (SCMIT), MASC’s self-funded workers’ compensation program, recently decided not to cover inmate labor. South Carolina’s state plan and all other municipal association insurance pool programs in the country do not provide workers’ compensation coverage for inmates. The general consensus is inmates are not employees and are not eligible for coverage.

For more information, call Harvey Mathias at 803.933.1212 or e-mail hmathias@masc.sc.

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This topic and others were discussed at the S.C. Municipal Personnel Association (MPA) meeting Dec. 4-6 at the Myrtle Beach Wyndham Resort. For more information on MPA, call Nancy Walborn at 803.933.1205 or e-mail nwalborn@masc.sc.

This article is for information purposes only and is not meant to replace legal advice. If you have questions about tax-related issues, please contact your tax adviser.

**May not apply to all municipalities. Please consult your tax adviser before making this determination.*



Educational Opportunities

S.C. Municipal Attorneys Association

■ **Dec. 13**, will hold its Annual Meeting at the Clarion Town House Hotel in Columbia.

Hometown Connection

■ **Jan. 29**, municipal officials from Anderson, Cherokee, Chester, Fairfield, Greenville, Lancaster, Oconee, Pickens, Spartanburg and York counties visit with their state legislators. Officials should meet at MASC's office in Columbia at 10:30 a.m.

Municipal Elected Officials Institute of Government

■ **Feb. 25**, Sessions A&B will be held at the Adam's Mark Hotel in Columbia.

MASC Winter Meeting and Legislative Conference

■ **Feb. 26**, will be held at the Adam's Mark Hotel in Columbia.

S.C. Utility Billing Association

■ **March 19-21**, will hold its Annual Meeting at Ocean Drive Resort in North Myrtle Beach.

Hometown Connection

■ **March 26**, municipal officials from Aiken, Allendale, Bamberg, Barnwell, Calhoun, Lexington, Orangeburg and Richland counties visit with their state legislators. Officials should meet at MASC's office in Columbia at 10:30 a.m.

Hometown Network

■ **March 27**, the Municipal Elected Officials Institute of Government will present "Basic Budgeting." This session will be broadcast via satellite to the 10 regional councils of governments.

Hometown Connection

■ **April 30**, municipal officials from Abbeville, Chesterfield, Clarendon, Darlington, Edgefield, Greenwood, Kershaw, Laurens, Lee, Marlboro, McCormick, Newberry, Saluda, Sumter and Union counties visit with their state legislators. Officials should meet at MASC's office in Columbia at 10:30 a.m.

Hometown Network

■ **May 1**, the Municipal Elected Officials Institute of Government will present "You've Been Elected — Now What?" and "The Freedom of Information Act." These sessions will be broadcast via satellite to the 10 regional councils of governments.

For more information about these meetings or other MASC meetings not listed, please call 803.799.9574, or visit our Web site at www.masc.sc

UPTOWN

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