UPTOWN

a publication of the municipal association of south carolina

HLAD to-do list

The 2014 Hometown Legislative Action Day on February 5 in Columbia will be packed with briefings from legislators, the State House visit, information from Capitol Hill, and several nuts and bolts sessions on specific issues.

The Association's registration area will open at 8 a.m. in the Atrium of

the Marriott. During the Opening General Session, the Association will recognize the newest Municipal Elected Officials Institute of Government graduates.

Registration for the Municipal Elected Officials Institute held on February 4 will open at 8 a.m. Officials

must attend the entire day of training to receive credit. Sessions A and B begin at 9 a.m., and the Advanced Institute begins at 9:30 a.m.

Get prepared for the Hometown Legislative Action Day by taking a few minutes to complete the checklist items on page 2.

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HLAD To-Do List

☐ Read about the legislative priorities for South Carolina cities and towns at www.masc.sc (keyword: legislative priorities).

☐ Contact your house members and senator to let them know you will be in town.

☐ Ask your senator to introduce you and other officials from your area attending HLAD on the Senate floor during your visit to the State House on February 5. The Senate is schedule to go into session at 2 p.m. The House is scheduled to meet at 10 a.m. and will have likely already adjourned for the day by the time of the afternoon State House visit. Visit House members in their office.

☐ Invite your senator and house member to join you for the legislative reception at 5:30 p.m. on February 5 at the Marriott.

☐ Download the Hometown Legislative Action Day mobile app that will give you speaker bios, list of attendees and nearby restaurant suggestions.

☐ Invite your legislative delegation to join you for dinner on February 5. Restaurant suggestions are available at www.masc.sc (keyword: HLAD) or on the HLAD mobile app.

☐ Read past issues of the weekly legislative report, *From the Dome to Your Home*, to familiarize yourself with recent activity in the General Assembly affecting cities and towns. Go to www.masc.sc (keyword: legislative report).

The app is back

The Association has updated its meeting app for the Hometown Legislative Action Day. In addition to the schedule, speaker information, map of nearby restaurants and list of attendees, the app has become more "social."

"Similar to Facebook, the app features a timeline on which users can post comments and pictures," explained Communications Manager Mary Brantner. "We hope attendees will post pictures of their meetings with legislators while attending HLAD."

Updated election handbook addresses two new laws

During the first quarter of 2014, the Municipal Association will release an updated edition of the "Municipal Election Handbook." The Handbook will be available for purchase or download for free from the Association's website at www.masc.sc (keyword: publications).

While the revised edition contains numerous updates, there are two areas of significant change that immediately impact the roles and responsibilities of the Municipal Election Commission. These changes involve filing a candidate's Statement of Economic Interest and ensuring compliance with the new state voter identification law.

During the 2012 election cycle, a number of state and local candidates were barred from the ballot for failing to provide the MEC with a copy of their SEI at the time of filing for office. In response to this controversy, the General Assembly amended state law. Candidates are no longer required to provide the MEC with a copy of their SEI. The MEC's role is now limited to informing candidates at the time of filing that they are required

to file the SEI and campaign disclosure documents directly with the State Ethics Commission. The MEC should refer candidates to the State Ethics Commission for more information.

Within five days of the closing of the municipal filing period, the MEC must prepare a candidates roster which includes the names of all candidates who filed for office. The roster must be filed with the State Ethics Commission. The Commission will use this roster to ensure compliance with SEI and campaign disclosure filing requirements. While the Ethics Commission may fine candidates who fail to file their SEI, failure to file the documents has no effect on ballot access.

Last year, the General Assembly also passed a voter identification law. The new law requires voters to show one of the following approved forms of photo identification to vote: SC driver's license, ID card issued by the SC Department of Motor Vehicles, SC voter registration card with photo, federal military ID or U.S. passport.

A voter without an approved photo ID has two options to vote, both involve the use of a provisional ballot.

The first option applies to a voter who forgets to bring his photo identification to the polling place. The voter should be allowed to cast a provisional ballot. The MEC must count the ballot if the voter has shown his photo identification to the MEC before the certification hearing. If the voter does not provide his photo identification, the MEC must not count his ballot.

The second option applies to a voter who does not have photo identification. The voter can provide his voter registration card without a photo then complete an affidavit stating his name and reason for not having photo identification. This is referred to as a reasonable impediment to obtaining photo identification. The MEC will count the voter's provisional ballot unless a challenger presents credible evidence to the MEC at a provisional ballot hearing that the person provided false information about his identity or about having the listed impediment. The MEC may not judge whether the listed impediment is reasonable. Any reason preventing the voter from obtaining a photo ID is presumed valid.

Both types of provisional ballots are not counted on election night. They are placed in a Provisional Ballot Envelope on Election Day and secured in a ballot box for the MEC to determine if they shuold be counted before certifying the election. The name of the voter, the reason for voting a provisional ballot and the name of any challenger are recorded on the outside of the envelope. The MEC must also keep a list of voters without photo identification.

To be able to post comments and pictures, users must create a profile. "Once you create a profile, other attendees can send you messages through the app," said Brantner. "You can also comment on and 'like' comments and photos that others post."

Quick polling is another new feature the Association will use for HLAD. App users will see questions on the timeline and can respond. Results of the polls are immediately shown. Look for questions about issues before the legislature, how your town is engaging legislators back home and more.

The app is free and can be downloaded from the App Store or Google Play by searching for "MuniAssnSC."

For the web version, visit mobileapp. masc.sc. Those who have downloaded the app previously do not have to do so again. When accessed again, the app will prompt you to allow an update.

The attendee list will not be added until just before the meeting. Make sure you check for updates to the app for the most current information.

Want to learn more or receive help in accessing the app? Contact Mary Brantner, communications manager, at mbrantner@masc.sc. Staff members will be available in the Atrium at the Marriott to provide one-on-one assistance during HLAD and the Municipal Elected Officials Institute of Government held on February 4.

(Left) Beginning in 2006, the South Carolina Jazz Festival is held each year in Cheraw. (Right) HUB-BUB in Spartanburg offers more than 100 nights a year of art, culture and entertainment.

The arts and
community development

As local officials continue to work toward making their home-towns thrive, some have started looking hard at the link between culture and the economy.

Why do we live where we live and why do we stay there?

A report released by the American Planning Association in 2011 entitled, "Economic Vitality: How the arts and culture sector catalyzes economic vitality," outlines four key points to community development through the arts. This article uses South Carolina case studies to illustrate how the arts have enhanced local communities in South Carolina.

Keypoint #1:

Economic development is enhanced by concentrating creativity through both physical density and human capital. By locating firms, artists and cultural facilities together, a multiplier effect can result. Case study: The Salkahatchie Arts Initiative

This is the story of five counties that felt under-recognized: Allendale, Bamberg, Barnwell, Colleton, and Hampton. These counties make up the Salkahatchie region of the state.

Before I-95 opened up in 1968, this region had plenty of cars driving through when people were traveling up and down the Eastern Seaboard. After 1968, the majority of travelers never saw those towns. A visitor driving through this part of South Carolina today may be struck by the abundance of old abandoned hotels.

"This area was particularly hit by the fact that I-95 didn't come through their counties," says Susan DuPlessis of the SC Arts Commission.

According to DuPlessis, by creating the Salkahatchie Arts Initiative, the local communities have mined their existing cultural and natural assets instead of creating something new. The communities are making the region a destination for tourists interested in the arts, heritage and nature-based tourism.

In 2006, the Salkahatchie Arts Center was created in Allendale. At the center, local artists sell their wares. More than 100 artists have sold almost $200,000 worth of items to date.

Also, there is a storytelling element, according to DuPlessis. Local artists created "Salk Stew," which is a play with music and stories that is updated annually.

Here is an excerpt of a review of "Salk Stew" from an issue of the *Hampton County Guardian*.

Sure, everybody loves a good classic community theater number like The Sound of Music, but this is a one-of-a-kind classic that you can't get anywhere else: a play based on true stories from real people in our community, stories that are acted out on the historic planks of the Palmetto Theater by local actors. As far as community theater goes, it doesn't get any better than that.

"These artistic endeavors resonate with local residents about who they are and what they have," DuPlessis said. "These endeavors are part of their authenticity," and they are improving the economy and quality of life in the Salkehatchie Region.

Keypoint #2:

The recognition of a community's arts and culture assets (and the marketing of them) is an important element of economic development. Creatively acknowledging and marketing community assets can attract a strong workforce and successful firms, as well as help sustain a positive quality of life. Case study: Hub City Writers Project, Spartanburg

"Writers are very interested in a sense of place," says Betsy Teter, executive director of the Hub City Writers Project.

In 1995, a small group of writers in Spartanburg asked themselves what they could do to improve their city.

"We created some books that celebrated what was uniquely Spartanburg. To date, we have published more than 500 writers and sold more than 100,000 books," she says.

In 2006, Hub City created an alternative arts initiative called HUB-BUB in a partnership with the City of Spartanburg. Headquartered in a former Nash Rambler car dealership downtown, HUB-BUB offers more than 100 nights a year of art, culture and entertainment, as well as a nationally recognized artists-in-residence program. The mission of that spin-off organization is to build community through dynamic arts and ideas in downtown Spartanburg. The City of Spartanburg provides $120,000 in funding each year to HUB-BUB.

In 2010, the Hub City Writers Project converted an 83-year-old, 5,000 square-foot Masonic temple in downtown Spartanburg into an independent bookstore, coffee shop and a bakery.

"The Hub City Writers Project is at the center of our creative energy in our community in a unique and important way," said Bill Barnet, Spartanburg mayor at the time of the project's launch. "From the energy of that group comes a great deal of pride," he added.

Keypoint #3:

Arts and cultural activities can draw crowds from within and around the community. Increasing the number of visitors as well as enhancing resident participation helps build economic and social capital. Case study: SC Jazz Festival, Cheraw

Cheraw is an older, rural town with a population of 6,000.

Many South Carolinians don't know that Cheraw is the birthplace of jazz

Greenwood Federal Building

legend Dizzy Gillespie. After a Ken Burns PBS special about Gillespie aired in 2001, town officials decided to seize the moment and create a jazz festival honoring him.

"We had already built a statue and created a park in his honor," said Phil Powell, tourism director for the Town of Cheraw. "But we wanted to take this opportunity to educate our community about the arts."

According to Rusty Sox at the SC Arts Commission, planning for the South Carolina Jazz Festival began in 2005 with the first festival held the next year. It was and still is organized by a committee of local residents and staffed by town employees and volunteers. In the second and third years, they received a Cultural Tourism Grant from the SC Arts Commission to help with marketing.

Powell encourages other municipalities to not try to do too much out-of-the-gate when planning festivals for their town.

"Jazz works well in hot, local, out-of-the-way places, so it worked well here," he says.

Lindsay Bennett, who partnered with town officials on the jazz festival and is the executive director of the Cheraw Arts Commission, stressed the importance of getting community buy in.
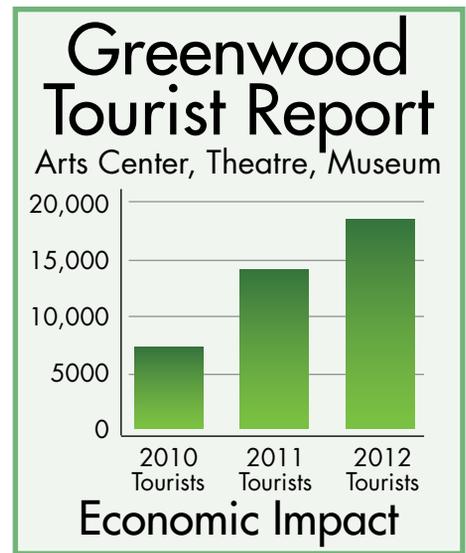
"Town of Cheraw officials view the event as a cultural tourism experience and continue to provide financial support," she added.

Keypoint #4:

Planners can make deliberate connections between the arts and culture sector and other sectors, such as tourism and manufacturing, to improve economic outcomes by capitalizing on local assets. Case study: Emerald Triangle, Greenwood

"We think we're the perfect example of how investing in the arts brings about community development," explained Anne Craig, executive director of the Arts Center of Greenwood. According to Craig, the Emerald Triangle in Greenwood came to fruition by having all the pieces fall into place.

As with many South Carolina cities, Greenwood's downtown was saturated with office space causing many people to feel like the sidewalks rolled up at 5 p.m.

Greenwood Tourist Report

Arts Center, Theatre, Museum

2010 Tourists	2011 Tourists	2012 Tourists

Economic Impact

In 2003, two important things happened. Greenwood officials drafted a master plan for a "clearly defined city center and outdoor gathering space." A major aspect of the plan was to enhance the city's cultural assets to bring people back downtown.

From the plan, a vision for the Emerald Triangle emerged involving three major cultural institutions in downtown Greenwood: the Arts Council of Greenwood County, the Greenwood Community Theatre and the Greenwood Museum. Today, the Emerald Triangle has become a nine-acre triangular shaped area in the heart of Greenwood's downtown business district.

The second important thing that happened in 2003 was the closing of a 30,000 square-foot historic federal building, which housed an old courthouse and post office. A public/private partnership, created by the Greenwood Partnership Alliance, the Self Family Foundation, the Arts Council of Greenwood County and the Greenwood City Council, purchased and renovated the historic federal building.

Over the years, the three cultural institutions have experienced a huge increase in tourists. In 2010, the groups attracted about 8,000 tourists. In 2012, the figure rose to more than 18,000.

"We had a beautiful building, an excellent leadership team, and a city government with a vision," concluded Craig. "We had the right people at the right time."

To view the complete Economic Vitality study, go to www.planning.org/research/arts/briefingpapers/vitality.htm.

abandoned buildings credits

The following article is the fifth in a series about economic development tools and how to use them.

The Abandoned Buildings Revitalization Act tax credit is the final economic development tool covered in this series. The General Assembly passed the act "to create an incentive for the rehabilitation, renovation and redevelopment of abandoned buildings located in South Carolina" by offering a state income tax or property tax credit to eligible projects.

The ABRA credit can be a powerful catalyst for rehabilitating empty and underutilized buildings that contribute to blight and safety concerns in urban and rural communities. This credit is structured and administered in a manner very similar to the textile revitalization and retail facilities credits.

Definitions

Eligible abandoned building means "a building or structure, which clearly may be delineated from other buildings or structures, at least 66 percent of the space in which has been closed continuously to business or otherwise nonoperational for income producing purposes for a period of at least five years immediately preceding the date on which the taxpayer files a Notice of Intent to Rehabilitate."

Building site is considered "the abandoned building together with the parcel of land upon which it is located and other improvements located on the parcel. However, the area of the building site is limited to the land upon which the abandoned building is located and the land immediately surrounding such building used for parking and other similar purposes directly related to the building's income producing use."

Eligible rehabilitation expenses are "expenses incurred in the rehabilitation of the eligible site, excluding the cost of acquiring the eligible site or the cost of personal property maintained at the eligible site."

Rehabilitation expenses are "expenses or capital expenditures incurred in the rehabilitation, demolition, renovation, or redevelopment of the building site, including without limitations, the renovation or redevelopment of existing buildings, environmental remediation, site improvements, and the construction of new buildings and other improvements on the building site, but excluding the cost of acquiring the building site or the cost of personal property located at the building site." Demolition expenses are not considered a rehabilitation expense for purposes of calculating the amount of the credit if the building being demolished is on the National Register for Historic Places.

Eligibility Threshold

In recognition of the difficulty to attract investment in smaller communities, the Act established a declining minimum rehabilitation expense eligibility threshold based on population. The minimum rehabilitation expense per abandoned building unit is $250,000 in unincorporated areas of a county or a municipality of more than 25,000 population; $150,000 in unincorporated areas of a county or a municipality between 1,000 to 25,000 in population; and $75,000 in a municipality of less than 1,000 population.

Deadline February 12

Submitting a winning Achievement Awards entry

While there's no magic behind the Municipal Achievement Awards entry process, there are specific qualities the judges look for in a winning entry. Here are the top three suggestions from previous Achievement Awards judges.

1. Select the best category for the project.

Municipalities can enter only one category. Those entering one of the subject categories must make an oral presentation to the judges and submit the written application. The judges choose the winners for the population categories based solely on the written application.

When deciding between a population category and a subject category, consider how to best tell the story of the project. Oral presentations can have visuals, posters, models and charts to help explain a difficult process or concept. Also, elected officials, municipal staff, community partners and residents can participate in the presentation to offer their perspectives.

Municipalities with a population less than 20,001 can compete in either a population category or a subject category. Municipalities with a population more than 20,000 must compete in a subject category.

2. Answer the award application questions completely.

The application questions directly correlate to the judging criteria. The

Choices

A taxpayer who rehabilitates an abandoned building can choose between one of two available tax credits. *SC Code of Laws Section 12-67-140*

Option 1: credit equal to 25 percent of eligible rehabilitation expenses taken against state taxes/fees including income tax, corporate license fee, taxes on associations, or a combination of these taxes/fees

Option 2: property tax credit equal to 25 percent of the rehabilitation expenses for each local taxing entity consenting to the credit, up to 75 percent of the real property taxes due for each entity on the eligible site

A taxpayer owning the building site immediately prior to its abandonment is not eligible for the tax credit.

To receive the tax credit, the owner/developer must first prepare and submit a Notice of Intent to Rehabilitate to the state Department of Revenue for option one (state tax/fee credit) or the municipality or county for option two (property tax credit)

The notice must indicate the taxpayer's intent to rehabilitate the building site, the site's location, the amount of acreage involved, the amount of square footage of existing buildings on the site, and the estimated expenses for rehabilitating the site. The notice must also indicate which buildings the taxpayer intends to renovate and whether new construction is involved.

The credit amount is equal to a maximum of 25 percent of the actual rehabilitation expenses made at the building site, after filing the NOIR. Rehabilitation expenses falling below 80 percent or above 125 percent of the estimate detailed in the NOIR or incurred prior to filing the NOIR are not eligible for the tax credit.

If the taxpayer choses the state income tax credit, he must take the tax credit in equal installments over a five-year period, beginning when the property is placed into service. The maximum annual credit is capped at 50 percent of either annual taxpayer liability on income tax or taxes on associations or corporate license fees. For each abandoned building site, the credit cannot exceed $500,000 for any taxpayer in a tax year. Any unused portion may be carried forward for the next five years.

To claim the property tax credit, the taxpayer must get approval of the site and proposed project from the municipality or county where the site is located. The local government must determine and certify the eligibility and proposed rehabilitation expenses by a resolution approved by a positive majority vote. This determination must include a finding that the credit will not violate any covenant, representation or warranty in an existing tax increment financing district.

Council must then hold a public hearing and approve the tax credit by adopting an ordinance that provides for the credit to be taken against up to 75 percent of the real property taxes due on the site each year for a period not to exceed eight years.

The local taxing entity ratio, which is the millage rate of each participating local taxing entity, divided by the total combined millage rate of all participating taxing entities must be set at the time the NOIR is filed and must remain fixed for the credit period.

At least 45 days before holding the public hearing, the governing body must give notice to all affected local taxing entities where the site is located of its intention to grant the property tax credit. The notice must include the estimated credit based on projected rehabilitation expenses. If the other local taxing entities do not file an objection, they are deemed to have consented to the credit.

The abandoned building credit may also be passed through to lessees or purchasers of the property. For properties eligible for the income tax credit, the credit can be combined with state and federal historic rehabilitation tax credits. This would mean a potential credit equal to 55 percent of qualified rehabilitation expenses–20 percent federal historic preservation, 10 percent state historic preservation and 25 percent abandoned building credit. If the taxpayer qualifies for the abandoned building credit and the credit allowed by the Textiles Communities Revitalization Act or the Retail Facilities Revitalization Act, the taxpayer may claim only one of the three credits.

"fill-in-the-blank" application provides an easy-to-use format to highlight a project's key points. Each answer has a 100 word limit.

Thorough answers are essential for those entering a population category because the entries are judged solely on the submitted application. The judges do not have the opportunity to ask questions about the project as they do with entries in the subject categories.

3. Submit a complete entry package.

Each category has an average of four entries for the judges to review. A complete entry package gives the judges the opportunity to compare all of the entries equally.

• *Complete application form signed by the mayor.* The mayor's signature indicates the municipality agrees to send the mayor or a councilmember to the Association's Annual Meeting Awards Breakfast should the town win.

• *Complete responses to the 11 program description questions.* Omitting a question will disqualify the project.

• *Supporting materials (no more than four pages).* Supporting materials can be newspaper clippings, letters from constituents or other items that help you present the program.

• *Three digital photographs.* The three digital photographs (no smaller than 3"x5" and 300 dpi) depicting the project are used during the judging process as well as in the awards video and publications. Collages or compilations of photos will not be accepted.

The submission deadline is February 12 for online and hand-delivered submissions. Mailed entries must be postmarked by February 12. The main contact person for each entry will receive an email confirmation by February 19 from the Association confirming it has received the entry.

Online applications are available at www.masc.sc (keyword: achievement awards).

For more information regarding the 2014 Achievement Awards, contact Meredith Houck at 803.933.1215 or mhouck@masc.sc.

Economic development without borders:
the role of cities in regional alliances

by Jeff McKay, SC Economic Developers' Association

Regional alliances have become commonplace in economic development, and cities play an important role in these modern job-creation engines.

A little more than a decade ago, the concept of regionalism was still a cutting-edge economic development theory in some places. The idea that strategies could be coordinated among several cities and counties, making each more effective at job creation, was sometimes met with skepticism.

How would cities and counties that have been rivals in everything from industrial recruitment to high school football work together to help create jobs?

But today, as one looks around South Carolina–and almost all other states where job creation is a priority–you will find an array of regional economic development alliances. Each serves a different group of cities and counties and each has a custom-designed strategy for attracting investment and growing its employment base.

In South Carolina, many of these regional alliances have formed around familiar geographic markers: the Upstate, Midlands, Northeastern, Lowcountry, etc.

But as one looks at these regional alliances more closely, one will also see that cities frequently serve as a hub around which these coalitions are built. As Commerce Secretary Bobby Hitt wrote in a previous edition of Cities Mean Business: "Cities and towns are the center that defines an area. They are the soul of a region and of our state."

Just as major employers such as Boeing or BMW attract workers from throughout an entire region, cities are a magnet for business.

Cities often are home to regional amenities: airports, entertainment facilities, higher education, hospitals, financial and legal services, shopping and dining, the list goes on. Interstate highways form key logistical intersections near cities such as Columbia, Florence and Spartanburg.

In addition to transportation infrastructure, cities and towns that have more robust water and sewer infrastructure are also vital to economic development.

And while many manufacturing and distribution prospects seek large tracts of land that are hard to find inside municipal boundaries, there is a national economic development trend that specifically involves cities. In recent years, companies in the high-tech and services sectors have been moving their suburban headquarters and back-office facilities to downtown locations.

Another recent economic development trend has been talent recruitment. Numerous studies and experts have pointed out that young professionals are seeking to live in areas that have a defined sense of place appealing to their specific lifestyles, both at work and at play.

Among a recent round of funding from the Department of Commerce's Community Development Block Grant program were grants for streetscaping projects in the towns of Abbeville, Liberty and Walterboro. As cities enhance their downtowns and hone their unique sense of place (similar to something we in South Carolina have long referred to as "quality of life"), they will play an important role in attracting the entrepreneurs that create jobs throughout a region.

The results of all this activity are symbiotic. Workers may be employed at a facility in one town, live in another, and shop in a third. A manufacturing plant may be located in a rural area, but its management may live in the county seat. A regional headquarters in a downtown area may draw workers from several adjacent counties.

When corporate executives are looking at various locations to expand their business, they may use a city name as a shorthand reference to a metro area that includes smaller municipalities and unincorporated suburbs. Or they may be speaking of an entire multi-county region.

Either way, economic development does not stop at a city or county line. And South Carolina's cities play a role beyond their borders in spurring job creation throughout the Palmetto State.

Jeff McKay is executive director of the Northeastern Strategic Alliance and president of the SC Economic Developers' Association.

This column is reprinted from the Cities Mean Business *magazine Winter 2014 issue. For a copy of the magazine, visit www.masc.sc (keyword: CMB).*

Policies and training key to managing
law enforcement liability

Not a week goes by it seems without a headline-grabbing story about an incident involving law enforcement.

After a period of declining claims, there is an uptick in law enforcement liability activity around the country. Most of this activity centers on three major high liability areas that garner a great deal of media attention: pursuits/emergency vehicle operation, use of force and search-seizure-arrest. Municipal leaders need to pay special attention to these three areas and ensure their law enforcement personnel are properly trained in policy and procedure.

When pursuing claims against law enforcement, the plaintiff usually goes after the law enforcement agency because it has deeper pockets than the police officer. To accomplish this, they try to prove the law enforcement agency's policy, training or lack of supervision in some way contributed to the officer's alleged misconduct.

Typically, they bypass the state court system because of the caps on damages provided by the state Tort Claims Act. They try to bring the cases before a federal court where there are no caps on damages and the officer and municipality may both be held liable if the plaintiffs successfully prove their case.

To avoid liability claims in general and keep from being front-page news, law enforcement agencies must make sure they have ongoing review of policies covering those areas of high liability risk, continually train their officers in those policies, and ensure the officers are being properly supervised and act in accordance with policy.

The South Carolina Municipal Insurance and Risk Financing Fund provides its members with comprehensive, up-to-date law enforcement policies that address both critical and noncritical tasks. The policies are available in the SCMIRF

arindambanerjee / Shutterstock.com

members-only area of the Municipal Association's website (www.masc.sc).

SCMIRF contracted with the Legal & Liability Risk Management Institute, a division of the Public Agency Training Council, to develop the model policies and to keep them current.

Agencies that have proper policies related to the high-risk critical tasks are less likely to have liability. Additionally, an agency that trains officers on the high-risk, critical tasks achieves a higher level of performance, while at the same time diminishes the liability of its officers, its supervisors and the agency itself.

LLRMI also developed a roll-call training calendar, a simple monthly training program for roll-call type training. The monthly lesson plans are displayed so that supervisors can conduct the predesigned and choreographed lesson plan for every officer. Each month focuses on a different

critical task so that within a year's time, officers receive training in each critical task. Topics covered include use of force, emergency vehicle operation and arrest-search-seizure.

"The importance of training as it relates to policy cannot be overstated," said Heather Ricard, director of the Municipal Association's Risk Management Services.

Noted law enforcement risk management expert G. Patrick Gallagher shared, "Policy is only as effective as the training in the substance and requirements of that policy. If training is weak, unfocused or nonexistent, then the policy will not be followed. Training must cover the full range of tasks which officers are expected to perform."

"In addition to providing the model policies and calendars, SCMIRF offers several training sessions on law enforcement topics throughout the year for our members," explained Ricard. "We offer in-person classes as well as on-demand training through our LocalGovU Online Training Center."

Public safety is also one of the inaugural courses for the Municipal Association's Advanced Municipal Elected Officials Institute, scheduled for February 4. "Public Safety Policy and Administration" will focus on the elected official's leadership role and responsibilities related to public safety. Experienced public safety and municipal court practitioners will discuss police, fire and municipal court policies, best practices and operations. Elected officials who have completed the Municipal Elected Officials Institute are eligible to participate in the Advanced Institute. For more information about the Advanced Institute, visit www.masc.sc (keyword: advanced institute).

The SC Municipal Insurance and Risk Financing Fund is the property and liability program sponsored by the Municipal Association. For more information, visit www.masc.sc (keyword: SCMIRF).

Risk and Liability

A Day in the Life of
risk managers

This is part of a series of articles on the duties and responsibilities of municipal employees. For this article, we spoke with five risk managers from across the state who are responsible for risk management. They discussed the changes they have witnessed in the field of risk management during their tenure, as well as some of the challenges and rewards of the job.

Risk and Liability

Rodney Thomas, the occupational safety and risk manager for the City of Cayce, focuses on four primary areas to keep employees healthy and safe and to keep a municipality's assets secure: culture, complexity, technology and regulations.

Nick Shorter likes to say that he gets paid to worry.

As administrative services director for the City of Sumter, Shorter has been serving as the city's risk manager for the past six years. Shorter said the most interesting change he has seen is using a value-based approach for risk management. A value-based approach involves examining risk for the entire enterprise, not just insurance risk but also operational, financial, etc.

"With municipal revenue shrinking, controlling cost has never been more important. Risk management is a tool to help control cost and help balance our budget," he said. "Creating a culture for safety, keeping our experience modifier low, utilizing discounts tied to risk assessment results and grant reimbursements through the Municipal Association's Risk Management Services are ways that risk managers can help their city save money during ever increasing tight budget times."

One challenge is keeping everyone involved and aware about safety, Shorter said. This can be difficult for cities and towns where many employees face unique hazards. Police officers carry a gun and expect to encounter conflict; firefighters voluntarily run into burning buildings; sanitation workers dodge traffic; water and sewer maintenance workers work in all conditions to keep our lives running smoothly, Shorter said.

"At the core of risk management is the safety of our employees and those that we serve," Shorter said.

Rodney Thomas has been the occupational safety and risk manager for the City of Cayce for only six months, although he has been with the city for about nine years. He said risk managers must focus on four primary areas to keep employees healthy and safe and to keep a municipality's assets secure: culture, complexity, technology and regulations.

First, the organization's culture from the top down must have a legitimate concern and focus for employee health and well being, Thomas said.

Second, the complexity of the work environment is always changing.

Awareness, training and education are critical to ensure that employees have the knowledge and understanding to perform their jobs safely.

Next, technology is a tool that creates new channels for training and education along with research that can assist in creating a safer work environment.

Finally, regulations are always changing. Risk managers need to stay familiar with new rules, policies or guidelines that may pertain to their work environment.

To be effective, risk managers must build relationships and trust within the organization. They also need strong time management and organizational skills, as they are often pulled in many different directions, Thomas said.

Frances Quarles, treasurer for the Town of Johnston, finds herself juggling many different duties–business licensing, building permits, personnel, accounts payable and payroll, to name a few. She also handles the town's risk management duties.

"You have to multitask and try to get things done in a timely manner," said Quarles, who has worked for the town for 25 years. "You have to put your brain in a different gear when another challenge comes up."

Quarles holds safety meetings and makes sure employees are complying with set safety standards. The issue of cyber liability is a new risk management trend that the town is aware of, but so far the small town has not had to deal with any issues, Quarles said.

"We know it's out there, and it will be an ongoing problem for all of us," she said.

Indeed, cybersecurity is one of the hottest topics amongst risk professionals today, agreed Robin Entrekin, director of risk management and human resources for the City of Clinton.

Because public entities handle a lot of customer data and city finances, developing cybersecurity strategies to protect both personal data and an entity's financial resources is of paramount concern to risk managers, Entrekin said.

Some of the most sophisticated programming in the world is getting

Rebecca Mejia-Ward, Sherron Skipper, MaryEsther Dowdy regularly hold safety committee meetings to review policies and new regulations for the City of Hartsville.

hacked, and there is no risk program too small to not be vulnerable, Entrekin said. It is also important to develop a cyberbusiness continuity plan that incorporates the cloud or other off-site backup and storage in the event of a fire, tornado or other catastrophic event, he added.

Entrekin, who has worked for the city for 28 years, said there have been many changes in the field during that time.

"Safety, in and of itself, used to be the main focus. While it is still a major component, advancing media and equipment technology, the overwhelming dependence on computers for all aspects of operations, and the upswing of attorney involvement in workers' compensation and liability claims make the approach to managing risk exposures as dynamic and evolving as it has ever been," he said. "Managing risk exposures today requires a turnkey approach of analyzing all aspects of risk as a whole and not just its components. It requires risk managers to be creative and innovative when developing risk management strategies and policies.

Entrekin also says that top management is becoming more knowledgeable of how important a risk and safety program is to an organization.

"Over time, a good risk manager can save an entity thousands of dollars in premiums, deductibles, and indemnity outlay and can pay for him or herself many times over," Entrekin said. "Support and commitment of upper level management are vital to the effectiveness of a risk management program."

Risk is trending toward touching every aspect of an operation, including healthy workplace initiatives, and is a major budget component, according to Sherron Skipper, director of administrative services for the City of Hartsville. The field of risk management has evolved to include more elements such as policies and procedures, property assessments, construction/material management and public officials' liability, said Skipper, who has been in her current position for 20 years and has worked in other departments within the city since 1980.

Skipper said it is challenging to keep up with changing regulations and laws then communicate them to employees at each level of employment. Still, Skipper values those interactions with employees.

"They are our number one asset, and I really enjoy communicating with them one-on-one or as a group to ensure they return home in the same condition they came to work," she said.

Risk and Liability

It's no longer a question
of if a computer breach will happen

With computer hacking becoming an increasing threat, municipal officials must be aware of their potential liability for a breach of computer security and have a plan in place before a breach occurs.

Breaches occur when there is a loss, theft or other unauthorized access to data containing sensitive personal information that results in the potential compromise of the confidentiality or integrity of data.

Personal data generally includes information that can be used to locate or identify an individual's name, address, telephone number, Social Security number, driver's license number, account number, or credit or debit card number. It also includes more sensitive information, such as income, personal health records, military records, law enforcement investigatory records, and various disclosures made in connection with applying for government licenses or benefits.

In addition to personal data, government agencies often maintain extensive records regarding corporations, partnerships and individuals. This includes tax records and information submitted in connection with bids for government contracts and license applications.

Breaches happen when data is released intentionally, but in violation of law or regulations, or it can occur when data is released accidentally due to malfunctioning software or human error. It can be the result of physical media like laptops getting lost or stolen. It also can occur when an employee improperly accesses information without permission, or when a computer system is hacked or infected with a virus.

Cyber liability involves exposure for breach of private data (or personal identifying information) held on computer systems. Federal and state statutes provide privacy protection and outlaw identity fraud. South Carolina law requires both government agencies and businesses to notify consumers when their personal identifying information has been compromised. It requires notification to be made without delay and in compliance with the statutory requirements. Failure to provide proper notice carries statutory penalties.

The cost of computer data security breaches can be immense because of the large number of people who may be affected. The risks of cyber liability can be minimized by proactively putting strategies in place to avoid data security breaches. Additionally, having cyber liability insurance coverage is strongly encouraged because general liability coverage often does not cover cyber liability.

To that end, the SC Municipal Insurance and Risk Financing Fund, the property and liability program sponsored by the Municipal Association, gives its members access to NetDiligence, a cyber risk management firm. Net Diligence offers proactive and reactive services for data breach responses and cyber liability issues, according to Heather Ricard, director of Risk Management Services for the Municipal Association.

Net Diligence offers information regarding breach laws by state, self risk-assessments, and a repository of articles related to breaches around the country. It also provides access to a

Breach Coach to help guide a member city if it experiences a breach, and access to a team of breach response experts, including legal counsel, computer forensics, victim notification, victim call center support, and credit monitoring.

The SCMIRF board approved using the service in August. Ricard said NetDiligence has worked with the National League of Cities Risk Information Sharing Consortium to develop the members-only content then shared it with other NLC-RISC participating risk pools.

Private entities often invest more in cybersecurity measures, but governmental entities are subject to the same level of risk, according to Dave Chatfield of Net Diligence.

The bulk of the information, such as white papers and legal studies, on Net Diligence's eRisk Hub is intended to be proactive, Chatfield said. "It may trigger an appreciation of the risks that may be in their environment." It also may prevent a security breach.

One such risk involves credit card transactions, Chatfield said. If a municipality accepts credit cards for fines and fees, it is subject to the same regulations and bears the same responsibility as private retailers in protecting cardholder data.

Cities and towns also may have varying levels of information security skills and competence, Chatfield said. Municipal governments simply may not have a dedicated, in-house information security person and may need to reach out to private vendors to ensure their computer security is adequate.

VC3, the Municipal Association's technology partner, provides information technology services, including security audits, to cities and towns.

"Minimizing risk is primarily about understanding what your risks are," according to Brant Hale, a certified information systems security professional for VC3. "Without an understanding of what is at risk you cannot address it."

Recommendations

• Follow vendor guidelines on securing servers and devices.
• Encrypt files and computers, especially laptops.
• Remove guest or default passwords.
• Create passwords with at least 12 characters, including letters, numbers and symbols.

• Install antivirus and antimalware software on computers.
• Train employees to resist social engineering. Social engineering is a nontechnical intrusion of a computer system. Its success relies on people not being careful about protecting information.
• Train employees to limit the sensitive information that they store.

Hale conducts security audits to review the security in place to protect a workplace. Security audits should include a review of existing policies, industry regulations or compliance, and controls in place to prevent a cyberattack.

At its conclusion, the audit should provide a list of issues and suggest ways to address and remediate them, he said. He also recommended training employees to recognize risks that can affect computer systems and be aware of and avoid phishing scams.

"User training is essential to raising awareness and is a critical area often overlooked. Thousands of dollars of hardware and software are useless when a user makes bad choices and compromises security," Hale said.

Frequently asked questions
South Carolina Tort Claims Act

Q What is the South Carolina Tort Claims Act?

Passed in 1986, the South Carolina Tort Claims Act holds government employees and officials liable for their actions in circumstances where an individual is injured. Before 1986, government employees and officials had total immunity.

Q Why was the Tort Claims Act necessary?

The General Assembly recognized that while total immunity from liability on the part of the government was not desirable, government officials and employees should not be subject to unlimited or unqualified liability for their actions. The Act strikes a balance between the two.

Q What is the maximum amount for which someone can be held liable?

The Act established a maximum loss amount of $300,000 per person for acts arising from a single occurrence. The total sum that can be recovered from a single occurrence cannot exceed $600,000 regardless of the number of claims, political subdivisions or agencies involved. *S.C. Code of Laws Section 15-78-120(a).*

Q Are there any exemptions?

Yes, the General Assembly recognized government's unique roles and obligations in society. The Act specifically exempts public entities from liability resulting from certain actions (e.g., legislative, judicial or quasi-judicial action or inaction; execution, enforcement or compliance with any court order; assessment or collection of taxes; any claim covered by the South Carolina Workers' Compensation Act). Refer to Section 15-78-60 of the S.C. Code of Laws for a full listing of exemptions.

Risk and Liability

Play *or* pay?

Cities and towns are offering a wider array of recreational activities than ever before. These recreational activities are being used by people of all ages and abilities, some requiring special considerations.

With increased activities comes an increased potential for injuries and liability claims. Many users, particularly children, are injured each year.

The U.S. Consumer Product Safety Commission's statistics show that annually more than 200,000 children are treated in emergency rooms for injuries sustained on playground equipment. Seventy-six percent of these injuries occurred on public playgrounds. Playground-related deaths primarily involved strangulation from ropes and clothing, followed by falls, and equipment tipping over or structural failure.

Major causes of public playground/park injuries

• falls (44 percent)
• equipment-related breakage, tip over, design and assembly (23 percent)
• entrapment
• colliding with other children or stationary equipment

Properly designed and maintained parks and playgrounds are the keys to keeping residents safe and reducing the entity's exposure to liability.

While there are no federal laws mandating playground safety standards, the CPSC's "Handbook for Public Playground Safety" and the American Society for Testing and Materials' standard (F 1487-95 – Consumer Specification for Playground Equipment for Public Use) have become the industry standard.

Failure to abide by the guidelines and standards could be costly for a municipality if it becomes involved in a lawsuit.

The South Carolina State Supreme Court noted in *Ellege v. Richland/ Lexington School District Five* that "the general rule is that evidence of industry standards is admissible to establish the standard of care in a negligence case. The evidence of CPSC guidelines and ASTM standards…is exactly the type of evidence contemplated by this general rule."

Parks and recreation departments should review the CPSC guidelines and the ASTM standard to ensure their facilities and equipment are safely designed and assembled. They should conduct periodic inspections, document any maintenance performed and use proper signage where necessary.

The bottom line is to review each facility, playground and activity to determine the associated liability risks then develop a plan to manage them.

The SC Municipal Insurance and Risk Financing Fund, the property and liability program sponsored by the Municipal Association, is creating a toolkit for its members to help reduce the frequency and severity of claims associated with parks and recreation activity, For more information about SCMIRF, visit www.masc.sc (keyword: SCMIRF).

CPSC Public Playground Safety Checklist

☐ Make sure surfaces around playground equipment have at least 12 inches of wood chips, mulch, sand, pea gravel, or mats made of safety-tested rubber or rubber-like materials.

☐ Check that protective surfacing extends at least 6 feet in all directions from play equipment. For swings, be sure surfacing extends, in front and back, twice the height of the suspending bar.

☐ Make sure play structures more than 30 inches high are spaced 9 feet apart.

☐ Check for dangerous hardware, like open "S" hooks or protruding bolt ends.

☐ Ensure spaces that could trap children, such as openings in guardrails or between ladder rungs, measure less than 3.5 inches or more than 9 inches.

☐ Check for sharp points or edges in equipment.

☐ Look for tripping hazards, such as exposed concrete footings, tree stumps and rocks.

☐ Make sure elevated surfaces, such as platforms and ramps, have guardrails to prevent falls.

☐ Check playgrounds regularly to see that equipment and surfacing are in good condition.

☐ Carefully supervise children on playgrounds to make sure they are safe.

Help for reducing liability *from sewer backups*

Reports on the health, environmental and economic development impacts of aging water and sewer infrastructure abound, but the liability aspect deserves equal attention. According to the state Tort Claims Act, if a water or sewer system defect causes property damage and the service provider had–or should have had–notice of the defect, the provider is liable for damages.

For the last decade, the South Carolina Municipal Insurance and Risk Financing Fund has seen an increase in the cost to settle sewer backup claims. The increasing costs are attributed to members who unintentionally create liabilities by failing to correct known issues or by lacking adequate inspection and maintenance programs.

Since 2007, SCMIRF has incurred costs for 38 sewer backup events. Although the number of claims represents a small portion of all general liability claims, they account for an average of 12.6 percent of the program's yearly general liability claims costs.

Beginning this year, SCMIRF is offering grants to help public works departments purchase equipment designed to prevent or reduce sewer backup claims. Sewer cameras, tractor transporters that carry cameras through the line, smoke fans, and acoustic pipe inspectors are eligible for reimbursement under the grant. SCMIRF will pay a 50 percent match, up to $2,000 yearly.

SCMIRF also developed a Sewer Backup Response Kit for its members to provide practical, straightforward information to help public works employees respond promptly and appropriately to sewer backups.

Sample guidelines for responding to a sewer backup

• Complete regular inspection and maintenance reports. Address any noted issues as soon as possible because these issues constitute "notice" of a defect.

• Avoid removing wastewater from the customer's property. Instruct him to hire a professional cleaning service. Provide a list of professionals, but do not endorse one. If you must assist with cleanup or extraction, have the claimant sign a nonwaiver of defenses agreement, stating that your assistance does not constitute admission of responsibility.

• Report the incident to your insurer immediately. Have trained staff complete a detailed incident report with the claimant's contact information. Do not have the claimant complete or sign the incident report.

• Do not discuss the cause of the backup with the claimant or his cleanup service. If the claimant asks, refer him to your insurer who will investigate and determine responsibility.

• To assist your insurer in determining liability and preparing a defense against litigation,

a. Take photographs or videos of the spill.

b. Provide copies of your complaint log and information regarding prior backups at this or nearby locations to your insurer's claims department.

c. Document the cause of the spill, if known

d. Correct any system deficiencies to prevent additional incidents

• Refrain from installing backflow preventive devices on private property as this may create liability issues. The customer's plumber should do this.

SCMIRF is a service of the Municipal Association and a self-insured property and liability program with more than 100 local government members in the state. For more information about the new sewer backup grant, contact Hayes Holland, accountant for risk management services, at 803.354.4774 or hholland@masc.sc.

Calendar

For a complete listing of training opportunities, visit www.masc.sc to view the calendar.

FEBRUARY

12 Defensive Driving. Aiken Public Safety Training Facility. Open to SC Municipal Insurance Trust and SC Municipal Insurance and Risk Financing Fund members. Core course for the Risk Management Institute.

12 SC Other Retirement Benefits Employer Trust Members Meeting. Municipal Association Office, Columbia.

13 Defensive Driving. Town of Central Council Chambers. Open to SC Municipal Insurance Trust and SC Municipal Insurance and Risk Financing Fund members. Core course for the Risk Management Institute.

18 Defensive Driving. Goose Creek Police Department Training Room. Open to

SC Municipal Insurance Trust and SC Municipal Insurance and Risk Financing Fund members. Core course for the Risk Management Institute.

19 Defensive Driving. Municipal Association Office, Columbia. Open to SC Municipal Insurance Trust and SC Municipal Insurance and Risk Financing Fund members. Core course for the Risk Management Institute.

20 Defensive Driving. Pavilion at Lawton Park, Hartsville. Open to SC Municipal Insurance Trust and SC Municipal Insurance and Risk Financing Fund members. Core course for the Risk Management Institute.

27 Association of Municipal Power Systems Associate Members Luncheon. Seawell's, Columbia.

MARCH

5-7 SC Utility Billing Association Annual Meeting. Embassy Suites at Kingston Plantation, Myrtle Beach. Topics include preventing workplace violence, customer services and E-billing.

11 Fire Policy Training. Surface Water Plant Training Room, Florence. Open to SC Municipal Insurance Trust members. Elective course for the Risk Management Institute.

12 Fire Policy Training. Municipal Association of SC Office, Columbia. Open to SC Municipal Insurance Trust members. Elective course for the Risk Management Institute.

12-14 Municipal Clerks and Treasurers Institute Session I. SpringHill Suites, Columbia. Topics include election administration, cost effective IT strategies, municipal accounting and human resource management.

13 Fire Policy Training. Banquet Hall, Fountain Inn. Open to SC Municipal Insurance Trust members. Elective course for the Risk Management Institute.

14 Municipal Technology Association of SC Spring Meeting. Columbia Conference Center, Columbia. Topics include email archive solutions, Microsoft cloud solutions and PCI compliance update.