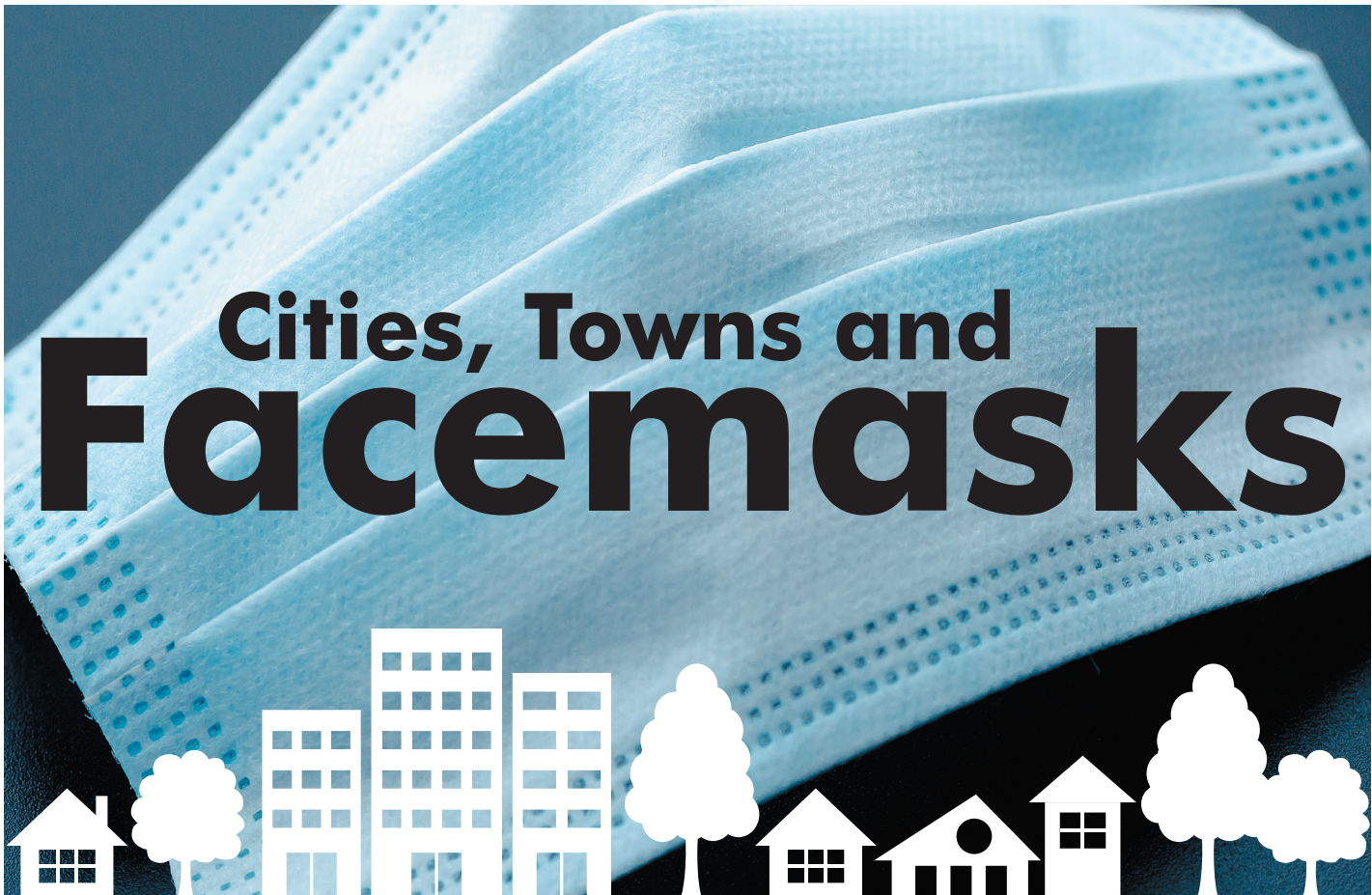




UPTOWN

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Cities, Towns and Facemasks

The sight of facemasks is a central fact of life in 2020, along with discussions on their effectiveness. South Carolina does not have a statewide mandate on masking, but cities, towns and counties are at the forefront of this massive issue, and local government masking requirements are making a real difference.

Masking ordinances began in June, and by August, they covered more than 40% of the state's residents, with many more councils pursuing the route of resolutions encouraging, but not

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requiring, masking as a way to help in the public health emergency. Some cities got started with a resolution, and then moved to a requirement passed by ordinance.

In August, the SC Department of Health and Environmental Control reported data showing the effectiveness of requirements in slowing the spread of the disease. Four weeks after passing mask ordinances, those jurisdictions with a requirement showed a 46.3% decrease in total number of cases, while jurisdictions without the requirements saw an increase in cases

The SC DHEC report included a statement from Dr. Linda Bell, the state's epidemiologist, who said the data "shows us what we already knew, wearing face masks works. We're strongly supportive of these local leaders' initiatives that are centered on protecting the health and well-being of their communities."

Masking was not the first time in the pandemic that local governments worked hard to improve the safety of their residents. In March, many municipalities enacted emergency ordinances requiring residents to remain at home or shelter in place outside of essential activities, such as shopping for groceries and visiting pharmacies. Following their lead, on April 6, Gov. Henry McMaster issued Executive Order 2020-21, the "Home or Work" Order, which had similar social distancing requirements for a limited time.

After the reopening of businesses and other spaces, statewide infections began to climb in early June, and cities and towns again took action. On June 22,

Greenville City Council became the first to pass an ordinance mandating masks. Ordinances and emergency proclamations soon followed in dozens of municipalities from Beaufort to Winnsboro, as well as in a number of counties. The Municipal Association of SC crafted and distributed a model mask ordinance for councils to consider, and later offered guidance on how to extend mask ordinances.

Early on in the wave of mask ordinances, there were questions on whether a city council had the necessary authority to make masks mandatory within the city's boundaries. SC Attorney General Alan Wilson issued a June 24 statement declaring the ordinances lawful under the state's constitution. Article 8, Section 17 of the SC Constitution indicates that the constitution's provisions "and all laws concerning local government shall be liberally construed in their favor."

The premise, Wilson wrote, "is to empower local governments ... to effectively govern themselves without interference from state government."

He also noted restrictions that local governments could face when making decisions through ordinances. These include cases where the General Assembly has preempted a particular type of law, instances of arbitrary ordinances — such as passing a mask ordinance in the absence of a public health emergency — or instances of ordinances violating constitutional rights.

Find the Municipal Association's sample mask ordinance and other COVID-19 resources at www.masc.sc (keyword: coronavirus resources).

In August, the SC Department of Health and Environmental Control reported data showing the effectiveness of requirements in slowing the spread of the disease. Four weeks after passing mask ordinances, those jurisdictions with a requirement showed a **46.3% decrease in total number of cases**, while jurisdictions without the requirements saw an increase in cases.



'A Close, Honest Relationship'

Lake City, Florence Mayors Discuss Leadership, Trust

The killing of George Floyd by Minneapolis police in May led to protests and civil unrest around the nation and wider discussions on race relations and police procedures.

Both the City of Lake City and the City of Florence were among the communities to have protests. The mayors of those cities — Lovith Anderson Jr. in Lake City and Stephen Wukela in Florence — discussed these events and other challenges during a session of the Municipal Association of SC Virtual Annual Meeting. The videos, first made available in July, are still available on the Municipal Association's website.

The two mayors recalled instances of civil rights activism in their communities. Anderson remembered a time from his childhood when Martin Luther King Jr. visited Lake City. He recalled the tension in the community — the gun his uncle kept in the front seat of his car for the event — as well as the power of King's words.

The 12- and 13-year-old boys present were normally rambunctious, Anderson said, but when King spoke, "you could hear a pin drop."

Both mayors spoke of what they had learned from local civil rights leaders. Wukela spoke of the recently deceased

Rev. William Diggs, who had served as pastor of Florence's historic Trinity Baptist Church. He remembered Diggs' stories of organizing sit-in protests in Rock Hill and making sure protesters remained nonviolent in the face of harassment and physical assaults. Anderson spoke of the Rev. Joseph DeLaine, a civil rights leader who fought for desegregation and left South Carolina for good after the difficulties of his time in Lake City.

"There is so much history in the Pee Dee," Anderson said. "A lot of it has not all

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Lake City's Mayor Lovith Anderson Jr., left, talks with Florence Mayor Stephen Wukela as part of the Municipal Association's 2020 Virtual Annual Meeting.



NEWS BRIEFS

The **SC Business Licensing Officials Association** recently awarded several Accreditation in Business Licensing designations: **Shaine Beal, City of Hanahan; Laura Boatwright, City of Forest Acres; and Katrina Woodruff, City of Greer.** BLOA also awarded two Master in Business Licensing: **Nathan Campbell, City of Aiken; and Vicki Oberst-Bell, Horry County.**

The pandemic small business recovery efforts of the **City of Florence** received a spotlight as a case study in the AARP's publication **Commercial District Design: COVID-19 Response and Management: Small Businesses.**

West Columbia City Clerk **Crystal Parker** earned the Certified Municipal Clerk designation from the International Institute of Municipal Clerks.

The Municipal Association's General Counsel **Eric Shytle** received the designation of an International Municipal Lawyers Association Local Government Fellow. The program provides certification of expertise in municipal law. Shytle also received the William I. Thornton Jr. IMLA Faculty Award.

"I submit to any mayors who are watching or any councilmembers who are watching, if you can't pick up the phone and call leadership in the Black community or white community at 2 o'clock in the morning and have them answer your call and already be comfortable and have a close, honest relationship with them, you're not doing your job, I think, as mayor."

– Mayor Stephen Wukela, Florence

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been pleasant. And sometimes we try to shelter our children and shelter ourselves from it, as though it will disappear. But it doesn't when you have to look at each other for who we are and what we are and accept everybody as our brothers and sisters, and move forward."

Wukela described the importance of relationships and trust when working as a mayor. He described a 2018 incident when a Florence police officer began a traffic stop, and then a state constable shot the motorist nonfatally. The event happened late on a Saturday night. Wukela immediately moved to call community leaders to indicate that the city would release all video footage as quickly as possible.

"I submit to any mayors who are watching or any councilmembers who are watching, if you can't pick up the phone and call leadership in the Black community or white community at 2 o'clock in the morning and have them answer your call and already be comfortable and have a close, honest relationship with them, you're not doing your job, I think, as mayor," he said.

Wukela described dashboard camera and body camera footage as "extraordinarily valuable to us."

Providing footage to community leaders, he said, also allows the city to say, "Here's what happened. This is not me telling you what happened. This is not my version of what happened. This is not an edited portrayal of what happened. This is what happened, and now let's talk about it."

Anderson also spoke of the importance of building relationships over time, among various community leaders and

among children. Before he began to serve on council, he said his young son once used a water gun to shoot at a police officer. The officer wanted to take his son to the police station..

"I said, 'can you imagine what that would do to him?' So I said, 'if he needs to come downtown, I will bring him, and we'll sit down in the chief's office and have a conversation,'" Anderson said. "It was the fact that the officer didn't put so much pride in himself that we didn't go to the station and have that conversation. Then, my son ended up becoming a police cadet. They got to be together all the time. These are experiences that children need to have along with adults, in communication with each other," Anderson said.

Wukela noted that in Florence, some residents are engaged and ask for police presence in particular situations.

"That stands in contrast to some of this fear of police, and 'defund police' arguments you hear in some places. We're not hearing that in our communities. What we're hearing is 'we want them here, we want to know them,'" he said.

He added that in planning for the protests that took place, the city worked to make sure that the police were not in tactical gear, which can be threatening.

"They were present, they were marching with the marchers, they were providing water. They were certainly enforcing the law, but they weren't in a confrontational stance," he said.

Find the conversation between Anderson and Wukela, as well as all other Virtual Annual Meeting videos, at www.masc.sc (keyword: Annual Meeting).

Association Highlight:

Municipal Technology Association of SC

Many municipal job positions have specific training and networking needs, and the Municipal Association of South Carolina's affiliate associations offer opportunities to meet those needs.

The information technology needs of cities and towns grow more extensive

every year, and 2020 has brought about unprecedented challenges for everything from virtual city council meetings to work-from-home setups for staff.

The Municipal Technology Association of SC promotes municipalities' effective use of technology. MTASC exposes its members to a broad range of technology

systems, platforms and solutions. The training serves IT staff and those with GIS responsibilities, in addition to employees who work in other departments but have technology-related duties.

Learn more about the Municipal Technology Association of SC at www.masc.sc (keyword: MTASC).



Test yourself monthly quiz

True or False:

A quorum can only happen if all councilmembers are physically at the meeting.

Answer: False

A public meeting occurs when a quorum of the council, whether in person or by using electronic equipment, convenes to discuss or act upon public business. This definition comes from the SC Freedom of Information Act, SC Code Section 30-4-20(d). A quorum, unless otherwise defined by applicable law, means a simple majority of the council. For more information about vacancies, abstentions, conflicts of interest and recusals, see the March

2020 *Uptown* article "Handling Quorums Correctly" at www.masc.sc (keyword: Uptown).

Electronic meetings became substantially more common in 2020 as a means of social distancing. The Municipal Association created guidance for how to appropriately and effectively conduct electronic meetings as part of a videocast series on coronavirus operations. Learn more at www.masc.sc (keyword: Municipal Resources for COVID-19).

The Municipal Elected Officials Institute of Government offers online courses. In-person classes will resume when COVID-19 activity drops to safe levels. To register for the on-demand courses, go to the Municipal Association's website at www.masc.sc and log in with your user identification number and password. The on-demand courses can be accessed 24/7 from any computer, tablet or mobile device that has internet connection and may be taken in any order.



OSHA Rules Address Injury Reporting, Drug Testing

The Occupational Safety and Health Administration is responsible for ensuring safe and healthy workplaces, and it requires employers to record workplace injuries and illnesses. To comply with OSHA safety regulations, and to reduce the cost of employee injuries and illnesses, employers have implemented practices such as safety incentive programs and drug testing. OSHA has expressed concern that such practices could have the unintended consequence of discouraging employee reporting of illnesses and injuries, and possibly lead to retaliation against employees who make reports.

In 2016, OSHA issued a new rule prohibiting employers from using a drug test as a way to retaliate against workers who report injuries or illnesses. This anti-retaliation rule does not, however, prohibit the drug testing of employees outright. If an employer conducts drug testing to comply with the requirements of a state or federal law or regulation, the employer's motive would not be considered retaliatory.

Despite its finding that employee drug testing to comply with a state or

federal law is not retaliatory, OSHA indicated that some drug testing and safety incentive policies would still have the effect of keeping employees from reporting work injuries, and would therefore be a violation of OSHA regulations. In 2018, OSHA issued a memo clarifying this position. The memo indicates OSHA's belief that many employers who use drug testing and incentive programs do so to promote safety and health. Furthermore, the memo stated, "evidence that the employer consistently enforces legitimate work rules (whether or not an injury or illness is reported) would demonstrate that the employer is serious about creating a culture of safety."

OSHA named several drug testing methodologies that would not be violations of its requirements, including

- random drug testing,
- drug testing unrelated to the reporting of a workplace injury or illness,
- drug testing under a state workers' compensation law or federal law, and

- drug testing to determine the cause of an event that hurt or could have hurt employees.

The memo stated that programs for reporting near misses or hazards as well as health management systems are acceptable. It also indicated that rate-based incentive programs are appropriate under the regulations, so long as they do not operate in a way that discourages reporting. For example, withholding a prize or a bonus because of a reported injury would be acceptable, "as long as the employer has implemented adequate precautions to ensure that employees feel free to report an injury or illness."

OSHA then suggested ways to counterbalance any incentive program's potential to chill reporting by also providing incentives for reporting unsafe conditions, instituting training to reinforce reporting rights and an evaluation process for determining employee's willingness to report injuries.

Find the OSHA guidance on workplace safety programs and drug testing at <https://www.osha.gov/laws-regs/standardinterpretations/2018-10-11>.

Employer Injury and Illness Reporting Requirements

South Carolina's rules on injury reporting indicate that employers are required to report injuries to OSHA in cases where there has been a fatality, hospitalization, amputation or the loss of an eye. Employers must record all injuries and illnesses on the OSHA 300 form. They must report electronically every year using the OSHA 300A form if they have more than 250 employees, or if they are in a high-risk industry, including utilities, and have more than 20 employees.

Find the Right Protective Equipment for Public Works Staff

Risk management professionals discuss personal protective equipment often enough that they mostly refer to it simply as “PPE.” The topic of PPE entered into broader awareness because of the coronavirus pandemic, since items like gloves, face shields and N95 respirators are forms of PPE.

Outside of public health emergencies, PPE is a part of life for public health workers. Precisely what kind of PPE they require depends on the specific tools they use, and the hazards they face.

PPE hazard analysis allows employers to understand what kind of PPE is needed for employees, employers should conduct a PPE hazard analysis. The analysis should be performed by someone knowledgeable about both the equipment and the potential hazards. After conducting a walk-through hazard analysis survey, employers should determine who should wear what PPE. They should have discussions with front-line employees to ensure that they are not missing any potential hazards.

“Public works employees are exposed to risks every day,” Bethany Pendley, loss control manager for the Municipal Association of South Carolina’s Risk Management Services said. “A hazard analysis is essential to determine the appropriate personal protective equipment needed to protect employees from injuries.”

All public works employees

Although the work of some public works employees might expose them to different hazards, most of them should wear steel-toed boots, safety glasses, hard hats and gloves. Public works employees who work in the presence of vehicle traffic should wear high-visibility vests or shirts.

Fall hazards

Any employees who work more than 4 feet off the ground should wear fall protection, including a harness and



lanyard, while working at an elevated height.

Chemical and respiratory hazards

Employees who use chemicals need to wear chemical-resistant gloves, goggles, a face shield and an apron. Employees exposed to chemicals should refer to the material safety data sheet to determine if respiratory protection is required while using the chemical. If an employee wants to wear a dust mask voluntarily, they should review Appendix D of the Occupational Safety and Health Administration Respiratory Protection Standard. Employers should also use a full written respirator program, including a medical questionnaire, fit testing, and training for employees.

Electrical hazards

Employees exposed to electrical hazards should wear PPE determined by the arc flash analysis per the voltage with which they are working. All PPE should be inspected for any cuts or damage before use. Damaged PPE must be taken out of service immediately.

Cutting and welding hazards

Employees who use chainsaws are required by the Occupational Safety

and Health Administration to wear foot protection made with cut-resistant material, hard hats with a full face shield, hearing protection, cut-resistant chaps and gloves. Chainsaws are one of many pieces of machinery that can be significantly noisy. If employees experience 85 decibels of noise for an extended time, they should wear hearing protection.

Employees who are cutting, welding, or brazing must wear an approved welding shield with lenses approved for what they are welding. If they are grinding, they must have a full face shield and safety glasses while operating the grinder.

PPE maintenance and training

Employers must provide or pay for necessary PPE for employees, with some exceptions for footwear, lost PPE or intentional damage.

Employees should receive training on inspecting, cleaning, storing, putting on and taking off the PPE properly before being allowed to wear specific items.

For questions about PPE usage, talk to John Ciesielski, loss control consultant for the Municipal Association’s Risk Management Services, at jciesielski@masc.sc or 803.354.4752; or Bethany Pendley, loss control manager, at ppendley@masc.sc or 803.933.1210.

Going Virtual

Public Meetings Pursue Online Solutions

This year's coronavirus disruptions and shutdowns brought difficult questions about which meetings and activities could go on hiatus. In many cases, conducting municipal business in open and transparent meetings of public bodies could not wait. As such, officials and staff moved to change the way they conducted city and town council meetings, and in some cases meetings of commissions and committees.

"In early March, as soon as we realized COVID-19 was going to impact our community, our state and our country, we made a quick decision to work remotely," Marc Orlando, town manager of Bluffton, said. "Town council made a quick and really good decision to call a state of emergency. That allowed for electronic meetings."

The Town of Bluffton's IT team immediately went to work, setting up and training town council members on electronic meetings and cloud-based software. The town also put a telecommuting policy and program in place, making

the workplace safe for employees whose jobs required them to be in the office, and requiring employees who were able to work from home to do so.

Decisions on how to facilitate social distancing took place all over the state, as small towns and large cities turned to their IT departments for expertise. Staffers, elected officials and committee members then made a quick transition to Zoom, GoToMeeting, Facebook Live or other online meeting services.

The transition wasn't always smooth. Some days the internet connection was lagging, and people occasionally got dropped from calls.

"We're learning how to be effective as a team. I realized it was probably the smart thing to do to try to keep as much normalcy as possible. We still have weekly department head meetings. Town Council meets on the second Tuesday of the month," Orlando said.

Municipal Association of SC staff members were quick to answer questions at every juncture, Orlando said. The

Municipal Association put together a videocast series, *Municipal Resources for COVID-19*, that addressed the best practices for electronic meetings, public comments and other considerations, available at www.masc.sc (keyword: coronavirus resources).

The Town of Summerville made most of its meetings virtual beginning in April. The public can watch through the live streaming link on the town's website, and public comments for agenda items are collected through email. People can also sign up to make comments during the meeting, according to Rebecca Vance, Summerville's town administrator.

"Council and staff have done a great job adapting to virtual meetings. We have an excellent IT department that worked diligently to make this transition a smooth process," Vance said.

Before the first virtual council meeting in April, the town staged a practice meeting online to acclimate everyone to the process. Vance noted that this helped limit the potential for technical difficulties, and



Bluffton councilmembers and staff gather in a virtual emergency meeting. Photo: Town of Bluffton.

it helped them to know what to expect “while we were live.”

In the upstate City of Travelers Rest, all meetings for boards, commissions and council went virtual when the pandemic hit.

“We did that for the first 60 days or so, and then we decided to do more of a hybrid after that. Council meets in chambers with an alternative seating arrangement. Everyone is at least 6 feet apart. There’s modified seating for staff and council,” City Administrator Eric Vinson said. “[W]e utilized Zoom and Facebook Live platforms for viewing and public participation. We are trying to facilitate a partial in-person meeting, and we’re striving to improve it as we go forward.”


Travelers Rest uses multiple laptops around the room to get audio and visual feeds from everyone. The public can sign up to speak at a public hearing and can communicate electronically. While the city had never streamed its meetings before the pandemic, it is now looking at purchasing equipment and cameras to improve the video feed.

“We’re a small operation. It was a challenge,” Vinson said. “We called around and tried to figure out how other places were doing things. And then we figured it out. A lot of research went in to try to figure out what the best solution would be. That was the biggest learning curve. Once we got it up and running, things ran very smooth on the virtual meeting.”

Even though the public is not present in all council chambers around the state, cities and towns have taken steps to be sure their voices and concerns could be heard. Public hearings and agenda time for public comment continued, just in a different form.

In some communities that use the Zoom meeting platform, the public may request to enter the council “waiting room,” and can voice their comments once they are admitted to a meeting or hearing. Other towns accept comments through Facebook or email.


In Bluffton, community members can submit comments two hours before the



Planning & Development
Bill McIntosh
Bob Jackson
Terry Jenkins

Planning & Development Committee

Proposed amendments to the Summerville Unified Development Ordinance, Chapter 5, Section 5.6.9, Alley; Chapter 10, Section 10.2.1.A, Applicability, Section 10.4.2.A, Monument Signs, Section 10.7.2.C, Temporary Banners; Maximum Area, and Section 10.8, Signs That Do Not Require A Permit. *Planning Commission held a public hearing and made a recommendation for approval at their meeting on June 15, 2020*



Above: The Summerville Town Council Planning and Development Committee meets electronically.

Photo: Town of Summerville.

Right: Travelers Rest set up partitions in between councilmembers’ seats in preparation of in-person meetings. Photo: City of Travelers Rest.



scheduled meeting and the town clerk pulls those together and reads them aloud during the meeting.

“We’ve had comments about face masks, about the budget, about growth management, about the way the council is handling the pandemic. We’ve remained in a very open dialogue with the community. We have a really great social media team and communications team,” Orlando said. “Communication is key, and we’ve maintained that through technology. Now, more than ever, we have to respond and we have to even overcommunicate.”

Along with figuring out how to hold virtual meetings, the pandemic has also pushed cities to rethink some other practices.

Orlando said Bluffton realized it was behind in its technology delivery for customers – something it has pledged to improve.

“Since we came home in March, our IT department has focused on improving our applications system so we can be 100% electronic. Before this we were about 30% in the amount of applications

that could be filled out online rather than in person. We’re not there yet, we’ve still got a little way to go with some business licensing, but we will be 100% online,” he said. “In the past, we couldn’t accept electronic payments on some permits and other things. We’ve removed those barriers through hard work by great people.”

And municipalities agree that dealing with the fallout from COVID-19 has been a learning experience for everyone involved.

“The pandemic abruptly forced us to adjust the way we operate so it’s important for everyone to communicate department changes,” Summerville’s Rebecca Vance said. Some of us have never logged into a Zoom meeting before all of this started. Everyone learns differently so it’s important to be patient as people are expected to learn a new software program so quickly. We’re in a time where communication, patience and teamwork are more crucial than ever.”

BALANCING

Social Media and the First Amendment



Municipalities use Facebook pages, Twitter feeds, and even Instagram stories to share information with their residents. Elected officials use the same platforms to run for office and, once in office, to communicate with constituents.

Given the scope of social media activity, many municipalities have adopted social media rules and policies to regulate it. These rules and policies raise difficult questions. When is it permissible to delete objectionable comments on social media? May the municipality ban especially disruptive users? Are social media accounts controlled by councilmembers considered part of the municipality's official communications?

Answering these questions can be a complex matter and should be supported by consultation with an experienced attorney. The First Amendment's guarantee of freedom of speech serves as one pitfall in this area.

The First Amendment to the United States Constitution states that "Congress shall make no law ... abridging the freedom of speech, or of the press." The Fourteenth Amendment, adopted at the end of the Civil War, extends this prohibition to apply to state and local governments. When Twitter, a private company, deletes a tweet for violating its terms of service, the First Amendment is not implicated. But when a municipality



deletes a post or bans a user from its social media platforms, the First Amendment does apply.

The First Amendment limits municipal ability to fully control its social media environment. Many options available to

private actors are denied to municipal governments. With social media, the municipality acts in multiple roles — as a government regulator, communicator and moderator, among others. Balancing those roles is a difficult task.

Moderating social media user comments

When a municipality creates a social media account, it has also established a forum. “Forum” derives from the Latin word for a marketplace or public square, and in ancient Rome, the forum was the place of assembly for political activity. In the First Amendment context, a forum is a place, either physical or virtual, where the government invites or allows the public to assemble for purposes of speaking about matters of public concern.

Case law recognizes three types of forums under the First Amendment. First, the open or traditional public forum is one that has been available for expression throughout history. The category includes places like sidewalks, parks and town squares. In these places the government may impose only very limited regulations of speech.

Second, the limited public forum is a place where the government allows expression for a particular purpose or on specific topic. A public hearing at a council meeting provides a familiar example. In a public hearing, the municipality may impose time limits, relevancy requirements, decorum rules and other viewpoint-neutral restrictions on speech.

Finally, the non-public forum is not made available for public expression. Examples include military bases, police and fire stations, and employee offices in government office buildings. In those forums, governments may severely limit or even prohibit public expression.

Although these rules were developed for physical places, the courts have applied the same concepts to virtual places. A municipality might establish an open public forum on a social media platform by inviting or allowing open comment on any topic of concern to its residents. The same platform could be used also to create a limited public forum by the municipality clearly stating its purpose and the requirements for public participation.

The model social media policy prepared by the International Municipal

Lawyers Association suggests including this language on social media platforms to clarify that the forum is limited:

“The purpose of this site is to discuss matters of public interest in and to the [municipality] as identified and raised by the [municipality] for discussion. We encourage you to submit comments that are on topic, but please address your comments to the specific topic(s) discussed. This is a forum limited to the specific topics identified and raised by the [municipality]. Users who submit content to this site agree they have read, understand, and agree to the following terms and conditions by virtue of such use.”

The municipality may then impose viewpoint-neutral terms and conditions for comment, which may prohibit — for example — profanity, threats, commercial solicitations or racist comments.

Municipalities should generally take care to avoid establishing open forums on its social media platforms. Instead, they may consider disabling comments entirely. If they allow comments, they should include language and rules that creates limited public forums. Even for limited public forums, however, the municipality should consult with an attorney in drafting the rules. For example, courts have found that deleting comments that criticize the municipality or its individual employees violates the First Amendment, even in a limited public forum.

Personal accounts operated by elected officials

When an elected official operates a personal social media account, the critical question is whether that account becomes a public forum. In a 2019 case, *Davison v. Randall*, the federal Fourth Circuit Court of Appeals, which has jurisdiction over South Carolina, held that a member of a county council used her personal Facebook page in a way that created a public forum.

Although the councilmember had established and operated the page in her personal capacity, it listed her official

county phone number, email address and web address. Most of her posts related to her work and position as a member of the council. She used her personal page to notify the public about upcoming council meetings, the subjects to be discussed during meetings and significant public safety issues. In one post, the councilmember said she wanted “to hear from ANY ... citizen on ANY issues, request, criticism, compliment, or just your thoughts.”

The case arose when the councilmember deleted comments on her page that were highly critical of the local school board. The councilperson testified that the deleted posts accused the school board members and their families of having illegal conflicts of interest and taking kickbacks. Although the councilmember said she had no opinion on whether the accusations were true, she objected to having her page used to make them. Given her prior use of her page, the court concluded that this page was a public forum and subject to the First Amendment. Therefore, the councilmember violated the First Amendment when she deleted comments based on the viewpoint they contained.

If an elected official’s personal social media account is determined to be a public forum, then the account is subject to all of the moderation rules discussed above. Elected officials should be aware that their use of even personal social media accounts may implicate the First Amendment and limit their ability to moderate comments on those accounts.

Be willing to ask questions

The principle of freedom of speech means that social media conduct is significantly more complicated for a governmental body than for other entities. Determining the line between an appropriate use of a channel, or an appropriate discussion of a matter of public concern, can be difficult to navigate. When questions arise on the steps to take, consultation with legal counsel is key.

E-newsletters

Put Information 'All in One Place'

Cities and towns have many ways to communicate with residents: direct mail, websites and social media. E-newsletters also provide a low-cost way for cities to reach out and help residents know what's going on.

Often powered by email marketing platforms like Constant Contact or Mailchimp, e-newsletters give subscribers the big municipal headlines before sending them to a city website or other digital locations for more information. In many cases, newsletters started small, but some cities are now using them as robust ways to engage residents and help foster a more vibrant community.



Uptown Greenwood

Uptown Greenwood, the city's central business district organization, provides a digital newsletter called *Uptown Lowdown*. Uptown Greenwood works with the city on the product, which includes information on the Uptown farmers market and splash pad. The monthly newsletter, which has been produced for about four years and has 8,000 subscribers, focuses on upcoming events, especially Greenwood's two major celebrations each year, the Festival of Flowers and the Festival of Discovery.

It also contains brief write-ups on news and events and encourages readers to learn more from the Uptown Greenwood website or a social media channel.

"There's always things going on here," said Uptown Greenwood Manager Lara Hudson. "Whether it's maintenance or if there's a private event, just information that the community would need to know about accessing the farmers market and when they can come to the splash pad."

Sometimes Hudson will send out information between editions of *Uptown Lowdown* if something important comes up or the details of an event change.

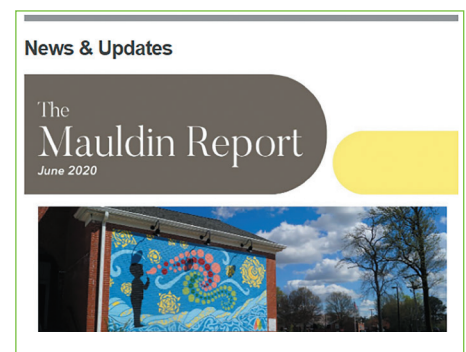
"We spend most of our time on our website. That's where we're putting all of our information and that makes putting the newsletter together easier," Hudson said. "Our Facebook page definitely gets more engagement if we link to it from our newsletter."

Hudson said that information has become even more critical during the COVID-19 pandemic.

"The splash pad is a very popular activity in Uptown for families, especially now with everything going on," Hudson said. "I think residents are appreciative of the communication we give them because they're hungry for something to do right now."

Subscribers to the newsletter have to opt in, meaning they must request specifically to receive the emails. Finding new subscribers has not been easy this year, with many of the events that ordinarily make people want to sign up for the newsletter not happening. The city, with the help of its technology team, is trying something a little different.

"You used to just click on the [free Uptown] WiFi and were automatically connected. Now you have to put in an email address, accept terms and then you have the option to receive our newsletter," Hudson said.



Mauldin

The City of Mauldin's community development department handles everything from business recruitment and long-term infrastructure planning to the Mauldin Cultural Center. When Van Broad, director of community development, started, the city didn't have direct marketing communication with its residents and relied on an outside firm to provide the occasional news release.

"If you think about it, somebody is going to tell your story," Broad said. "Either you can tell it or let someone else tell it."

Part of the funding for the community development office's marketing efforts comes from accommodations taxes, and helps cover the cost of material Broad's team mails, and for the staff that produces and promotes the information digitally.

Broad described the earliest newsletters from 2016 as "very generic."

“Then [Cultural Affairs Manager] Keira [Heider] came on board, and she created an incredible template and really made an honest newsletter. It had information, it had factual reports, it had demographics information, it had stories about the community. She just took it to another level. It could be its own newspaper for the city.”

The *Mauldin Report*, covering everything from public works to cultural affairs, is mailed, distributed in city offices and posted on the city’s website. It is also promoted in a monthly e-blast and on social media.

“Every department has something going on,” said Heider. “It’s basically how do residents engage with their city and know what’s happening in their city from council meetings to when you just want something to do.”

For the Cultural Center, the team prints out an annual season preview, including shows, festival and educational opportunities, that is mailed to 25,000 homes in Mauldin. Individual events are promoted in weekly emails to subscribers.

The city’s eblast goes to more than 2,600 subscribers while the Cultural Center has more than 4,200 subscribers. Heider said there is also a mailing list of folks who want to know about volunteer opportunities, and the city’s recreation department plans to start an e-blast very soon.

“Residents can easily access information they do want but are not bombarded with information they don’t want,” Heider said.

As the effort has grown, so has the team’s staffing, which includes marketing and design coordinator Jeannie Harmon.



Beaufort

The City of Beaufort’s e-newsletter is the responsibility of Kathleen Williams, who became the city’s first dedicated communications person in December 2019.

Williams said the biggest asset of the newsletter is to consolidate city information in one place that people may have missed on social media posts or as news releases on the website.

“I do think newsletters can be effective in terms of putting it all in one place in a way that social media, which tends to be a little more scattered, can’t really offer,” Williams says. “It reinforces news that’s come out in the past month that is

still timely and alerts people to anything upcoming.

“For the pandemic, it’s been an incredibly important tool for sharing information.”

Williams has included information on city office closings, how the public can do business with the city when offices are closed and information on the pandemic from the Centers for Disease Control and the South Carolina Department of Health and Environmental Control. She even included a feature on how to make a mask as she was letting residents know about the city ordinance requiring them to wear one.

The city’s mask ordinance provided a great example, she said, of how information flows from the city. First, Williams posted a news release to the city’s website with information about the ordinance.

She produced several social media posts announcing the ordinance and linking to the website. In the next monthly newsletter, she reminded residents of the ordinance and thanked them for following it. The newsletter was sent to her 3,500 subscribers and it was posted on both the website and social media.

Williams recommends that any town looking to start or improve an existing newsletter should look for a staffer who can be dedicated to creating the newsletter, even if that’s not their whole job. She also suggests hiring someone with a news or marketing background.

SC.gov Offers Website Assistance

For cities and towns, websites are increasingly mandatory as a way to connect with and serve their residents. Websites are now repositories for the forms and contact information that residents and businesses need for their city services. They have also become a place to go for city council meeting information as well as news, special events and emergency alerts.

For all of their value, websites also represent a meaningful expense. Websites typically come with development and maintenance costs, as well as staff time spent creating and updating the content for a site.

One option for website development

and management available to municipalities is Palmetto SiteBuilder. SiteBuilder is a content management system available at not cost to South Carolina’s state and local governments. The product comes out of a partnership between the state government’s official web portal, SC.gov, and NIC South Carolina, which manages that official site and provides guidance from the SC Department of Administration’s Division of Technology Operations.

The Palmetto SiteBuilder process allows for no-cost hosting and maintenance of websites, as well as a professional design using templates. As a content management system, it provides

a means of editing a site without the need for specialized skills, and it also allows for a newsfeed and social media integrations. The system also provides for compliance with Section 508 of the federal Rehabilitation Act, which generally requires online information to be accessible regardless of disability.

The system is used by municipalities and other government entities. NIC South Carolina counts more than 60 websites in production under Palmetto SiteBuilder, including 10 municipalities and five county governments.

Find information on Palmetto SiteBuilder at www.scinteractive.sc.gov/palmetto-sitebuilder.

A Long-Term Remote Work Strategy for Local Government

By Joe Howland, chief information security officer, VC3

Most of us have been forced into working from home. Many of us are intrigued by the idea of it even after quarantine. But what does a long-term remote work strategy really look like? Too often, we're offered a remote work blueprint from highly successful tech companies. But what is possible for local government? Is there a simpler version of the expansive technology toolsets employed by tech companies? Can my city or town realize benefits from remote work with a strategy that fits us?

A strong culture and clear organizational goals influence the ability to create a simple and effective technology plan that moves a municipality toward supporting a thriving remote workforce.

Remote work culture

In our new remote world, cultural changes within your organization may be needed to achieve success. Here are a few examples of how to change for success:

- A carefully considered and easily accessible vision, mission and organizational goals;
- A monthly all-hands meeting to keep everyone updated on our company's progress;

- Employee scorecards with one to three key performance indicators to maintain performance clarity;
- A widely adopted chat tool where employees discuss projects, share kudos and have fun together.

You'll notice in the few examples we shared that technology is present, but not at the forefront. However, to implement these culture changes and enable remote employees, you might need a few new technology tools.

Remote work technology: setting your employees up for success with the right tools and processes

A glance at the highly successful tech companies mentioned earlier may make you feel like you must invest heavily in all new technology. Thankfully, that doesn't have to be your course of action. You likely already have technology at your disposal that you can use like Office 365.

It may be wise to take a crawl, walk and run approach. Test the waters with a pilot group of employees without breaking the bank or torpedoing operations.

Here are the technology categories you'll need to consider:

Fast enough internet

According to FCC guidelines, you need a minimum of 5 megabytes-per-second download speed to work remotely and join video calls. However, we'd recommend a minimum of 20 MBps download speed to work remotely without frustration and interruption. Employees can use Google's Speed Test to determine their internet speed at home. If you're in a bind, you can sometimes find success using your smartphone as a hotspot, but that will depend on the type of work you're doing and your cell signal.

Remote access

Employees must be able to easily access all applications, documents, and data required to perform daily tasks. Tools like Office 365 and SharePoint are ideal for this situation. We've also seen some cities turn to Google's G-Suite, but this can cause some security concerns in the long run and doesn't scale as well for larger cities.

Communication

Not only will you need a video call platform like Microsoft Teams or Zoom, but you'll also need a computer, camera



and audio equipment to support those video calls.

A group chat tool like Slack or Microsoft Teams is also helpful. This allows for quick, structured work conversations as well as some needed fun conversations for team building.

Project Management and To-Do Lists

Visibility is crucial to keeping everyone in sync. Digital tools are a great way to achieve that visibility. Options like Microsoft Planner, Basecamp and others help you can keep track of tasks and projects.

Cybersecurity

Supporting a remote workforce does introduce new cybersecurity challenges. At a minimum, it's important for all remote employees to update and patch the technology and devices in their homes. These updates and patches include security defenses that address known vulnerabilities. Here are some examples:

- Update computer operating systems – it needs to be Windows 8 or better.
- Update web browser.
- Install or update antivirus software.
- Update the home's WiFi router.
- Update internet-connected devices like Google Nest, security system, etc.

Beyond these practical measures, it's also a good idea for your city or town to enable multifactor authentication, or MFA, wherever it's supported. MFA adds a layer of protection beyond a password for software and core applications.

Putting it all together

Offering remote work is not a simple project nor should it be a decision reached lightly. You have to consider your organization's goals, culture and technology toolset. You are best positioned to understand your organization and culture. But maybe you'd like some help understanding how technology can best support your remote team. Connect with your IT staff or partner to determine what technology you already have, what's needed and what may be a nice addition in the future.

Joe Howland is the chief information security officer at VC3, the Municipal Association's technology partner.



Be Vigilant for Email Attacks

Email phishing attacks have grown to be a significant IT liability for organizations. In these attacks, hackers pose as trusted email senders as a way of gaining access to sensitive information, such as login credentials, or tricking users into clicking links or opening attachments that will download malware into a computer. Once they break into the system, hackers can lock a municipality out of its own systems and demand ransoms for a system's recovery.

Unprepared municipalities can and do pay these ransoms. In 2019, some cities around the nation paid amounts ranging from \$400,000 to \$600,000. Even when cities choose not to pay the ransoms, they often face major recovery and rebuilding costs.

Email users need to be skeptical when evaluating email requests and attachments. Training can help staff identify incoming email attacks. Hackers can pull organization information from a city's website or social media to create an email address that looks as if it's coming from a high-ranking member of staff or council.

Suspicious email characteristics to watch out for include

- urgent language that demands or encourages immediate action,
- failure to address the recipient by name,
- email addresses with the wrong domain name, or which otherwise don't match up with the supposed sender's actual email address,
- unexpected email attachments,
- links with unknown or suspicious destinations, and
- large numbers of typographical or grammatical errors.

Technology staff and others can help with training by showing users examples of incoming emails identified as phishing attempts. Users should be trained and encouraged to send all suspicious emails to the IT department for evaluation. Some departments stage drills with dummy phishing attempts as a way of encouraging vigilance and identifying training needs. Along with training, well-designed and well-executed backup plans can form a valuable part of preparation for a municipality's computer systems.



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Calendar

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

To ensure the safety and well-being of our members, the Municipal Association of SC will host its training sessions and meetings through the end of 2020 virtually when possible. Information about events and how members can access the virtual events will be updated on the Association's website.

OCTOBER

6 SCMIT/SCMIRF Recruiting and Hiring, Use of Force and Traffic Pursuits.

7 South Carolina Utility Billing Association Customer Service Training and Networking Lunch.

8 SC Community Development Association Fall Meeting.

13 Advanced Municipal Elected Officials Institute of Government Advanced Continuing Education: Best Practices in Code Enforcement.

14 Advanced Municipal Elected Officials Institute of Government: Advanced Municipal Economic Development.

27 – 30 SC Business Licensing Officials Association and SC Municipal Finance Officers, Clerks and Treasurers Association Joint Academy.

29 Main Street South Carolina Fourth Quarter Training.

NOVEMBER

3 Main Street SC New Director Orientation.

5 SC Association of Stormwater Managers Fourth Quarter Meeting.

10 Risk Management Services Annual Members Meeting.

11 – 13 SC Municipal Human Resources Association Annual Meeting.

DECEMBER

4 SC Municipal Attorneys Association Annual Meeting and Continuing Legal Education Seminar.

9 SCMIT and SCMIRF Public Works/Utilities Risk Management Training.

2021

FEBRUARY

2 Hometown Legislative Action Day.

3 Municipal Elected Officials Institute of Government, Advanced Institute and Advance Continuing Education.

MARCH

15 – 17 SC Utility Billing Association Annual Meeting.

25 Municipal Technology Association of SC Spring Meeting.