

MAR/APR 2024

MINNESOTA CITIES

A PUBLICATION OF THE **LEAGUE** of **MINNESOTA CITIES**

Mayor for a Day Essays

Read how fourth, fifth, and sixth graders would make their communities even better places to live. PAGE 12

Junior Council Members

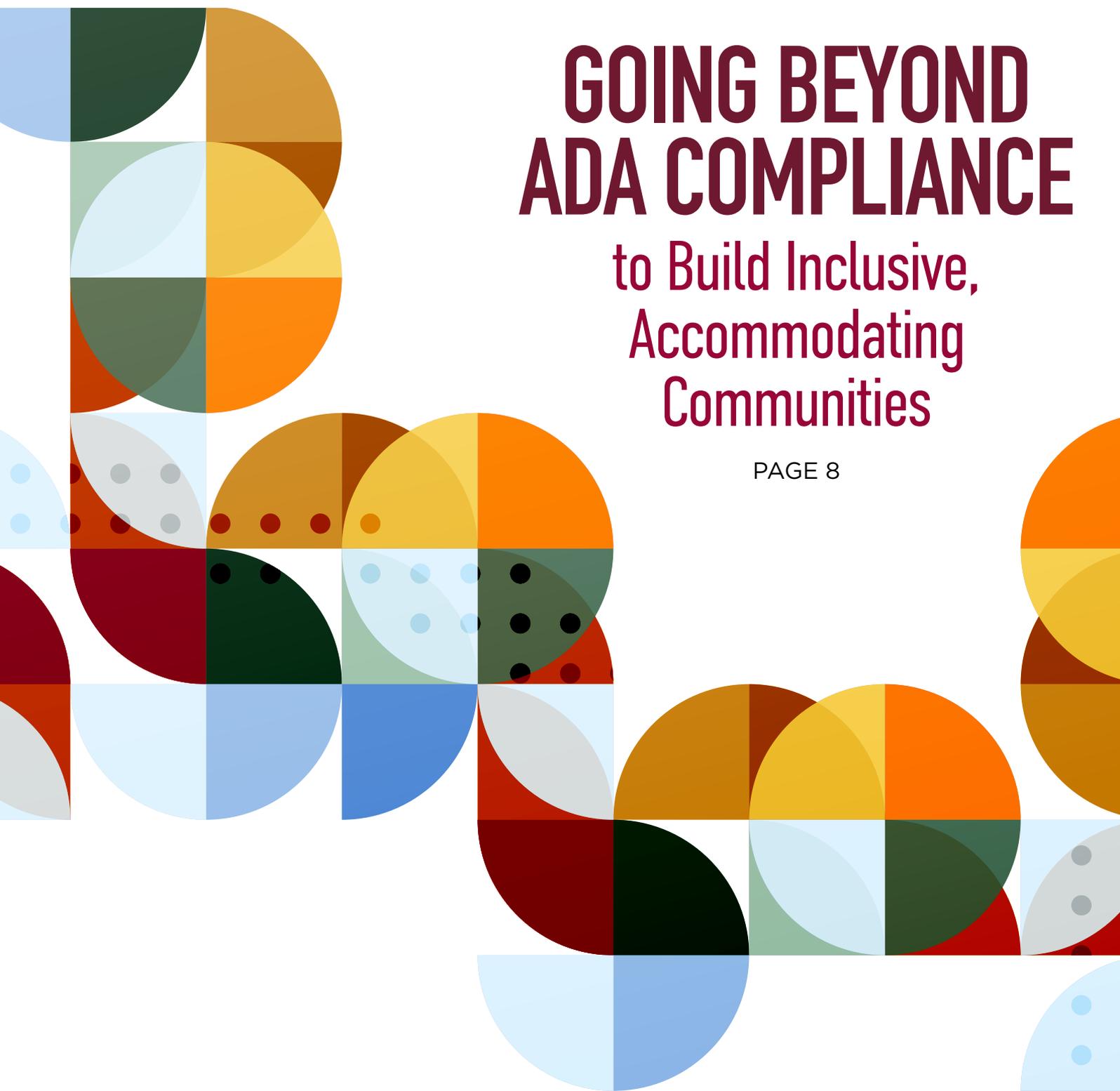
Young residents of Centerville are offering insights and contributing to their community.

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GOING BEYOND ADA COMPLIANCE

to Build Inclusive, Accommodating Communities

PAGE 8



2024

**NEW THIS YEAR: FOCUS ON ADA
(Americans with Disabilities Act)**

This track is open to anyone who wants to gain valuable insights into modern accessibility and disability inclusion.

**SAFETY AND
LOSS CONTROL
WORKSHOPS**



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DATES & LOCATIONS:

**MARCH 26
MAHNOMEN**

**MARCH 27
ALEXANDRIA**

**APRIL 3
SLEEPY EYE**

**APRIL 4
WILLMAR**

**APRIL 10
VIRGINIA**

**APRIL 16
ROCHESTER**

**APRIL 18
ST. PAUL**

**APRIL 23
ST. CLOUD**

**APRIL 25
BROOKLYN
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Spring Safety And Loss Control Workshops Are Back!

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- Elected Officials
- City Insurance Agents

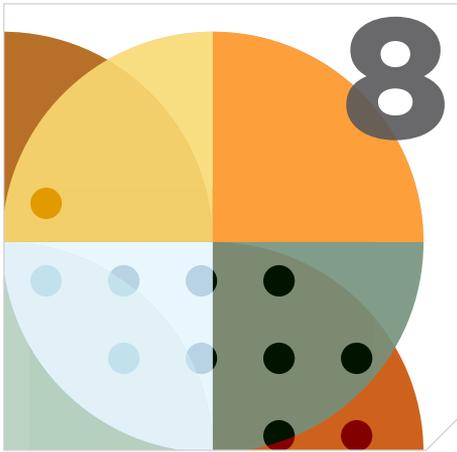
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Check out *Minnesota Cities* online at mncities.org.

MINNESOTA CITIES

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Are We Being Good Ancestors?

BY LUKE FISCHER

A couple of months ago, I heard Minnesota-based futurist Jack Uldrich reflect on a question originally posed by Jonas Salk, the developer of the polio vaccine: “Are we being good ancestors?” That question has been stuck in my mind ever since and I’ve been wondering about how we’re doing as a society. So, I decided to look around and see if I could find any indicators on our trajectory.



“Hope lies in **dreams**, in **imagination** and in the **courage** of those who dare to make dreams into reality.”

– Jonas Salk, developer of the polio vaccine

To start, I flipped on the news. I tried the local stations and surfed around the cable networks. Regardless of what you think or what you believe, the news was dire. If you listen to the coverage, you will conclude that we’ve forgotten how to work together and compromise. There was a lot of blame, “us” versus “them,” and a lot of charged language about this person or that idea ruining the country. Bleak.

When I turned to the newspapers, there was some wonky analysis about how treasuries are trading and impacting the markets (OK, to be fair, it was

the *Wall Street Journal*). The coverage of local land use decisions seemed to focus on technicalities and exceptions — rather than the public good that these rules are intended to preserve. Uninspiring.

And then I scrolled through social media. Maybe this whole exercise was a mistake.

My day started to brighten, though, when I got to work and saw the stack of about 500 essays, piled on a conference table, from Minnesota students in grades four through six who wrote about what they would do if they were a mayor. They were from kids who aren’t encumbered by the markets, legal concerns, or other things that consume adults.

Instead of worrying about the details, these future leaders were focused on the great opportunities mayors (and all of us working in the public sector) have to be good ancestors.

What did that look like?

Anita from Fridley wants to focus on hearing from the right people. “If I were mayor for a day, I would create a Community Kids Committee (CKC) to be in charge of reviewing the local parks, gardens, and activities. They would see how much fun they are and if they feel safe. It would be a kids only group and they would also raise money for any changes that the CKC may want and for kids who need help paying for certain activities. This would be important because no one knows what kids want more than kids do.”

Kenzie from New York Mills thinks it’s important for us to have good public places and opportunities to gather. “I

would make a library recognized. I would let people know where the library is located. I would have them check it out by throwing a play at the library. I would have people bring their kids. I would encourage them to go to the things they offer, like when they have events going on in the summer.”

Noe from Minneapolis wants to engage everyone to take care of our natural resources. “I think we should start an optional lake clean-up service for all of the lakes that people live by. It would be very beneficial to our community. I already go down in the summer to pick up trash, but it would be great if some other people would be there. The city could fund gloves and trash bags. I also think we could put more signs up that say, “Pick Up After Yourself!” I see a few but not enough, and I don’t really see people following them.”

You’ll see similar themes from our essay contest award winners in this issue.

I think these essays give us all the chance to take a step back from our day to day and see, through a different lens, the opportunity to serve the communities we love. By inviting people to participate, by giving people a chance to gather, we share the responsibility we have to one another to make the places we live great. Just like Anita, Kenzie, and Noe.

Back to Salk. His life’s philosophy reflects the promise of the future found in these future mayor essays: “Hope lies in dreams, in imagination and in the courage of those who dare to make dreams into reality.” In the essays you’ll read in a few pages, I think you’ll agree we’ll be alright. Our kids are going to be good ancestors. The question for us is simple: Are we? ☑



Luke Fischer is executive director of the League of Minnesota Cities. Contact: lfischer@lmc.org.



Tout the Best of Your City

It's often challenging to find venues for sharing stories about the good things cities, and the individuals who lead them, are accomplishing every day. Once again, League member cities have an opportunity to showcase the best of your city through submitting nominations for 2024 LMC Awards.

Nominations are now open for the League's 2024 City of Excellence Awards, recognizing city achievement, along with individual awards (C.C. Ludwig, James F. Miller Leadership, and Emerging Leader) honoring elected and appointed officials.

Winners in all categories will be announced and will receive a plaque at the League's Annual Conference to be held in Rochester this summer. Each winner will be recognized throughout the year by way of a League-produced video to be first shown at the conference and shared on social media, a feature article in a future issue of *Minnesota Cities* magazine, and potential exposure through your city's local media. Plus, each City of Excellence Award winner will receive a check for \$1,000.

More information and nomination materials can be found at www.lmc.org/awards. All entries must be submitted by no later than April 19. Please contact Don Reeder, dreeder@lmc.org or (651) 215-4031 if you have any questions.

An Old Friend Returns to the City of New Ulm



According to the *New Ulm Journal* newspaper and *Fire Apparatus & Emergency Equipment* magazine, a 1969 Pirsch Aerial firetruck has been graciously returned to the place it served for 23 years. Salvaged from a museum in Minneapolis and then well-maintained by a new owner for several more years, the truck recently made its way back to its original home in the City of New Ulm and is now housed there along with a collection of other antique firetrucks.

After being removed by the city from active service in 1992, the vehicle was donated to the Minneapolis Fire Museum, where it took up residence until the museum permanently closed its doors in 2006. It was then retrieved from temporary storage at the home of one of the museum's directors by City of St. Louis Park firefighter Tim Smith who kept and took care of it until late last year.

Smith, who also serves as a City Council member in Waterville, kept the truck in tip-top shape and even drove it in the New Ulm Bavarian Blast parade for several years. When he made the decision to donate it back to the City of New Ulm, Smith received a special proclamation from the city for his kind contribution to the preservation of local history.

Smith explained his decision in a Facebook post: "This truck has been family to Sarah Smith and I, but it's time for me to donate it back to New Ulm so it can be back home."

Chaska's Growth Through Opportunity Program Ensures There's Room for All in City Government

Communities looking for ways to make their city jobs more inclusive and welcoming to all can learn a thing or two from Chaska's Growth Through Opportunity program. The program, which will be entering its third year of programming this summer, offers 18- to 21-year-olds with intellectual or developmental disabilities the opportunity to intern with Chaska's city departments during an eight-week period.

From working with the finance department to driving Zambonis and working at Chaska's local pool, the cadets are doing it all.

The program's supervisor, Chaska Police Department Community Partnership Specialist Julie Janke, said the program has cost her

department less than \$300. The city takes on two cadets per year and provides them polos, hats, and pants.

Janke says she welcomes any city employee interested in the program to reach out to her for more information.

"If people are thinking it's going to take too much time or it's going to cost too much money ... I just think the benefits far outweigh anything like that," Janke said. "Just the opportunity to be welcoming and inclusive in your city and invite cadets to be a part of your program ... I can't say enough about it."





Help Report and Control Invasive Phragmites

Invasive Phragmites is an aggressive nonnative grass that can harm wildlife, recreation, and ecological functioning. While it has taken over vast areas in other states, the scale of invasion in Minnesota still offers hope for effective management.

Minnesota has a window of opportunity to prevent invasive Phragmites from transforming the state’s lakeshores, wetlands, riparian areas, and other habitats.

Minnesota Aquatic Invasive Species Research Center (MAISRC) through the University of Minnesota has partnered with the Minnesota Department of Natural Resources and many local organizations to support strategic, coordinated control of invasive Phragmites statewide. The goal is to slow and ultimately reverse the spread of invasive Phragmites in the state.

Natural resources professionals, roadside maintenance crews, and concerned individuals can help:

- ▶ Avoid spreading invasive Phragmites; stems, rhizomes, stolons, and seeds can all contribute to spread.
- ▶ Keep an eye out for invasive Phragmites and report new populations at bit.ly/ReportPhragmites.
- ▶ Contact the MAISRC team at phragmites@umn.edu to have invasive Phragmites controlled using best practices. Technical, financial, and other resources are available.
- ▶ Be careful: There is a native subspecies of Phragmites that can be challenging to distinguish from the invasive subspecies. Native Phragmites is an important component of our wetlands and shorelines that should not be targeted for management.



Free Wi-Fi Expands Opportunities for Farmington Park Goers

City parks have the potential to serve all residents, and the City of Farmington has a plan to make its parks more inviting to all. The city is in the process of bringing free Wi-Fi to 20 of its 29 parks through a Hiawatha Broadband Communications (HBC) fiber optic network that will run across the city.

The city will use \$522,281 in American Rescue Plan Act funds to purchase power, poles, and security cameras that will be placed within the parks. Initially, the project was quoted at \$1.3 million, which did not include any of the pole or equipment costs. The HBC partnership cut costs dramatically, which Farmington Information Technology Director Peter Gilbertson said will be repurposed for other initiatives.

“Parks are public spaces, which tend to offer accessibility and inclusivity to a diverse range of people,” Gilbertson said. “Park goers will have more options for community engagement, remote work, emergency connectivity, and plain old fun!”

LMC LEARNING & EVENTS

LMCIT Safety and Loss Control Workshops

March & April – various locations

2024 LMC Annual Conference

June 26-28 – Rochester

ON THE WEB

Learn more about these and other events at lmc.org/events.



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Why Did Your City Complete a Tree Inventory?



TRENT WISE

FORESTER

MOORHEAD (POPULATION 44,668)

The City of Moorhead keeps an active tree inventory for several reasons including tracking work history, documenting concerns, and analyzing species composition, size distribution, and year planted. This process is helpful to the city in many ways, but especially when managing an

issue such as emerald ash borer (EAB), which was discovered in a Moorhead neighborhood in early 2023. The city's ongoing tree inventory work gave city crews data and a head start as they addressed this issue.

Moorhead's inventory is a "living" database, meaning the Forestry Division continually updates it throughout the year. In 2019, the city transitioned to dedicated inventory software to help make the data more manageable and searchable. Moorhead updates information after performing work on specific trees and planting new trees. Since 2019, approximately 20,000 of the city's 27,000 trees have been updated and cataloged.

Information in this inventory can be used for many different functions from day-to-day operations to higher-level functions including benchmarking, creating efficiencies, and strategic planning. An example of day-to-day applications includes keeping track of the year that new trees are planted to create maps to show which trees need to be watered or help determine which young trees will be pruned.

The goal for a pruning cycle is 10 years. When the city inventories next year's pruning area, the inventory will be completely updated for the next 10 years. This is approximately 2,500 to 3,000 trees a year, making it a manageable endeavor that doesn't require assistance from outside the Forestry Division.

The last, and one of the biggest, benefits of a tree inventory is the increased information we have when strategic planning for long-term management. This has been the case recently after finding EAB in the city. Using the tree inventory, crews were able to quickly assess the ash population size and density of the surrounding area. Staff developed a specific response plan for that year and for long-term management. Without that inventory already in place, the city would have lost valuable time combatting the spread of EAB.

Although residents do not collect information for the inventory, they are able to benefit from the gathered information, which is posted on the city website.

JOSH BOND

CITY FORESTER

NORTH SAINT PAUL (POPULATION 12,608)

The City of North St. Paul conducts tree inventories to get a snapshot of the health and diversity of its urban forest. Once the inventory is completed, the city reviews the findings so we can look at the data and adjust projects to better meet city goals.

For example, if we notice a limited species diversity in one section of the city, we can adjust planting projects to introduce new species to increase diversity in that area. The city forester along with the public works director plan and administer forestry projects for the City of North St. Paul.

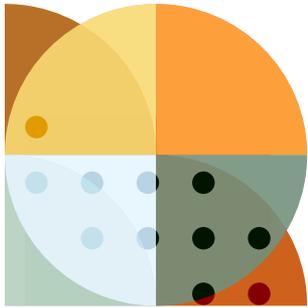
First, the city determines its overall goals for our forestry needs. Often, depending on the size of the project, we may also seek resident feedback. Once we evaluate our inventory data and future road engineering projects (if applicable), we design and plan for our future forestry projects. From there, we work to secure funding either through the city budget or state grants.

As soon as the funding and Council approvals are in place, we implement the project often by using our public works staff or contractors. As the project is completed, we inventory all of the new tree installations and set up a maintenance schedule. Our team monitors all projects to handle any warranty issues if they arise.

Generally speaking, if the forestry project is part of a city road reconstruction project, the city involves residents and their feedback is highly desired. If it's a smaller tree planting project in a park, for example, decisions are left to the discretion of the city forester. We acquire resident feedback through community input meetings, social media outreach, and online survey forms.

The city relies on tree inventory information for scheduling general tree maintenance, planting projects, tree removals, and tracking stump removals for restoration. With the spread of emerald ash borer throughout the city, our inventory data has been crucial in prioritizing hazardous tree removals. Not only does our inventory data help with scheduling field work, it has also played a vital role in securing several tree grants from the state that the city can use for removing and replacing diseased trees. 





GOING BEYOND ADA COMPLIANCE

to Build Inclusive, Accommodating Communities

BY DEBORAH LYNN BLUMBERG

Since 1990, the Americans with Disabilities Act (ADA) has served as a comprehensive civil rights law for people with disabilities. Updated in 2008, it includes two parts that apply to cities and public employers: employment, and facility and program accessibility.

Several cities across Minnesota have embraced the requirements and are making important strides in enhancing inclusivity around residents and employees with disabilities. The City of Roseville, for one, highlights volunteers with varying abilities in its city newsletter, while its administrative department received a training on sign language to use during emergencies.

Roseville also held a training for supervisors run by an expert from the Minnesota Council on Disability. City leaders are looking into offering skills-building classes to help Roseville employees support and enhance the work of volunteers with different abilities.

“Because nearly every employee will have a medical condition at some point during their career, it’s important that cities have a good understanding of the ADA and its state counterpart, the Minnesota Human Rights Act (MHRA), including when they need to seek legal guidance or other assistance,” said Jana O’Leary Sullivan, assistant litigation supervisor at the League of Minnesota Cities.

“That is especially important right now when there are a lot of changes, including new legal developments, a continuing hot labor market, and societal

changes,” O’Leary Sullivan said. “Right now, is a point in time when we’re seeing an expansion of employee rights from every angle — who’s covered, what conditions are covered, and what an employer may be required to provide as a reasonable accommodation.”

Complying with the ADA, and even going above and beyond the law, can help cities to build a more inclusive community where all residents feel welcome and appreciated, a place where people want to live and want to work. It also ensures that cities will avoid ADA noncompliance fines, potential lawsuits, and damage to their reputation, especially if it’s for an issue that could have been easily addressed.



INCLUSIVE FACILITIES, SERVICES, AND PROGRAMS

One component of the ADA and MHRA requires cities to comply with specified accessibility requirements. For example:

- ▶ Public sidewalks need to have proper curb cuts and curb ramps.
- ▶ City parking lots must have adequate accessible parking spaces.
- ▶ City websites and technology need to be accessible to all.
- ▶ City buildings need to have ramps for people who use wheelchairs.

These types of changes to infrastructure benefit everyone, making it easier

for strollers or carts with wheels to navigate, deliveries to be made to buildings, and more. While there are a few exceptions in which a city may not need to alter a building or program to meet certain requirements, such as if a building is deemed historically significant, leaders should work with their city attorneys on these issues.

In addition to ensuring facilities are accessible, cities will want to have inclusive policies. For example, policies must allow service animals to enter city buildings — and because the standard is what is reasonable, they may have to take additional steps regarding service and support animals for employees. Also, cities need to have effective ways to communicate with people with vision impairments, hearing impairments, or speech disabilities. Cities also must provide qualified interpreters or assistive listening devices at public events or meetings for individuals who are deaf or hard of hearing, and provide materials in alternate formats such as Braille, large print, or in an auditory form to people who are blind or have low vision.

INCLUSIVE WORKPLACES

At its core, O’Leary Sullivan said, in addition to anti-discrimination clauses, the ADA requires cities to provide reasonable accommodations to their employees so that their workers can best perform their jobs and serve the city and residents. This requirement applies for physical, mental, and developmental medical conditions and injuries — and it applies to both work-related and non-work-related conditions.

Accommodations can range from modifying schedules, modifying or providing additional breaks, providing tools and equipment, communicating in additional/different ways, providing medical leave, and providing remote/hybrid work. Like other potential accommodations, a city may have to provide remote/hybrid work as an accommodation even if it generally limits or doesn’t allow this work. This is especially true since the pandemic showed the workability of remote/hybrid work in many situations. Given this, employers need to carefully consider and document in the event of rejecting a request for hybrid/remote work — and better yet, first try a trial run, according to O’Leary Sullivan.

“Accommodations are flexible, brainstorming and thinking outside the box is encouraged, and communication is key,” O’Leary Sullivan said. “It’s up to the employer, the employee, and often a medical provider to figure out what tools or other modifications employees may need so they can do the core part of their job.”

She adds, there was a time when interpretations of the ADA focused on whether or not a condition applied to the law, and disabilities were more narrowly defined, “But now, assume that nearly every condition is covered and go from there.”

ADA MISCONCEPTIONS AND DOCUMENTATION

Often, medical leave is a reasonable accommodation — and an employee’s entitlement to leave goes above and beyond other leave laws such as the Family Medical Leave Act (FMLA). For instance, under the ADA, there are no minimum service or hour requirements for eligibility.

“With the ADA, people are protected under the law from before day one of employment, when you’re just a job applicant,” O’Leary Sullivan said. Hiring practices must be lawful and should also be inclusive.

One common misconception is that a city only has to provide requested light-duty work if the employee has a work comp injury. O’Leary Sullivan states, “Under ADA, if light duty is available and within an individual’s work restrictions, that should be provided, regardless of whether the restrictions stem from a work-related or non-work-related issue.”

Cities, too, need to consider how they’re documenting ADA-related decisions. “It’s almost always a good practice to get and rely on objective medical documentation,” she said. But, at the same time, documentation isn’t absolutely necessary for every medical condition — in fact, state law prohibits requiring documentation for some pregnancy-related accommodations. City administrators should work with their human resources staff and attorneys to determine what documentation is needed in a specific case.

It also benefits employers to be proactive and inclusive, notes O’Leary

Sullivan. One area where this is especially true is mental health. Over the last several years, there has been an increase in the percentage of adults in the U.S. with mental health conditions, she said. While the ADA equally protects mental and physical conditions, there are often additional or different considerations between the two.

MOVING BEYOND WHAT THE ADA REQUIRES

To be fully inclusive and to prioritize employee and resident well-being, cities can — and should — focus on how to be more accommodating beyond the legal requirements of the ADA, always considering disabilities that may not be as visible, too, said Arianna Bloom, LMC diversity, equity, and inclusion coordinator.

“When we talk about building welcoming environments and inclusion, a lot of the time disability is left out of the conversation,” Bloom said.

Ways to move beyond the requirements could mean better accommodating people who are neurodivergent or have a disability that isn’t outwardly noticeable. “It could be someone with ADHD or a traumatic brain injury who now has trouble focusing on words and needs more visual and auditory help,” Bloom said. An accommodation could be to give the person more time to read a prepared statement during a public meeting.

“Disability inclusion is about understanding the different ways in which people function and participate in society, and making sure that everyone has the same opportunities and is able to participate to the best of their ability and desire,” she said.

Cities seeking to create welcoming communities should ensure disability

(continued on page 10)

inclusion is a core part of DEI efforts, Bloom said. “Also, with many cities struggling with hiring and retention, creating an inclusive workplace can help.”

TAPPING INTO LIVED EXPERIENCES

To create inclusive cities and workplaces, cities can start by talking to individuals who have the lived experience. Engaging with the communities you’re hoping to serve is important, said Bloom. Every single city has a disability community because disability is something that most families or households will have experience with at some point.

“Listening to those lived experiences can be very powerful and very helpful,” she said, and that’s a step that cities should take even before they evaluate or reevaluate their practices, policies, and procedures through an ADA, disability, and inclusivity lens. “You can’t overhaul policies if you don’t even know what you’re looking for,” she adds.

One tangible step that cities can take when it comes to hiring is making sure they frame their job descriptions in a way that’s inclusive. Accommodations are also important. Accommodations for job applicants who are neurodivergent, as one example, might include giving the job seekers interview questions well ahead of the interview date or letting them have more time to respond if a written exam or an exercise is involved.

“Ask applicants if they need any special accommodations ahead of time,” Bloom said. And always plan ahead. Don’t schedule interviews in a room that isn’t physically accessible. If you give questions to candidates during the interview, ensure the font size used is at least 12 point and that there is ample space between each question.

O’Leary Sullivan added, “While employers are required to provide accommodations as part of the hiring process, and should inform candidates of this,” she cautions, “employers should not ask about medical conditions or pregnancy — even if known or obvious — at the application or interview stage.”

“Also, review job descriptions and postings to doublecheck that requirements — especially strength, fitness, vision, hearing, etc. — are related to the job and supported by a good reason,” she said.

City officials should also think about how they prepare their employees to interact with members of the public who have disabilities. Training is essential, as is inviting residents with disabilities to participate in community conversations in comfortable spaces.

Cities should remember, too, that people with disabilities often bring diverse skill sets and new ways of thinking to the workplace, and that can spark new products, services, and exciting innovations, Bloom said.

“There are also tons of studies out there that show companies that champion people with diverse skill sets outperform other companies,” she adds.

Bloom and O’Leary Sullivan recommend resources from the Job Accommodation Network (JAN), including a workplace accommodation toolkit, and other tools supervisors, managers, and recruiters can use to help provide better workplace accommodations.

PROGRAMS TO MAKE CITIES MORE INCLUSIVE

Minnesota cities are making meaningful improvements for residents with disabilities. The New Brighton Parks and Recreation Department has offered a sensory-friendly playtime program at its community center, while Rochester has a new indoor accessible playground with doors that accommodate wheelchairs and ramps.

Meanwhile in the City of Richfield, the parks and recreation department partnered with the specialty health care and inclusion services of the nonprofit Fraser to build an inclusive playground. The space is wheelchair-accessible and includes features like fidget spinners and sensory equipment.

Both O’Leary Sullivan and Bloom say that the key to developing any type of inclusion program is speaking with and listening to the population you want to serve. “You should be having free flowing discussions,” Bloom said, “and empathy is a very important component.”

LEARN MORE ABOUT THE ADA AT LMCIT’s 2024 Safety and Loss Control Workshops

Learn how it affects diversity, equity and inclusion, employment, and accessibility of public facilities and programs.

lmc.org/LCW2024

O’Leary Sullivan and Bloom will both speak more about the ADA and how to advance accessibility and disability inclusion as part of a dedicated track during the League of Minnesota Cities Insurance Trust’s Spring Safety and Loss Control Workshops.

The ADA track will include sessions on the most common ADA noncompliance issues in city buildings, ensuring facilities are ADA compliant and employment practices meet ADA requirements, and on general ADA inclusivity and creating an environment in which individuals with disabilities can thrive.

It’s essential learning, O’Leary Sullivan said, especially as the jobs market remains strong. “It is still a very hot labor market out there, and recruitment and retention are so important,” she said. “One way to recruit and retain more people and to show more inclusivity is to do a better job accommodating people.” 

Deborah Lynn Blumberg is a freelance writer.





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2023

Mayor FOR A Day

ESSAY CONTEST WINNERS

Students from the cities of Byron, New York Mills, Shoreview, and St. Louis Park have been selected as winners of the League's 2023 Mayor for a Day Essay Contest. In addition, judges selected four honorable mention essayists from the cities of Dilworth, Grand Marais, Lauderdale, and Windom. The League received more than 500 entries from students who reside in cities spanning the state.

The Mayor for a Day Essay Contest was launched in 2013 and continues to invite fourth, fifth, and sixth graders to share how they would make their communities even better places to live. In addition to having their essays published here, the four winners each receive a plaque and a check for \$100. Honorable mention students receive a certificate of recognition, and excerpts from their essays appear here.

Some cities where the winning students reside also will arrange for recognition and city council meetings and other public events. City officials throughout the state supported the Mayor for a Day program by promoting it at their local schools, which often resulted in entire classes participating in the contest. Additionally, some students submitted entries independently. Essay finalists were judged by Nisswa City Administrator and League President Jenny Max and League Executive Director Luke Fischer.

The League thanks all teachers, city officials, parents, and guardians who encouraged students to submit essays. And congratulations to all participating students for your thoughtful essays.

Bailey Doll
6th Grade
NEW YORK MILLS



Have you ever thought of what you would do if you were a mayor trying to better your own town? Well, if you haven't, hopefully this essay will get you thinking about it because it made me think a lot. The things that I started to think about are street maintenance, the community, and what's happening that is good in our town.

Street maintenance is very important because without it there would be too many car accidents for people to even be on the road. With street maintenance there will be less accidents. The type of things that prevent us from having accidents are traffic lights and signs. If the people want to get a certain sign in their neighborhood, I would try my hardest to make that process easier for whoever believes that their neighborhood should have that sign or warning. Or, if they have any other questions, they can ask me any questions that are relevant to the problem they are having.

The community is one of the most important things in a municipality. It's important because community is a word that symbolizes coming together and helping one another for the better. Being involved is one of the best things you could do for yourself and the thing you want to be involved in. Another reason it's a good thing is that you can make many friendships. Just think about all the good things you can and should do by being involved in a community. Taking a part in any community is a good thing because it will make everyone feel at home with the friends they make.

There are things I like in my town and things I think should be added. There are a lot of things that come to mind when I think about what is good, but the main thing is all the great people that are in my town. One thing that I would want to add to New York Mills is a place that anyone could go to learn about New York Mills. Although Mills has a website, which is more convenient these days, hopefully people like myself think it would be a good idea to make a place to go and learn about Mills. It allows people to get out of their house, which is always a good thing.

Street maintenance can be improved. Community, it's important to be together, and you can learn a lot from being involved in one. There are many good things that are in my town and there are things that I think could be noticed or made better. Now that I'm done, what would you do if you were mayor for the day?

Zahra Kaderbhai
6th Grade
SHOREVIEW



As mayor for a day, I would start a new program to allow people in the community to replant trees in public areas like city parks and other open spaces. Trees are so important — they give us fresh air, and keep us and the earth healthy. Trees are also homes to many animals and critters. Maple trees are my favorite!

Two summers ago, we had to cut down three ash trees in our backyard due to emerald ash borer bugs. These trees provided shade and shelter for birds and squirrels, and their loss saddened us. Unfortunately, the city is also removing other trees in the neighborhood due to the same issue. My program's goal is to ensure that we are replacing as many lost trees as possible.

Here's how my program would work:

- ◆ Choose a location — I'll provide a list of areas where the city has cut down trees. You can select a spot to plant a new one.
- ◆ Apply for permission — Apply to the city. You'll receive a plaque with your name and planting date if approved.
- ◆ Plant a Tree — Pick a tree seedling from a local garden center. Attach the plaque to your tree and watch it grow!
- ◆ Celebrate — Trees can be grown for special occasions like birthdays or graduations, inspiring others to join in!

I would also set up a way for people to donate trees. During the summer, my dad sometimes pulls out tree seedlings that are extras from our garden, and I believe others do the same. I encourage everyone to pot and donate them to local tree nurseries or garden centers.

I think this program will make it fun for people to keep Shoreview green!

Elina Larsen

5th Grade
BYRON



Hi! My name is Elina Larsen. Have you ever wanted to be the mayor, even just for a day? Well, I am going to tell you three things I would do if I was mayor.

First, I would build a police station so police will not have to come from Rochester. Instead, we should build one in Byron so police can arrive faster. Another reason for a police station is I feel like if I had a building for my job, I would feel appreciated. I think it would be nice to build them a police station, so they feel more appreciated.

Second, I think we should open some retirement places. It would be easier to see your Nana and Papa. I feel like it would be nice to have them not worry about finding a good retirement place. Also, more elderly would come live in our community.

Lastly, I would make better access for people who have disabilities. I feel like they would feel more appreciated. I believe that everyone will feel more welcome, and it would be easier for everyone.

That is everything I think Byron needs to be a great place for people to live in. Those are the things I'd do if I were mayor for a day.

Claire Westlund

6th Grade
ST. LOUIS PARK



My name is Claire Westlund and I live in St. Louis Park, Minnesota. If I were mayor for a day, I would want to meet all the people that I would be working with and establish what jobs they have so I know who to ask for what, as well as to just meet and interact with my fellow peers.

I would first want to scope out empty areas and spaces that are just being wasted. Like a big empty lot or something like that. These spaces always make me think of something that I think would look better there. Such as a playground, or walking nature strip, or dog park. Even a shop or outdoor eating area is so much more fun than a big, empty, concrete lot.

I bet that there are lots of people who have business ideas, but don't have a space to show and share cool, creative ideas. Or they could also be turned into something completely new and unique.

I would also want to at least start depolluting lakes in Minnesota. Out of the over 10,000 lakes, many of them are polluted. I live right by Lamplighter Pond, and it's pretty much a giant sewer dump. I would want to put in an effort to try and clean some out if I were mayor for a day.

I hope you enjoyed my reasoning and ideas for "The Mayor for a Day Essay Contest."

HONORABLE MENTIONS



Louis Adams

5th grade
LAUDERDALE

Excerpt from Louis' essay:

"As mayor, I would make an event called Pie Fest. The town's bakers can sign up to compete for the title ..."



Grace Carlson

5th Grade
DILWORTH

Excerpt from Grace's essay:

"... I would start clubs to help our environment, such as clubs to plant gardens and clean the city."



Janette Cerda Juarez

4th Grade
WINDOM

Excerpt from Janette's essay:

"I would make our safety better by having an emergency button in all houses ..."



Charlotte Haussner

5th Grade
GRAND MARAIS

Excerpt from Charlotte's essay:

"... pick-up recycling program improvement would help the people of Grand Marais and the whole area participate more in recycling ..."

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Learn about the approaches Bolton & Menk takes to tackle rural housing challenges in **this issue** of Minnesota Cities Magazine!



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Addressing Housing Requires a Multidisciplinary Approach

BY ROBIN CAUFMAN AND MOJRA HAUENSTEIN

Minnesota cities encounter unique difficulties in meeting housing demands, attracting developers, providing housing for workers, and adapting housing stock as communities age. As a result, a one-size-fits-all approach does not work. The source of these challenges is complex and varied — a city with an aging population and inadequate supply of senior housing looks vastly different than a younger community with growing families.

Start with data

Understanding your community is imperative to addressing the housing issue and residents' overall needs. It involves identifying where the community has been, where it is today, and where it will be in the future. Analyzing quantitative data such as demographics, existing housing stock, and the local economy will help communities identify the amount, type, and cost of housing to focus on.

- ▶ Demographics such as age distribution, family size, and income level indicate the types of housing a community needs.
- ▶ Economic data provides insight into the cost and types of housing needed to attract a workforce to support businesses.
- ▶ Population forecasts help a city plan for the type of housing that will be in demand in the future.

In addition to quantitative data, qualitative data should be collected by surveying residents and employers on what kind of housing they want and need, and why. Reach out to area nonprofits, faith-based organizations, and social services to ask what they are seeing as housing needs in the community. Qualitative data gives you the story behind the reasoning, which quantitative data cannot tell you by numbers alone.

What does the data tell you?

Many communities focus on new single-family homes as people aspire

to achieve the “American Dream” of owning their own home. However, this may not align with what residents need or can afford. By calculating the average home value a household can afford and comparing it to the cost of a new home being built, communities can determine if single-family housing matches what residents can afford.

If the average family cannot afford a new single-family home, consider other types of housing such as townhomes, condominiums, and apartments, and evaluate whether you have land appropriately zoned to accommodate the type of development your community needs.

Bring in the engineers and architects

One of the factors making new housing so expensive is the high cost of new roads and infrastructure. Engineers can be part of the solution by identifying areas of the city that are already well served by utilities and infrastructure. For example, is there an oversized parking lot or tired shopping center that could accommodate higher density, infill, or redevelopment with a housing component? Adaptive reuse of vacant or underutilized buildings shouldn't be written off either. Could an old school, church, or office building be renovated or redesigned to convert to housing?

Making it real: Winnebago housing study

The City of Winnebago conducted a housing study to better understand housing needs in its community. The study emphasized the importance of aligning housing strategies with data, community input, and builder insights. New building permits in the city declined to new lows in 2022. By comparing the community's demographics with new single-family homes, the mismatch was exposed between what the average household could afford and the cost of building new homes. However, it also showed the average household



A City of Winnebago neighborhood.

can likely afford an existing home. The housing study determined the city needs to use a variety of strategies to attract developers and build a balanced mix of housing over the next five years, such as:

- ▶ Encouraging development in existing, vacant, or infill lots.
- ▶ Building entry-level, mid-income, and market rate housing.
- ▶ Supporting rental housing for the 20-34 age group with rent levels that align with incomes.
- ▶ Partnering with employers to build workforce housing.
- ▶ Building specialty and accessible rental housing for the 30% of residents with disabilities.

It takes a village to build a village

The lack of housing impacts many aspects of a community. As a result, there is potential for many partners to help address the challenges. For example, employers may be challenged in attracting employees so they may be willing to provide financial support, resources, or political capital. Nonprofits, financial institutions, and faith-based organizations may also be interested in being part of the solution to fulfill their mission. Bring these diverse parties together to identify common goals, develop a shared vision and plan, and pool resources toward building much-needed housing. By working together, the city, developers, employers, and other stakeholders can address a community's unique housing needs. 🏡

Robin Caufman is a senior planner at Bolton & Menk and Mojra Hauenstein is an architect and senior planner at Bolton & Menk (bolton-menk.com). Bolton & Menk is a member of the League's Business Leadership Council (lmc.org/sponsors).



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Progress Slow, but Present in Appleton

BY HEATHER RULE

Ron Ronning grew up in Las Vegas, but he spent summer vacations in Appleton visiting his grandparents and many relatives.

“Coming back to Appleton on vacation in the summer was like going to Disneyland for me. My grandparents owned a café in town. It was fabulous,” said Ronning, who’s now retired and has lived in Appleton for years.

Those family connections and everybody knowing everyone else in town drew — and kept — Ronning and his wife in Appleton, the small town in western Minnesota.

“There was always that friendly atmosphere in Appleton,” Ronning said.

The atmosphere remained, despite all of the city’s struggles in recent years, namely since the 1,640-bed Prairie Correctional Facility closed in 2010. That left a void in Appleton’s core that’s been hard to rebound from.

Impact of the correctional facility closure

Ronning, a 22-year retired military veteran, is a former mayor and City Council member of Appleton. He also worked at the correctional facility as a unit manager and maintenance supervisor. He was in one of the last groups of people to be let go from their positions at the facility, which employed more than 350 people.

When the facility closed in 2010, both the tax base and the city’s population dropped off. Appleton’s population was 1,552 in 1990 before the correctional facility opened but jumped to 2,871 by 2000 with the counting of inmates. The population dropped to 1,412 in 2010 after the facility closed and was 1,374 by 2020. The number of households went from 742 in 2000 to 638 by 2020.

“When we did close, we were devastated in this community,”

Ronning said. “Every part of the town was affected by the prison.

“We were hurt. Let’s just put it that way, pretty badly, when they closed those doors.”

A lot of people lost their homes because of job losses after the shutdown, according to John Olinger, Appleton’s city administrator since April 2023.



The 1,640-bed Prairie Correctional Facility closed in 2010. Its closure profoundly impacted Appleton’s residents and economy.

PHOTOGRAPHY BY JOHN OLINGER

PHOTOGRAPHY BY JOHN OLINGER



The historic Appleton City Hall and Opera House building was erected in 1895. The goal is to preserve the structure and make it a center for community activities.

“They just walked away from them,” Olinger said. “We’re still dealing with that. We have homes just sitting vacant that need to be torn down, because they’ve been vacant for 12 years.”

While some people left the area in search of other jobs, some stayed and held out hope that the prison would reopen, according to Gary Hendrickx, an Appleton resident and Swift County commissioner for 27 years.

But as time passed, the hope faded.

“I think there’s always a belief that it would reopen,” Hendrickx said. “Therefore, decisions you make sometimes then with that belief are different than the decisions that you would make if you thought, ‘OK, it’s not going to reopen. We have to adjust accordingly.’”

It’s been 14 years now and the facility remains shuttered. Along with the prison, Appleton also lost the Pioneer Public Television business in 2018 when it moved to Granite Falls.

“It was dramatic here,” Olinger said. “And I don’t think they’ve fully recovered from it.”

While it’s not necessarily uncommon for small, rural cities to have their share of struggles, some cities have more advantages than others. A city that’s a county seat draws in more people and businesses, while lake communities bring in tourism.

Appleton has tried to, as Ronning put it, get its “feet back on the ground,” but it’s been difficult. The city isn’t even able to fix its roads, other than some pothole patching. It simply can’t afford to make the repairs; “assessing taxpayers would be an immense amount,” Ronning said.

Small victories for Appleton

Olinger is interested in getting the city focused on its comprehensive plan and that city’s mission: “Appleton stands out as a successful small city because of our willingness to try a new and innovative path.”

For Olinger, a relative newcomer to Appleton, he sees the community coming together.

“I think once they get together and start uniting in a vision, I believe they’ll be successful,” Olinger said. “Because they really are good people here. They’re smart. They love their town, and they want to see it prosper.”

Though progress and growth have been slow, Appleton can appreciate some small victories. It got a new \$6 million water treatment plant a few years ago, which was needed, and it worked on upgrading the wastewater treatment system.

The town’s library also got some improvements through a \$1.6 million project. The library moved into a remodeled portion of the old school and opened in late fall 2023. The new space is an expansion of the previous library, which was in City Hall and too small to adequately serve Appleton, according to Olinger.

This past year, Federated Telephone went fiberoptic providing broadband to homes, which “not a lot of communities have,” Hendrickx said.

There is a bright spot when it comes to housing, too. The U.S. Economic Development Administration has a new program that will build small cottages on the lots that the City of Appleton acquired from those who lost their jobs when the correctional facility closed.

Thanks to a lot of fundraising, there’s also a new municipal swimming pool that opened a few years ago, replacing the old pool on the same site, which has been a big plus for the community, Ronning said.

“I think overall when you see change and you see positive change, that helps a community vibe overall as well,” Hendrickx said. “There are some things that are really good, and they’re happening. And now we just have to continue focusing on what more we can do.”

Appleton Area Recreational Park is an asset

One additional piece has been a great benefit to Appleton. What used to be the local swimming hole years ago has turned into an off-highway vehicle (OHV) park. Olinger called the park something “that’s going to be a great asset to the city.”

The OHV park is primarily a county initiative, though Appleton has been supportive. Hendrickx recalls his first year as county commissioner in 1997. That year, there was a lot of snow, which caused the park to flood in the spring. “It was basically an old gravel pit,” Hendrickx said. He and the other commissioners at the time decided not to put a lot of infrastructure into the park.

The Minnesota Department of Natural Resources later approached the county with the idea of converting the area to



The Blender Co Cafe opened in the historic City Hall and Opera House where the Appleton Heritage Center is now located.

an OHV park. Federal and state grants help bring the park to fruition and, through other land purchases, the park is up to about 335 acres. A couple of years ago, the Greater Minnesota Regional Parks and Trails Commission helped designate it as a regional park. They’re in the process of working on a Minnesota Department of Employment and Economic Development grant to upgrade some more park facilities, like the parking lot and bathrooms.

Going back to the roots of the park as a swimming hole, they also want to create a swimming area within the park, along with kayaking, canoeing, and other amenities, like a place to wash vehicles before leaving the park, according to Hendrickx.

The City of Appleton allows all-terrain vehicles to go through town to get from one end to the other, with the park on one side of the area. The park has been popular on weekends, but Hendrickx would like to see it expand to have more groups venture in during the week as well.

“So, we can see that economic development more than just a couple days a week,” Hendrickx said. “If we can expand that to three, four, five days a week, all that’s beneficial for the community.”

Seeing how many vehicles come into Appleton’s community via the OHV park in the spring, summer, and fall is another source of pride for the area, Hendrickx said. People are coming into the community instead of going to the lake, he added.

“I think overall that has helped us at least maintain to the degree that we maintained,” Hendrickx said. “There is the shock, or whatever you want to say, about losing the prison, but there are some things here that we can build upon.”

Even with those positive aspects in town, Ronning doesn’t see the city growing right now, which he added is a problem and sad to see. Still, that’s tempered with his optimism for Appleton.

“But I’m very upbeat about the community,” Ronning said. “I think that we just need a break. We need a nice break that the people can see, and we can bring businesses in. That’s what I’m looking for.”

Heather Rule is a freelance writer.

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Considerations for ADA Accommodations and Compliance

BY JANA O'LEARY SULLIVAN

Nearly 35 years after it passed, the Americans with Disabilities Act (ADA) remains one of the most important and robust employment laws. It is the common thread in an area of law that addresses employee and applicant medical issues, which often interweaves other laws, including the Workers' Compensation Act, the Family Medical Leave Act (FMLA), the Minnesota Human Rights Act, and many more.

ADA-related issues are among the most common matters an employer will handle since nearly every worker will experience a medical issue at some point during their career. It also comes into play with national health crises. While the world will hopefully never again experience a pandemic on the scale of COVID-19, COVID is still in an endemic phase and other epidemics occur periodically.

Reasonable accommodations

In addition to prohibiting discrimination and retaliation like other employment laws, the ADA requires employers to provide reasonable accommodations to individuals with disabilities so they can perform the core functions of their job.

A reasonable accommodation is a modification to the job or workplace that allows the employee to perform the essential functions of the job and does not cause an "undue hardship" to the employer. Common reasonable accommodations include medical leaves, schedule modifications, specialized equipment or technology, alternative communication methods, reassignment to a vacant position, and modification of policies. Some accommodation requests are automatically unreasonable, including requests to remove essential functions, change supervisors, or provide a stress-free workplace.

The ADA and MHRA also require employers to consider and discuss potential accommodations with employ-

ees in an "interactive process." While the mantra for anything employment related is to communicate and document, that is especially true in situations involving medical issues. Notably, a new amendment to the Minnesota Human Rights Act strengthens this requirement.

In determining what is reasonable, employers should conduct an individualized assessment that focuses on the nature of an employee's job and the work restrictions, relying on medical records/exams and other objective information.

ADA compliance considerations

Given that ADA issues are among the most common matters an employer will handle, here are some key considerations to help ensure your city achieves and maintains ADA compliance.

Don't ask applicants about medical issues — even if they are obvious or known. While employers can ask applicants if they can perform the job with or without reasonable accommodation, they generally should not delve any deeper before making a conditional job offer, even if a medical condition or pregnancy is obvious or known. Importantly, there is no medical condition that automatically disqualifies a candidate from a job, even for a public safety or other safety-sensitive position. Indirect questions can get employers in trouble — such as asking a candidate about the reasons for separating from the military.

Scrutinize job requirements. Employers should clearly articulate job requirements in job descriptions, job postings, and other communications. Employers should regularly scrutinize to ask: Does the job truly require this? How did we decide on this requirement and is it supported by objective evidence? That is especially true for vision, hearing, lifting, and other similar requirements that can have the effect of unnecessarily disqualifying applicants with disabilities.

Consider medical leave as an accommodation. Employers must often consider medical leave as a potential accommodation. The ADA is broader than the FMLA and other laws — an employer may have to provide leave in excess of 12 weeks or where FMLA does not apply. This is a focus area of the courts and agencies. Importantly, policies that have a maximum amount of leave allowed — even if they are generous — run afoul of the ADA.

Consider remote/hybrid work. The pandemic was a game changer when it comes to remote and hybrid work. While an employer may determine that remote/hybrid work is not reasonable because of the nature of the job, performance or misconduct issues, or other reasons, employers need to at least consider a request for remote/hybrid work, even if their policies generally limit or don't allow it.

Effectively address mental health conditions. Since the pandemic, there has been a dramatic increase in the number of U.S. adults who have a mental health condition. In addition to effectively and sensitively handling situations involving mental health issues, employers should proactively address mental health in the workplace.

Carefully handle medical inquiries and exams. Medical inquiries and exams must be job-related and supported by a business reason and can only occur after an employer makes a conditional job offer. While that sounds simple enough, this area is complicated and a hot spot for potential problems. ☞

Jana O'Leary Sullivan is an attorney and assistant litigation supervisor with the League of Minnesota Cities. Contact: jsullivan@lmc.org or (651) 281-1243.



Learn more about the ADA at LMCIT's 2024 Safety and Loss Control Workshops, INCLUDING HOW IT AFFECTS DIVERSITY, EQUITY AND INCLUSION, AND ACCESSIBILITY OF PUBLIC FACILITIES AND PROGRAMS.
lmc.org/LCW2024

Court Upholds Arbitrator's Analysis of Collective Bargaining Agreement

LABOR LAW

Arbitration

Hennepin Healthcare System and the American Federation of State, County & Municipal Employees (AFSCME) Union participated in arbitration concerning the hospital's use of contract workers for periods longer than six months. There were two conflicting provisions of the collective bargaining agreement: one that limited the amount of time the hospital may employ temporary employees, and another that stated, "nothing in this agreement shall

prohibit or restrict the right of the employer from contracting with vendors or others for materials or services." The arbitrator reconciled the conflicting provisions by concluding the hospital violated the agreement by continuing the employment of a temporary worker who performed bargaining unit work for over six months. The district court affirmed the award and the Minnesota Court of Appeals reversed, finding the arbitrator exceeded his authority by issuing an award that did not draw its essence from the parties' agreement. The union petitioned the Minnesota Supreme Court for review. The Minnesota Supreme Court reversed, holding the arbitrator's decision met the essence test, which provides that an arbitration award cannot be vacated by a reviewing court if the award draws its essence from the collective bargaining contract. The Minnesota Supreme Court returned the case to the court of appeals to address the hospital's alternative argument that the arbitrator exceeded his authority by invading the hospital's inherent managerial rights.

The Minnesota Court of Appeals affirmed the award, holding that although the arbitrator did not expressly address the provision regarding the hospital's managerial rights, the arbitrator interpreted the collective bargaining agreement to limit the hospital's ability to subcontract and thus, implicitly determined that the parties agreed to bargain on the subcontracting issue. If the subcontracting issue was bargainable, then it could also follow the grievance process and be arbitrated. The court then applied the essence test to the inherent managerial rights argument. Because the arbitrator determined that the hospital voluntarily bargained on subcontracting and the arbitrator's decision draws its essence from the parties' collective bargaining agreement, the hospital's inherent managerial rights argument was rejected.

Hennepin Healthcare Sys., Inc. v. AFSCME Minnesota Council 5, Union, No. A21-1079 (Minn. Ct. App. Oct. 23, 2023) (nonprecedential opinion).

CONSTITUTIONAL LAW

First Amendment

Dr. Eric Ringsred sued the City of Duluth alleging the city retaliated against him in violation of his First Amendment rights. Describing a long contentious history between himself and the city, among other claims, Ringsred maintained the city retaliated against him for over 20 years, starting in 1998 over an area of town he wished to preserve. The issue culminated in the Duluth Economic Development Authority's (DEDA) 2016 purchase of land Ringsred forfeited to Saint Louis County because he failed to pay property taxes. Ringsred had tried to buy the property back, but Ringsred asserted DEDA and the city acted in concert to deprive him of the property in retaliation for his speaking out and taking earlier legal action against the city.

Duluth filed a motion to dismiss for failure to state a claim and the district court ruled that the claim was time-barred — or past the statute of limitations — and rejected Ringsred's reliance on the continuing violation doctrine, citing "lack of continuity" between the alleged retaliatory actions. The court of appeals reversed and reinstated the claim, concluding the alleged retaliatory acts constituted a continuing violation that tolled — paused or delayed the time set forth by — the statute of limitations. Duluth appealed only on the timeliness of the First Amendment Section 1983 retaliation claim. Since neither party disputed the applicable statute of limitations for Section 1983 claims is six years, that limitations period was applied. Ringsred brought his Section 1983 claim against the city in April 2020 and the six-year statute of limitations bars a retaliation claim that is based on alleged retaliatory acts before April 2014, unless the continuing violation doctrine applies.

The Minnesota Supreme Court defined "continuing violation doctrine" as an equitable doctrine that can toll the statute of limitations where a pattern of conduct constitutes a sufficiently integrated pattern to form, in effect, a single act. The court previously applied continuing violating doctrine in continuing trespass claims and employment discrimination claims under the Minnesota Human Rights Act; however, the court clarified these contexts are not exclusive areas for application of the doctrine. Both the Minnesota Supreme Court and the United States Supreme Court have recognized the continuing violation doctrine does not apply when the conduct at issue constitutes discrete acts. The Minnesota Supreme Court has also recognized that discrete acts are separately actionable when committed. Because the acts of retaliation that Ringsred alleged were discrete acts, each would have been actionable when committed. The court reasoned that the wrongful nature of each act of retaliation Ringsred alleged were complete and known at the time the city committed the act. Thus, the retaliatory acts alleged did not constitute a continuing violation sufficient to toll the statute of



limitations. The court reversed the court of appeals' decision and returned the case to the district court for further proceedings.

Ringsred v. City of Duluth, 995 N.W.2d 146 (Minn. 2023). Note: The League filed an amicus brief in support of the City of Duluth.

TAX LAW

Special assessments

The City of Brainerd issued a special assessment against James M. Carlson's property for \$1,700 to reconstruct a street. Carlson's property is located on a cul-de-sac that connects to the street. The city hired a consulting firm to conduct an appraisal of Carlson's property. The appraisal issued a report that "outlined market benefit" from the street improvements for "several classes of properties" that had direct and indirect access to the street. The City Council approved three property classes to issue a special assessment. The appraisal report used four comparable properties and stated the market value of appellant's property increased by \$5,000 after the city completed improvements to the street. At trial, a consulting firm employee testified that not every detail on the underlying calculation went into the report, his calculations were correct, and he could have included more information about how he did his calculations.

Carlson filed a complaint against the city seeking judicial review of the special assessment against his property. After a bench trial, the district court affirmed the assessment against his property and Carlson appealed. The Minnesota Court of Appeals affirmed the decision, finding the district court did

not err by determining that the city's special assessment was presumptively valid. The court relied on case law, which holds that introducing the assessment roll, or a public record containing the information about property and individual pieces of land, into evidence constitutes prima facie — sufficient at first impression — proof that the special assessment does not exceed the special benefit. An appraisal of property is not required to be completed before the assessment is imposed for the presumption to apply once the assessment roll is introduced into evidence.

The court also found the district court did not err by determining that Carlson failed to rebut the presumption of validity when the appellant testified and contradicted the appraisal report. Generally, Carlson's lay testimony concerning the property's value may be sufficient to rebut the presumption of validity. The district court can give substantial weight to the property owner's testimony if the property owner's experience and background warrants such weight. Here, Carlson had experience as a former practicing corporate attorney and had a brokerage license from 1975 to 1979. However, Carlson was not a real estate professional, had no formal appraisal training, did not buy and sell land on a regular basis, and was not an expert. Although Carlson testified and contradicted the change to his property's market value, the district court did not err by determining Carlson failed to "introduce competent evidence" that the special assessment exceeded the increase in his property's market value.

Carlson v. City of Brainerd, No. A22-1624 (Minn. Ct. App. Oct. 30, 2023) (nonprecedential opinion).

(continued on page 26)



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EMPLOYMENT LAW

Property interest

Samantha LaCoe was hired in January 2021 as a law enforcement officer for the Sisseton Police Department, in South Dakota. LaCoe and the city signed a Sisseton Police Department employment contract requiring LaCoe to reimburse the city for the cost of her training if she left the department before completing 36 months of employment. In January 2022, the department informed LaCoe the police commission lost confidence in her because she had included false or inaccurate information on four stopped-vehicle reports. Later, LaCoe resigned after the department asked her to.

In July 2022, LaCoe filed a 42 U.S.C. Section 1983 action. LaCoe alleged the city and other defendants violated her Fourteenth Amendment procedural and substantive due process rights by disciplining and constructively discharging her from her job as a law enforcement officer. The district court granted the city’s motion to dismiss all federal claims and declined to exercise supplemental jurisdiction over the plaintiff’s state law claim. LaCoe appealed for review of only the dismissal of her due process claims, arguing that the terms of the contract established a property interest and therefore she was not an at-will employee under South Dakota law.

The U.S. Court of Appeals for the Eighth Circuit affirmed the district court’s decision and ruled the existence of an employment contract does not automatically establish a due process property

interest under South Dakota law. The city expressly reserved its statutory at-will termination rights in Section 6 of the agreement. The Supreme Court in South Dakota has repeatedly held that a contract of employment, whether express or implied, overcomes the statutory at-will relationship

only when it “affirmatively indicates” the employer’s intent to surrender its at-will power to terminate an employee for any time and for any reason. The court clarified that Section 3 of the contract referred to the amount of time LaCoe had to work for the department to avoid repayment of training costs and not a period that the department had to employ her. Under South Dakota law, the employer’s intent to contractually surrender its at-will power must be clear and as applied here, the city reserved its right in Section 6. Overall, the court found LaCoe was an at-will employee under South Dakota law and had no due process-protected property interest in continued employment. [Cite]

LaCoe v. City of Sisseton, 82 F.4th 580 (8th Cir. 2023).
Written by Aisia Davis, research attorney with the League of Minnesota Cities.
Contact: research@lmc.org.

The court clarified that Section 3 of the contract referred to the amount of time LaCoe had to work for the department to avoid repayment of training costs **and not a period that the department had to employ her.**

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Why Should a City Have a Policy That Addresses Employee Medical Issues?

Workers' Compensation

Q Why should a city have a policy that addresses employee medical issues?

LMC Addressing employee medical issues is one of the most common HR situations a city will experience. A policy that addresses employee medical conditions and injuries, work related and not, helps guide city employers as well as employees about their rights and obligations, the process and what to expect, the role of medical records and exams, and other relevant matters.

The law in this area — of which the Americans with Disabilities Act (ADA), Minnesota Human Rights Act (MHRA), and the Workers' Compensation Act are the cornerstones — is robust and continually changing and expanding.

The law requires employers provide reasonable accommodations — or modifications to the job or workplace — that allow employees with disabilities to perform the “essential functions” or core duties of their jobs. Accommodations can include medical leave (above and beyond what may be required by other laws), light duty work, schedule changes, special equipment, and more. There is no one-size-fits-all accommodation. Instead, employers must take an individualized approach that considers an employee's specific job and work restrictions as well as other factors. The law requires communication between the employer and employee about accommodations.

Employers cannot give preferential treatment to employees with work-related conditions and injuries. This can be a tricky issue because previously employers could reserve light duty work for employees with work comp injuries. While an employer is not required to create light duty work or a light duty position, the employer must provide available light duty work if it is reasonable. In determining what is available, an employer must look to the organization as a whole, not just the employee's department.

The League's annual spring Safety and Loss Control Workshops will include a special ADA track. The employment session will include practice tips and template policies and forms.

Answered by Loss Control, Legal, and HR staff: hrcbenefits@lmc.org.

Data Practices

Q Can a data practices request be fulfilled by directing the requestor to the city website if the information is readily available there?

LMC The Minnesota Government Data Practices Act (MGDPA) requires a city's responsible authority to fulfill requests to inspect or receive copies of data. Even if this information is readily available in a self-serve format on the city website or elsewhere, if a requestor submits a data request for copies of the information (either physical or electronic copies), the data

request should be fulfilled by providing the copies. Under the MGDPA, if a requestor wants copies (including data transmitted electronically), he or she may be required to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, compiling, copying, and/or electronically transmitting the data. Exercising the city's authority to charge for these costs may encourage the requestor to access the information in another way.

Answered by Research Analyst Angie Storlie: astorlie@lmc.org.

Hiring Practices

Q How can I ensure compliance with the new law prohibiting inquiries into a job applicant's pay history?

LMC Effective Jan. 1, 2024, Minnesota Statutes, section 363.08 prohibits employers from asking about, considering, or requiring disclosure of pay history of an applicant for the purpose of negotiating pay or benefits. Historically, women, people of color, and Indigenous people have been paid less for similar jobs. The intent of the law is to narrow the gender and racial pay gap.

- The law applies to all job applicants, including those applying for different positions within the same organization.
- Applicants are allowed to voluntarily disclose their pay history, without being asked. However, the employer can only use the information disclosed by the applicant to support a salary higher than initially offered.
- If the applicant's salary is public, or known to the employer, it still cannot be considered for the purpose of determining pay or benefits.
- Employers can ask about a candidate's desired salary ranges or expectations.

To ensure compliance with this law, cities should:

- Review employment applications, hiring procedures, and interview questions to ensure questions related to past salary history are removed.
- Train those involved in the hiring process or determination of compensation.
- Consider including information about the anticipated salary range in recruitment materials.
- Ensure compensation decisions are based on relevant factors. Cities are already required to have job evaluation systems under the state's pay equity law. Other relevant factors include candidate skills, experience, and market factors.
- Document all offers with relevant factors considered. If a candidate voluntarily provided salary data, document whether that resulted in negotiating a higher pay than your original offer and why. 📄

Answered by Human Resources Director Lisa Schaefer: lschaefer@lmc.org.

Small Ideas for Big Impact

BY KENDRA GRAHL

With a brief step onto one of our trails, into one of our parks, or along our lakes, people can see why our moniker is the “City of Lakes and Parks” in Victoria, Minnesota. We take a lot of pride in living up to our nickname. But as a smaller city, we know we need to use our resources wisely. For us, that means we need to focus on small ideas that can make a big impact.

A case study in promoting composting

The City of Victoria places importance on protecting the environment and all the natural features that make it unique. As environmental stewards, the city explores opportunities to protect and preserve the environment on the local level by looking to both innovative and tried-and-true approaches to fostering environmental sustainability.

While Victoria has facilitated composting activities in the past to promote responsible yard waste clean-up in the spring and fall, in 2022, the city made a concerted effort to increase composting as one of these approaches to environmental stewardship.

When disposed of properly, yard waste — such as grass clippings, leaves, and branches — can be turned into a valuable resource that can add nutrients back into the soil. The city determined Halloween was an opportune time to engage residents about composting, as our community members cleaned up their yards before the winter season. We specifically targeted the composting of pumpkins to showcase the benefits of composting and how easy it is to do.

Since families with children are more likely to have pumpkins as decorations during the fall, the city hosted a composting-related game during the annual Halloween event hosted by the local Lions Club and business association. This event attracts hundreds of families to downtown Victoria each year.

As part of our composting-related activity, we let participants throw balls into carved pumpkins so they could win a prize. Each element of the game was compostable, recyclable, or reusable. The pumpkin stands were made from local straw bales, the jack-o'-lanterns were real pumpkins, the balls were made from twine, and the prizes were small pumpkins and squash from a local farm.

With a hop and a toss — usually followed by a giggle — our community members were able to experience joy while they tried to win a prize. And we had a captive audience to talk to about why composting is so important. Each prize had a paper ‘Compost Me!’ sticker on it to remind people to compost their group of pumpkins with their other holiday decorations for the season.

During the event, each prize pumpkin as well as the jack-o'-lanterns were claimed by our younger community members who were ready to compost them once the season ended. The event resulted in an increase in awareness about the composting site, as well as an increase in the number of pumpkins dropped off that year. Overall, there was a 29% increase in



PHOTO COURTESY OF THE CITY OF VICTORIA

The City of Victoria partnered with the local Lions Club and business association during an established Halloween event to promote its composting initiative.

compostable waste hauled out of the city’s compost site from the previous year.

This small idea had a big impact on our community and how we now approach our marketing efforts and awareness campaigns. Several factors went into play that contributed to its success.

Humanized our approach

Rather than focus on just educational posters or social media posts, we leaned into letting our community experience composting. The game let families laugh together and compete while we were able to have a two-way conversation with the participants. Many of the families we talked to during the activity were not aware that we had a composting site so it was an opportunity for them to learn about where it is located and get excited about what else they could compost. These memories were far more lasting for our community than a 10-second glance at a social media post.

Partnered with our community

The first year the initiative was created, the city hosted a mini fall festival after Halloween to encourage people to bring their



pumpkins to the event to compost. Attendance was sparse, so for the next year, we partnered with our local Lions Club and business association since they already host an established Halloween event in downtown Victoria. To keep costs down for the activity, we borrowed the straw bales from a local dairy farm and purchased pumpkins from a local pumpkin farm.

By partnering with our community, we were able to have a much smaller budget than the fall festival but also reach hundreds more people and really focus our marketing and educational efforts on composting rather than also focusing on event planning.

Met people where they already were

Instead of trying to create a situation where we could educate people about the importance of composting or trying to force it at an unrelated meeting, we met people where they were already going to be receptive to information about fall activities. During the Halloween event, straw bales and pumpkins are already everywhere so it was an easy tie-in to talk about what could be done with this type of material at the end of the season and what else could be brought to the site as well.

We continue to take these small ideas that have served us well and apply them to new communication initiatives. We continue to think of other ways we can make small changes that will have a big impact. With a few small — yet strategic — ideas, cities can amplify their efforts in so many ways that can have a positive impact for years to come. 

Kendra Grahl is communications and public engagement director for the City of Victoria.



PHOTO COURTESY OF THE CITY OF VICTORIA

Victoria's composting awareness campaign contributed to a 29% increase in compostable waste hauled out of the city's compost site from the previous year.

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Junior Council Representatives Offer Significant Insights in Centerville

BY ANDREW TELLIJOHNN

It was early 2022 as the Centerville City Council was getting an update on its website upgrade when a voice spoke up: “What about adding a mobile app?”

The question gave the Council pause and delayed the project’s completion by a few months. But Mayor D. Love says now, a couple years later, he utilizes that app on his phone to access the city’s new-and-improved website more than any other device.

“We all kind of looked at each other and thought, ‘Mobile app?’” Love said. “Most of us have smart phones but we never thought about a mobile app for our city. But our junior council member was adamant that if you don’t have a mobile app, you aren’t going to reach a large segment of your city.”

The voice that spoke up belonged to Danny Peterson, the city’s first junior council member who was, at the time, a junior at Centennial High School.

“I thought it would be one of the most accessible things Centerville residents could have,” said Peterson, now a freshman at the University of Minnesota. “I felt that it would be easier. All the pro-

grams you use there, your banking, social media, everything can be found on your phone.”

Long-time idea

The mobile app was one of the first and probably the biggest influences Peterson and his successors have had on Centerville issues throughout the program’s short history.

“I think jaws kind of hit the floor,” he quips. “I don’t think that’s something that even came into their minds. I’m not some kind of Einstein or anything for coming up with the idea for an app. But I think if the junior council position hadn’t existed, I don’t think they would have come up with the idea of an app.”

Peterson’s contribution brought joy to Love. While the junior council program is entering its third year, Love has felt strongly about finding ways to incorporate young peoples’ voices going back to when he first joined the City Council in 2009. It wasn’t until Love became mayor in 2020 that the idea gained traction.

“Being a former football coach and having coached kids in basketball, involv-



ing youth has always been something that has been of interest to me,” he said. “For the last decade I’ve had the inkling it would be

great to have a junior council member. They bring a different perspective to what we talk about and give us a different voice of the community we don’t normally hear.”

And there have been a lot of interesting issues on which the students could opine. There have been open positions on the Council for which the city needed to appoint candidates. There has been a tax increment financing-based development project. There have been issues related to apartment buildings, gas stations, and water puddling on streets.

“It’s interesting to see the young person come in and maybe have one perspective and then, suddenly, as they learn and they grow, their perspectives may change,” Love said. “You just see the entire broadening of their perspective as they grow through the process.”

The students don’t run for the office. City staff and Love reach out to Centen-



nial High School Principal Tom Breuning toward the end of the calendar year and ask for top candidates. They're looking for a junior, preferably from Centerville, so they don't lose the person after graduation midyear.

The principal talks with social studies teachers to find strong candidates to interview. "We're three for three," Love said. "We have not had an interview with someone and said, 'I don't think so.'"

Since the junior council representative is not an elected official, the person does not have voting rights. Otherwise, the member receives all the same information and has all the same rights to speak up as their elected counterparts.

"They get the packet beforehand, they read the packet, they're ready to go at the meeting, just like everyone else," Love said. "They bring a different perspective to what we talk about and give us a voice of the community we don't normally hear."

Not everyone was on board

The junior council member program received a 2023 City of Excellence Award from the League of Minnesota Cities. Nearly everyone involved with the program agrees it has been successful so far — even those who initially opposed it. City Administrator Mark Statz acknowledges he initially was a skeptic.

"I had two main fears," he said. "One, that the junior council member would be intimidated, disinterested, or otherwise disengaged and getting them to contribute would be a chore. Two, the opposite — that the junior council member would drone on and on with wild opinions, expressed with unprofessional language and no real connection to reality — kind of like a TV pundit."

Neither fear has played out. Both junior council members thus far have been fully engaged, but measured and professional in expressing themselves, Statz acknowledges. Both have understood the types of items on which they might best contribute — such as on issues relating to parks or the overhaul of a website.

"As we enter year three of our program, it would be difficult for me to find

reasons to say it has been anything but a resounding success," Statz said.

That, he adds, is likely due in part to the city's partnership with the school.

"We've relied heavily on staff and leadership at the school to choose our candidates," Statz said. "I think they understand the personalities best and can help find the young people who will have what it takes to be a contributor."

Hearing from junior members

The junior members themselves speak highly of the program, as well. When Principal Breuning called Peterson to his office to discuss the opportunity, he was immediately on board. Even though there was no stipend at the time — one has since been added — he was about to begin applying to colleges and saw it as an opportunity to add to his resume.

"I definitely was a fan," Peterson said. "I had done some leadership programs in middle school and I thought I would really enjoy the opportunity."

For Rowan Shaw, who was the junior council member for 2023, one of the benefits of his participation was ensuring that young people's voices were heard.

"The Council is an extension of the people and we're supposed to be working for the people and serving their best interest," he said. "It's important to view issues in a way where you are trying to come to the best outcome for everybody and make it work for everyone the best you can."

He was surprised how he was treated "like another member," even though he wasn't able to vote.

"I have less power than them, but they treat me like one of their own," Shaw said.

As 2024 begins, the city has sworn in Avery Sauber as its third junior council representative, and she is excited to take on the role.

"I like the idea of being able to actually make an impact and give an opinion on things that affect me, my family, and where I live, even if it is on a small scale," she said.

Sauber pays attention to what's going on in the small city and is intrigued by issues like attracting businesses to town and the housing that's available in Centerville.

She's in National Honor Society, has been an active member of the school's mock trial team, and has an interest in

"Being a former football coach and having coached kids in basketball, involving youth has always been something that has been of interest to me. **For the last decade I've had the inkling it would be great to have a junior council member. They bring a different perspective to what we talk about and give us a different voice of the community we don't normally hear.**"

D. LOVE, MAYOR
CENTERVILLE

law and government, so getting hands-on experience and a resume builder will be a plus. She also hopes to make the junior council position more visible and known at school.

"It was nice to know that I was being recognized for the work I put in and it was also something I was wanting to learn more about," she said. "I'm excited going into this."

Using the experience

Meanwhile, two years removed from his role on the council, Peterson is a freshman at the University of Minnesota. He's currently in the Carlson School of Management with plans to attend law school.

He also recently informed Love during an informal meeting that he may pursue student government at the university.

Love was happy hearing that the role he lobbied to add to the city's governance has a student considering public service. He would be overjoyed to see one or more return as full voting colleagues at some point.

"If I see one of these young men or women in the future come back to be elected council member or mayor in our city at a future date ... wow, that would be incredible." 🗣️

Andrew Tellijohn is a freelance writer.

ON THE WEB

Access a video about this Centerville initiative at lmc.org/Centerville.



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