

NEBRASKA MUNICIPAL REVIEW

■ Lincoln Mayor announces new tool
in effort to increase affordable housing

■ 2020 Legislature to convene for 60-day
session; proposals for property tax relief,
economic development under discussion

Official Publication of the League of Nebraska Municipalities

DECEMBER 2019

*Aurora Mayor Seeman
honored at Husker football
game as POW/MIA Sentinel*



SPECIALIST 4
MARLIN SEEMAN
ARMY VETERAN



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DECEMBER 2019

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Top left: Aurora Mayor Marlin Seeman at Husker football game Nov. 16. Image and photo provided courtesy of NU Athletics Communications Department. Reprinted with permission.

Bottom left: U.S. Army Specialist 4 Marlin Seeman, 1967. Photo provided by Seeman family.

Right: Nancy Seeman, top right, and Aurora Mayor Marlin Seeman, lower right, with daughters, Kristi and Kelli, with designated POW/MIA chair at Nebraska-Wisconsin game Nov. 16. Mayor Seeman was the sentinel for the game. Photo provided by Seeman family.

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CALENDAR

Utilities/Public Works Section Annual Conference	Jan. 15-17, 2020, Embassy Suites, Lincoln
Midwinter Conference	Feb. 24-25, 2020, Cornhusker Marriott Hotel
NLC Congressional City Conference	March 7-11, 2020, Washington, D.C.
IIMC Annual Conference	May 17-20, 2020, St. Louis, Missouri
Municipal Accounting and Finance Conference	June 17-19, 2020, Holiday Inn, Kearney

Municipal Legal Calendar

(All statute citations to Revised Statutes of Nebraska)

FEBRUARY 2020

CITIES OF THE FIRST CLASS

Within 15 days of Passage.....	Clerk publishes ordinances passed. (16-405)
Within 10 days from meeting or before next meeting (whichever is sooner).....	Clerk to have minutes available for public inspection. (84-1413)
On or before second Monday	Annual Library Board report due. (51-213)
Within 30 days from Council meeting.....	Clerk publishes official proceedings of meeting. (19-1102)
Within 20 days after end of month	Treasurer files monthly financial report. (16-318)
On or before March 1	One and six year plans are due at the Nebraska Department of Roads, Board of Public Roads, Classification and Standards, March 1, 2020. Legal notice is required 10 days before the hearing. (39-2115 through 39-2117)
* *	Clerk must prepare agenda prior to next Board meeting. (84-1411)

CITIES OF THE SECOND CLASS

Within 15 days of Passage.....	Clerk publishes ordinances passed. (17-613)
Within 10 days from meeting or before next meeting (whichever is sooner).....	Clerk to have minutes available for public inspection. (84-1413)
On or before second Monday	Annual Library Board report due. (51-213)
Within 30 days from Council meeting	Clerk publishes official proceedings of meeting. (19-1102)
Within 20 days after end of month	Treasurer files monthly financial report. (17-606)
On or before March 1	One and six year plans are due at the Nebraska Department of Roads, Board of Public Roads, Classification and Standards, March 1, 2020. Legal notice is required 10 days before the hearing. (39-2115 through 39-2117)
* *	Clerk must prepare agenda prior to next Council meeting. (84-1411)

VILLAGES

Within 15 days of Passage.....	Clerk publishes ordinances passed. (17-613)
Within 10 days from meeting or before next meeting (whichever is sooner).....	Clerk to have minutes available for public inspection. (84-1413)
On or before second Monday	Annual Library Board report due. (51-213)
Within 30 days from Trustees' meeting.....	Clerk publishes official proceedings of meeting. (19-1102)
Within 20 days after end of month	Treasurer files monthly financial report. (17-606)
On or before March 1	One and six year plans are due at the Nebraska Department of Roads, Board of Public Roads, Classification and Standards, March 1, 2020. Legal notice is required 10 days before the hearing. (39-2115 through 39-2117)
* *	Clerk must prepare agenda prior to next Board meeting. (84-1411)

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LB 84 (2011), LB 610 (2015) and LB 960 (2016): The League strongly supported these bills to accelerate completion of the Expressway System and other important transportation projects!

BY L. LYNN REX, EXECUTIVE DIRECTOR, LNM

The Legislature's Transportation and Telecommunications Committee and the Appropriations Committee held a joint hearing on Dec. 4, 2019, for an annual briefing on the needs of the State Highway System. **Kyle Schneweis**, Director of the Nebraska Department of Transportation (NDOT), explained that NDOT determines each year how much of the construction program will be allocated to the following three categories of the State Highway System: 1) **Asset Preservation** and maintenance of the system (\$7.6 billion in 2019); 2) **System Modernization** relating to improvements that do not add capacity (\$1.5 billion in 2019); and 3) **Capital Improvements** that increase capacity or support economic growth (\$3.5 billion in 2019).

At the joint hearing, Senators were provided a copy of the **"2019 State Highway System Needs Assessment"** with an Executive Summary that *"identifies the needs for the next 20 years at \$12.6 billion, in today's dollars. With inflation applied at 5 percent for FY 2021 and FY 2022, and 3 percent for the remaining 18 years, over the next 20 years the total cost of the 2019 needs are estimated at \$18.1 billion. The average construction expenditures towards these needs are approximately*

\$500-\$600 million per year."

LB 84 (2011) Build Nebraska Act (BNA)

Senators also were briefed on the **"Build Nebraska Act (BNA)"** enacted with passage of LB 84 in 2011. **Then-State Sen. Deb Fischer** introduced LB 84 in 2011 and worked with the highway lobby, of which the League is a longstanding member, to successfully persuade her colleagues to pass the bill and Gov. Dave Heineman to sign it. LB 84 dedicated one-quarter of 1 percent of state sales tax for expansion of the Expressway System, maintenance of the existing transportation system and federally designated "High Priority Corridors." LB 84 committed 85 percent of the revenue to NDOT projects and 15 percent to municipalities and counties for local streets and roads.

The NDOT report states that revenue from LB 84 was available in 2013 and will generate approximately \$1.2 billion before sunseting in June 2033. *"In November 2011, NDOT announced approximately \$600 million in investments to expand 17 expressways, interstate or national High Priority Corridors. To date, 8 portions of these 17 corridors are complete, the remaining are under construction or funded for construction and on track for completion."*

LB 610 (2015) Fixed State Gas Tax Rate Increase of 6 Cents Phased in Over 4 Years

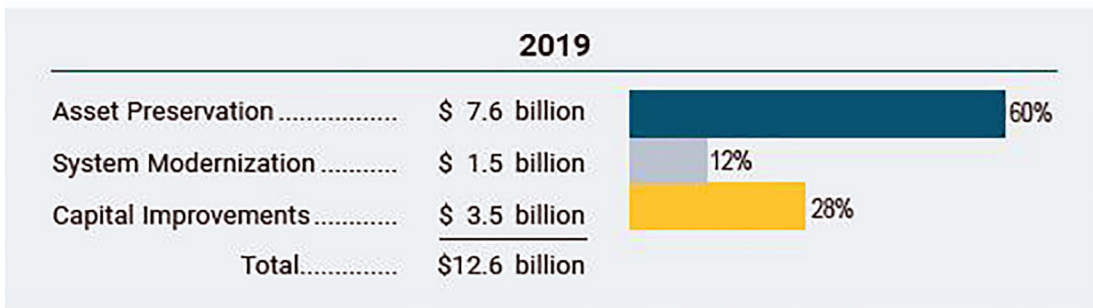
In 2015, **then-State Sen. Jim Smith** introduced and successfully advocated passage of LB 610 to increase the fixed state gas tax rate on motor fuels by 1.5 cents every year for four years, for a total of 6 cents. (It had been 20 years since the fixed state gas tax rate was last increased.) Of the total 6 cents, 2 cents were allocated for municipalities, 2 cents for counties and 2 cents for NDOT. In full effect after 4 years, LB 610 generates about \$75 million in additional funds annually. (One cent of state gas tax raises a little over \$12 million annually.)

Sen. Curt Friesen, current Chair of the Transportation and Telecommunications Committee, selected LB 610 as his personal priority bill in 2015 to assure that the bill would be scheduled for consideration. Sens. Smith and Friesen worked diligently with the highway lobby to garner the support to not only pass LB 610, but also obtain the 30 votes necessary to override Gov. Pete Ricketts' veto of the bill. LB 610 became a major funding source for LB 960, the "Transportation Innovation Act (TIA)," passed in 2016.

Continued on page 5

2019 State Highway Needs Assessment Report

Summary 20-Year Needs



Source – 2019 State Highway Needs Assessment, Nebraska Department of Transportation

Continued from page 4

LB 960 (2016) “Transportation Innovation Act (TIA)”

Then-State Sen. Jim Smith introduced LB 960 in 2016 on behalf of **Gov. Ricketts** to enact the **Transportation Innovation Act (TIA)**. Gov. Ricketts, Sen. Smith and NDOT Director Schneeweis worked closely with the League and other members of the highway lobby to pass this landmark legislation. As noted above, LB 610 (2015) increased the state gas tax rate by 6 cents over a period of four years, ultimately generating \$400 million of the \$450 million of funding for the TIA passed in 2016. An additional one-time \$50 million allocation from the state’s cash reserve also was committed to fund the TIA. The TIA not only provided NDOT with additional revenue, but also programs to increase economic growth, safety and transportation options throughout the state.

The following three programs were created by the TIA: 1) the **Accelerated State Highway Capital Improvement Program**, in addition to funds from the BNA, expediting completion of Nebraska’s 600-mile Expressway System by 2033; 2) the **County Bridge Match Program** allocating

up to \$40 million (until 2023) for the replacement and repair of structurally deficient bridges on county roads; and 3) the **Economic Opportunity Program** focusing on transportation projects that connect new and growing businesses to Nebraska’s transportation network in order to create additional jobs and private investment in Nebraska.

The **Economic Opportunity Program** is especially helpful to municipalities. Only public entities like municipalities and counties can apply for this funding; NDOT urges participation and collaboration with the private sector. Recipients of these funds must provide at least 25 percent matching funds for projects that are needed for transportation improvements to increase economic growth. The NDOT report presented at the joint hearing on Dec. 4 stated that as of November 2019, there have been 10 approved projects under the **Economic Opportunity Program**; if these projects are completed, a total of 372 new jobs will be created in addition to approximately \$441 million in private capital investment in Nebraska. The Nebraska Dept. of

Economic Development has identified these jobs within priority industries like manufacturing, transportation logistics or research and development. The NDOT report anticipates that six years of operation of these companies will positively impact Nebraska’s economy by about \$5.194 billion, in exchange for a total of investment by the State of Nebraska of approximately \$3.6 million.

The NDOT report highlighted a project in the City of Seward funded in part by a grant from the **Economic Opportunity Program**. Seward’s efforts to develop a business park west of Highway 15 had been delayed by a lack of suitable access to the site. The grant was of great assistance in overcoming the cost of improving the access from the highway to enable Seward to obtain a commitment from Scoular Inc., to create approximately 100 new full-time positions, generating an economic impact of over \$1 billion within six years of operation. The Scoular project is anticipated to be done by 2020. ■



Vacation leave and paid time off: Say bon voyage to ‘use it or lose it’ policies

BY TARA A. STINGLEY, CLINE WILLIAMS WRIGHT
JOHNSON & OLDFATHER, L.L.P.

‘Tis the season for making plans and preparing for the new calendar year. As part of that, employers should ensure their vacation leave and related paid leave policies are up-to-date and consistent with Nebraska law. Notwithstanding Nebraska’s consistent treatment of vacation leave as wages for over a decade, many employers still fail to comply with this legal requirement by improperly retaining “use it or lose it” policies. This article addresses Nebraska law’s treatment of vacation leave and related paid leave policies, as well as recommendations for avoiding a forfeiture of wages.

A. Accrued Vacation Leave is “Wages” Under Nebraska Law

Most employers know that under the Nebraska Wage Payment and Collection Act (NWPCA), employees are entitled to all accrued wages upon separation from employment. The NWPCA defines “wages” as follows:

[C]ompensation for labor or services rendered by an employee, including fringe benefits, when previously agreed to and conditions stipulated have been met by the employee, whether the amount is determined on a time, task, fee, commission, or other basis.¹

But what role does vacation leave occupy in this definition?

In 2006, in *Roseland v. Strategic Staff Management*, the Nebraska Supreme Court answered that question by holding that employers were required to pay employees all earned, unused vacation leave benefits upon termination of employment.²

Following the *Roseland* decision, the Nebraska Legislature amended the NWPCA’s definition of “wages” to state as follows:

“Paid leave, **other than earned but unused vacation leave**, provided as a fringe benefit by the employer shall not be included in the wages due and payable at the time of separation, unless the employer and employee . . . have specifically agreed otherwise.”³

Put another way, this means that vacation leave *is* wages for purposes of Nebraska law and must be paid out upon an employee’s separation from employment.

In contrast, however, sick leave is not included in the definition of wages that must be paid out upon termination of employment under Nebraska law.

B. Accrued Paid Time Off is Also “Wages” Under Nebraska Law

The NWPCA’s definition of “wages” expressly includes vacation leave. However, the NWPCA does not specifically address the treatment of “paid time off” (PTO), “paid leave,” or “personal time,” which typically combine the philosophy of vacation leave and other types of paid leave into one policy.

In 2013, the Nebraska Supreme Court resolved the issue of PTO and related paid leave in *Fisher v. Payflex Systems USA, Inc.*, finding that PTO, which generally can be used without restriction, was so similar to vacation leave as to make it a wage payable upon separation from employment.⁴ To decide otherwise, the Court held, would allow employers to avoid paying accrued vacation leave by simply characterizing all leave time as PTO, even when it encompassed and resembled vacation leave. In reaching that holding, the Court noted that the NWPCA does not define the term “vacation leave” as distinguished from other types of “paid leave.” However, the Court reasoned:

[A] “vacation” from work is ordinarily understood to mean a paid leave of absence granted to an employee for rest and relaxation. . . . Paid vacation leave is not conditioned upon an event,

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such as a holiday, an illness, or a funeral: [I]t is not conditioned upon anything other than the employee's rendering services for the employer. Instead, an employee may use his or her earned vacation leave for any personal reason without conditions, including for an illness or disability.⁵

The Nebraska Supreme Court recognized that with both vacation and PTO hours:

[A]n employee earns the leave and has an absolute right to take this time off for any purpose, subject to the employer's approval of the timing. So the definition of vacation leave is indistinguishable from [the employer's] definition of its PTO benefit. For this reason, legal commentators advise employers subject to similar statutes to maintain separate accounts for employees' accrued vacation leave and sick leave, or to pay employees their unused PTO hours upon separation if they combine vacation leave and sick leave into a single PTO policy. Moreover, in determining whether an employer has a duty to pay PTO hours upon separation of employment, courts have used the terms vacation and "paid time off" interchangeably.⁶

In recent years, many employers have changed their vacation leave and sick leave policies to combine the two types of leave benefits for easier administration. Unfortunately, when employers lump those benefits together in one paid leave policy, without placing any restrictions or contingencies on their use (i.e., an employee does not have to be sick or go to the doctor to use the benefit), then the paid leave looks and feels like vacation leave, with no contingencies upon its use. If so, em-

ployees are entitled to be paid out for all accrued, unused paid leave benefits upon separation from employment.

C. "Use It or Lose It" Vacation Leave Policies Violate Nebraska Law

Once an employee has accrued or earned vacation leave or similar paid leave benefits (where the paid leave includes vacation leave without any contingencies on its use), the employee *cannot lose* those benefits. In other words, those accrued benefits cannot be forfeited or eliminated once they are allocated to the employee. Accordingly, a "use it or lose it" policy where an employee forfeits his or her paid leave if the employee does not use it within a certain period of time is improper under Nebraska law.

If a forfeiture of accrued vacation leave (and related paid leave) occurs under a "use it or lose it" policy, or if the employer fails to pay the employee for all accrued, unused vacation leave upon termination of employment (regardless of the reason), the employer may be subject to damages for a violation of the NWPCA, including payment of the employee's attorney's fees.

D. Recommendations for Vacation Leave and Related Paid Leave Policies

In light of current Nebraska law on vacation leave and related paid leave policies, employers should keep the following recommendations in mind:

- Regardless of an employment policy or agreement to the contrary, all accrued, unused vacation leave (and paid leave that resembles vacation leave) must be paid to any separating employee.
- "Use it or lose it" policies, whereby employees forfeit accrued and unused vacation leave at the end of the year, are impermissible and should be amended or removed

immediately. Employees must be allowed to carry over all accrued, unused vacation leave and related paid leave from year to year.

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Prevention of falls should be taken seriously

BY DAVE BOS, LOSS CONTROL MANAGER
LEAGUE ASSOCIATION OF RISK MANAGEMENT

As the Loss Control Manager for the League Association of Risk Management (LARM), I know that slips, trips and falls are a major source of injuries for workers across Nebraska. Almost everyone has – or knows someone who has – slipped on an icy parking lot or tripped on an extension cord. **The prevention of falls should be taken seriously** because falls are the most common cause of traumatic brain injury and are the reason for a myriad of other injuries including back, spinal cord and shoulder injuries, sprains and fractures.

According to the U.S. Centers for Disease Control and Prevention, in 2014 there were 261,930 workers who missed at least one day of work and 798 workers who subsequently died from a fall.

Employees should be reminded regularly that although falls are common, they're also **predictable** and most of the time, very **preventable**.

Appropriate footwear can make all the difference, especially during Nebraska winters when it's likely to be icy outside and there is melting snow on floors inside. With members of the public, contractors and employees constantly coming in and out of your

city buildings – snow, ice, wet leaves, mud and gravel will all be tracked in. **Keep the floors clean as much as possible** and also provide rubber backed rugs and a sign warning people to be cautious of slippery floors.

Make sure cords that temporarily cross where people walk are secured down with tape or a flat rubber covering. **Promote “a place for everything and everything in its place” mentality** to help prevent objects from being left on the floor or ground where someone is likely to stumble over them.

Unfortunately, LARM has seen some claims from members who had an employee injured when they fell using a ladder or scaffolding. In an office setting, emphasize that **top shelves and other high surfaces should only be accessed using step stools or ladders**.

Ladders need to be set up on a flat, even surface and employees should always face the ladder when climbing it, having three points of contact as they climb. When outside, never use scaffolding or ladders when it's windy or there is any type of inclement weather. Employees with balance issues or who are prone to dizziness should never climb onto a ladder or scaffolding.



If you use a lift bucket or scissor lift, make sure the person in the bucket is using a harness that provides fall protection. Never operate a lift alone. Regularly check to make sure that all equipment is operating correctly before it's used.

Fall injuries are not just a safety concern, they're a considerable financial burden. Workers' compensation claims and related medical costs associated with occupational falls have been estimated to be \$70 billion annually in the United States.

Whether it be your employees, members of the public or the volunteers who are helping out, the potential for falls needs to be taken seriously.

Safety is the number one priority at LARM. For more information go to our website at www.larmpool.org. ■

Vacation Leave and Paid Time Off: Say Bon Voyage to 'Use It or Lose It' policies

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- An employer may place a "cap" on accrual of hours that prevents the accumulation of excess vacation leave, allowing employees only to accrue leave up to a specific point, with accrual then ceasing until the employee has used accrued leave.
- Employers wishing to avoid paying out a portion of accrued PTO (where vacation leave and sick leave are combined into one policy) should consider restructuring their leave policy by doing away with PTO and implementing a bifurcated system which explicitly separates vacation and sick leave, as sick leave does not have to be paid out upon termination of employment under Nebraska law.
- Because of potential tax consequences, employers should consult with legal counsel before giving employees the option of cashing out accrued, unused vacation leave and related paid leave each year. ■

Editor's Note: This article is not intended to provide legal advice to its readers. Rather, this article is intended to alert readers to new and developing issues and to provide some common sense answers to complex legal questions. Readers are urged to consult their own legal counsel or the author of this article if the reader wishes to obtain a specific legal opinion regarding how these legal standards may apply to their particular circumstances. The author of this article, Tara A. Stingley, as well as other members of Cline Williams' Employment Law Section, can be contacted at Cline Williams Wright Johnson & Oldfather, L.L.P., 12910 Pierce Street, Suite 200, Omaha, NE 68144, (402) 397-1700, tstingley@clinelawilliams.com, or www.clinelawilliams.com.

i NEB. REV. STAT. § 48-1229(6) (emphases added).
ii See *Roseland v. Strategic Staff Mgmt.*, 272 Neb. 434 (2006).
iii NEB. REV. STAT. § 48-1229(6) (emphasis added).

Fiv isher v. Payflex Systems USA, Inc., 285 Neb. 808 (2013).
v *Id.* at 815.
vi *Id.* at 816.

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Norfolk's Embrace Park complete with addition of ADA restrooms

Embrace Park in Norfolk is officially complete after the construction of ADA accessible bathrooms.

In 2017, the community saw the construction of the all-inclusive Embrace Park. This unique park was thoughtfully designed to provide a safe place where individuals of all ages and abilities can play together. This inclusive playground eliminates the barriers to exclusion, both physical and social, and provides a sensory rich experience for all.

After the completion of the Embrace Park playground in 2017, a splash pad and multi-purpose field were added to the park in 2018. Additionally, in order to better accommodate patrons now using the once vacant field, 60 parking spaces were added around the Embrace Park area.

Local service groups, including the Lion's Club of Norfolk and Norfolk Public Schools JOI Club also contributed to the park by donating a drinking fountain with a plaque and a landscape bed near the splash pad respectively.

Construction was completed on the ADA accessible bathrooms this fall with construction beginning last May. The \$171,066 building includes features such as outdoor lighting,



From left: Callan Collins (Nebraska Community Foundation Fund) presented a check to Emily Afrank, who spearheaded fund raising for Embrace Park; Sheila Schukei, City of Norfolk Human Resources Director, and Pat Mrsny, City of Norfolk Parks and Recreation Director, for the Embrace Park restrooms. Photo provided courtesy of the City of Norfolk.

motion sensors for inside lighting, epoxy flooring, hot and cold running water and a path connecting to the splash pad.

The city received generous grant funds from the Norfolk Area Community Foundation Fund and from the Lower Elkhorn Natural Resources

District and funds raised by the same volunteers for the playground and splash pad. Patrons will be able to use these facilities after the winter season.

The splash pad's operational period runs from Memorial Day-Sept. 30. ■

Source – City of Norfolk

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Midwinter Conference
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Mayor issues new anti-discrimination policy for City of Lincoln employees

Mayor Gaylor Baird urges all employers to follow the city's lead

Lincoln Mayor Leirion Gaylor Baird in November signed an executive order prohibiting discrimination against City of Lincoln employees on the basis of gender identity or expression. This is the first time that city employees have been protected on the basis of gender identity or expression. The action also strengthens the city's policy that prohibits discrimination on the basis of sexual orientation.

Executive order

The executive order issued is part of the Mayor's One Lincoln initiative to promote equity, diversity and inclusion in the city.

"As chief executive for the City of Lincoln, I am determined to ensure all our employees feel welcome and included as valuable members of our city team and that they are free from harm, no

matter who they are or whom they love," Mayor Gaylor Baird said.

The Mayor encouraged all employers in Lincoln to create an inclusive working environment for every employee.

Administration's vision

"My administration's vision is to lead Lincoln toward a more successful, secure and shared future," she said. "In pursuit of that vision, I challenge every employer in Lincoln that has yet to take this important step to follow the city's lead and create policies that treat their LGBT employees fairly."

City regulations currently prohibit discrimination against city employees on the basis of race, color, religion, sex, sexual orientation, disability, national origin, age, marital status or political opinions or affiliations with regard to appointment, promotion, demotion,



*Leirion Gaylor Baird
Mayor of Lincoln*

disciplinary action, suspension, dismissal or layoff. The Mayor's executive action taken adds gender identity and expression to that list and provides a definition of sexual orientation that was not part of previous administrative action. ■

Source – City of Lincoln

Papillion to celebrate its 150th anniversary

The City of Papillion is planning a year-long celebration and has created a website at www.papillion150.com.

"Papillion 150: Honoring Our Journey Celebrating Our Wings" is the theme for the celebration. Papillion was founded in 1870 as a railroad town on the Union Pacific Main Line, according to the city's website.

As part of the Papillion 150, the "Wings Over Papillion" Butterfly Bench Public Art Project is placing uniquely painted butterfly benches throughout Papillion, showcasing work by a variety of artists, as shown on the website at www.papillion.org. ■

Source – City of Papillion



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Aurora Mayor Marlin Seeman honored at Husker football game as POW/MIA Sentinel

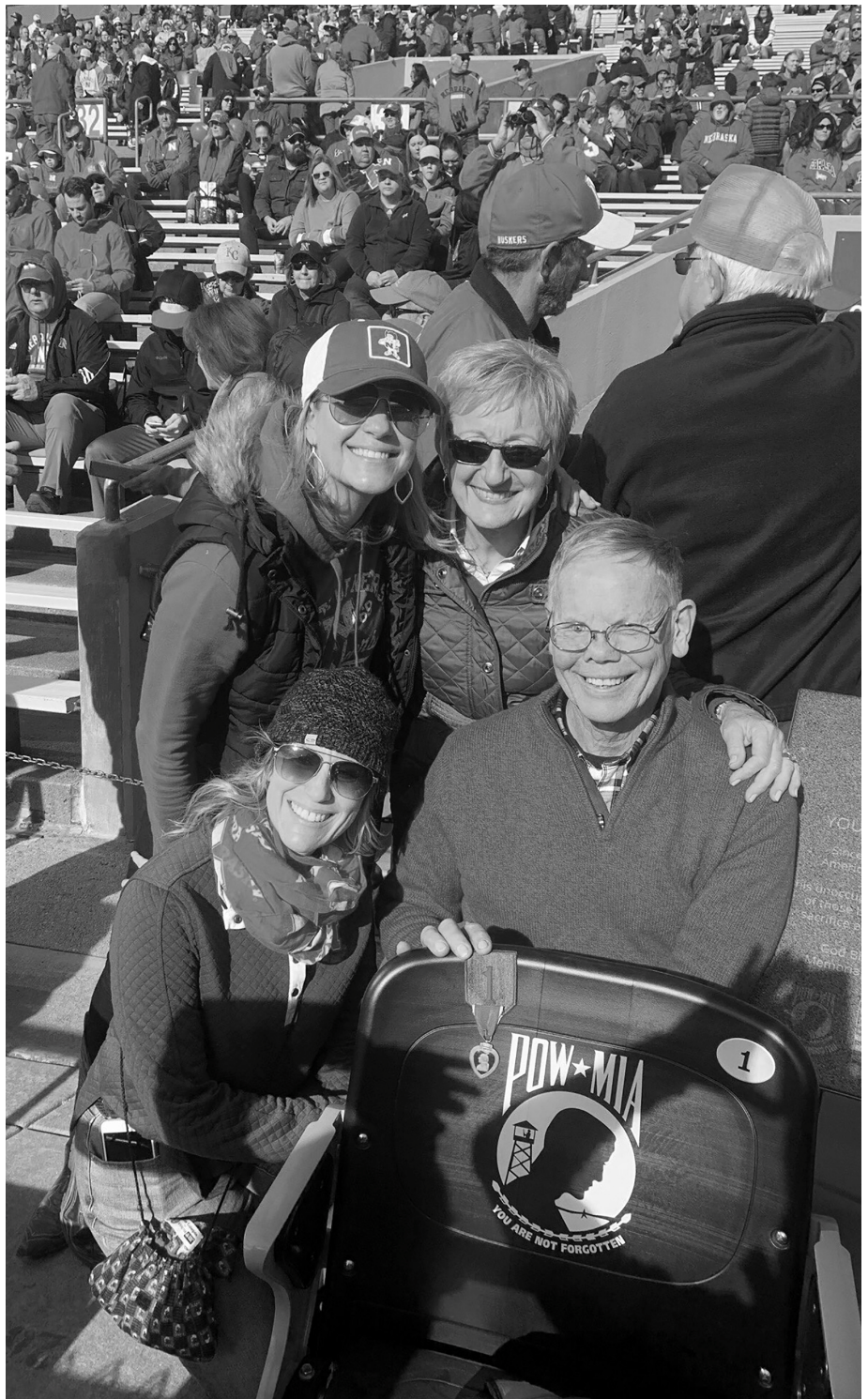
BY LYNN MARIENAU
COMMUNICATIONS
DIRECTOR, LNM

On a warm and sunny November day, Aurora Mayor Marlin Seeman took his seat a short distance away from an empty POW/MIA chair at Memorial Stadium in Lincoln during the Nebraska-Wisconsin football game. At each Husker football game for the past two seasons, a special U.S. military veteran takes his or her post next to a designated chair to honor more than 800 Nebraskans lost in combat, but whose fate is unknown. Retired Judge Michael Owens nominated Mayor Seeman to be that special veteran.

Family attended game

Mayor Seeman's wife, Nancy, and their two daughters, Kristi and Kelli, and their families, attended the game during which a short biography about Seeman and his service was read and shared on the big video screens at the stadium. Mayor Seeman was drafted into the U.S. Army in December 1966 and was assigned to the 26th Infantry Regiment of the Big Red One Infantry Division. He was critically injured in a firefight in 1967. For his actions, he was awarded numerous medals, including the Purple Heart and the National Defense Service Medal.

Mayor Seeman said the people who came to see him during the game were gracious and included his students from his days as a teacher, friends and other veterans, many of whom, like him, had served in Vietnam. There also were a few veterans from Korea and some from Afghanistan and Iraq who came to visit with him.



Nancy Seeman, top right, and Aurora Mayor Marlin Seeman, lower right, with daughters, Kristi and Kelli, with designated POW/MIA chair at Nebraska-Wisconsin game Nov. 16. Mayor Seeman was the sentinel for the game. Photo provided by Seeman family.

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Most of the veterans wanted to say, “I share your history as a soldier,” adding that he found it “rewarding to have those conversations because it allowed people to express their patriotism.” Since the weather was warm, he wasn’t bundled up and he said he believed that meant people were more likely to approach him during the game.

“People were tentative, but they felt free to come and greet us,” he said. Besides having the citation read during the game, UN-L Chancellor Ronnie Green presented a football signed by Coach Scott Frost in honor of the occasion.

52 years ago

The events leading up to this day took place 52 years ago in a country half a world away from where young Marlin Seeman lived.

In 1967, 21-year-old Pvt. Marlin Seeman had been serving in Vietnam for four months. He was among the nearly 486,000 American troops stationed in Vietnam at the time during a bitter and divisive war that began in 1955 and would not end until 1975 with the fall of Saigon.

On Oct. 24, 1967, Pvt. Seeman and Sgt. Thomas Jones were part of a unit near Phuoc Vinh in South Vietnam. Seeman and Jones were on point and, as a result, they were the first to encounter the North Vietnamese Army (NVA) camp.

“We were throwing grenades just to clear them out of bunkers,” he said, adding that he was carrying the radio for the sergeant, which was why he was standing close to him.

As they walked around a bunker, both Seeman and Jones were hit by AK-47 bullets from a sniper. Jones was killed

and Seeman was struck in the face.

“I did some self-evaluation,” he said. “I touched my face and realized that my eye was gone. I realized that I could see a little bit of light through the damaged good eye. The glass from my eyeglass lenses had blown back into my face.

“They don’t let one-eyed guys carry guns in the army. I became a civilian.

“I was committed to living,” he continued. “You either accept it and move forward or you don’t and succumb to it. The severity of my wounds was such that the unit assumed I had been killed.”

As he crawled back for help, the medic was under fire because the unit was being counterattacked.

“It was a significant combat experience for everybody around us and I was laying on the ground with no ability to see or participate in the firefight,” he said.

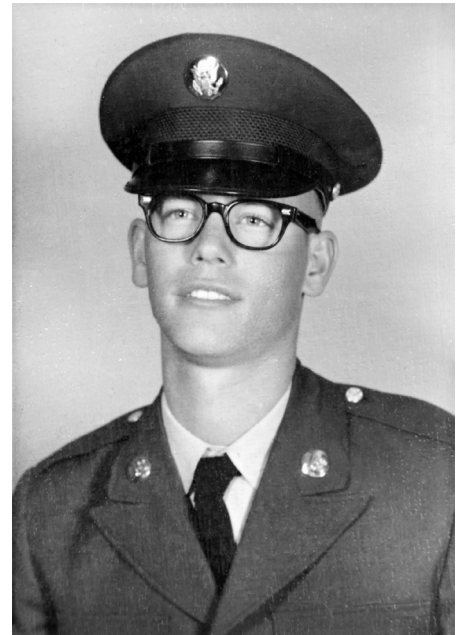
“God has a way of interacting with people like me. I had a significant affirmation of my Christian faith in Vietnam. I really felt like God was going to take care of me. If I lived, fine. If I died, fine. I was okay with both.”

Battle subsided

After almost an hour, the battle subsided enough that the medic believed Seeman could be taken by helicopter for medical care. He said they moved him back to an area where a helicopter could land.

Hovering over the trees, the helicopter lowered a cable with a disc at the bottom for Seeman to sit on, but the helicopter was taking enemy fire.

As the helicopter went up, it would be fired upon by shrapnel-filled barrels. As it came back down, Seeman would be fired upon because the enemy could



*U.S. Army Specialist 4 Marlin Seeman, 1967.
Photo provided by Seeman family.*

see him. Branches and leaves were shot off the trees, he said, but none of the bullets hit him.

“We did this yo-yo thing five times,” he explained when, because of gunfire damage to the helicopter, the pilot had to leave with Seeman hanging onto the cable, dangling below, swinging like a pendulum. They were a few miles away from the combat area when the medic inside the helicopter raised Seeman, enabling the helicopter to land in a secure zone without hurting him.

Helicopter called in

The medic jumped out, grabbed a stretcher and placed it on the ground for Seeman. Another helicopter was called because of damage to the one that rescued him from the battlefield.

Seeman explained that the medics do not administer pain medication to soldiers suffering from head wounds

Continued on page 14

Aurora Mayor Marlin Seeman honored at Husker football game as POW/MIA Sentinel

Continued from page 13

because they don't know the nature or scope of the injuries.

"It felt like someone was using a blow torch and burning my face," he said, adding that what remained of his face was his mouth and forehead. The rest was damaged.

Loaded onto helicopter

He was loaded onto a helicopter and flown to a Saigon hospital. As the nurses assessed his injuries, he was lucid and able to describe what had happened. At one point, before he was taken in for surgery, one of the nurses picked up a tiny piece of skin and asked another nurse what it was before putting it back. It turned out to be the lower eyelid, which, although small, was vital to provide a shelf for the prosthetic eye for him to wear later.

After the surgery, Seeman remained sedated for three-four days.

Telegram received

Meanwhile, Seeman's parents, who were living in Alma, received a Western Union telegram delivered by the sheriff informing them that their son was wounded in combat and had suffered a gunshot wound to the head. Seeman said it's hard to understand that before cell phones, there was no way to contact each other. His frantic parents had to wait 24-48 hours between telegrams to learn more information about his condition.

After his surgery, Seeman spent about two weeks in recovery.

During his time in recovery, the Surgeon General for the Army came and presented Seeman with a purple heart, pinning it to his pillow and reading the purple heart citation. It



Aurora Mayor Marlin Seeman at Husker football game Nov. 16. Image and photo provided courtesy of NU Athletics Communications Department. Reprinted with permission.

was a time filled with physical and emotional recovery in preparation for returning to the states, Seeman said.

He praised the military doctor's reconstructive surgery, noting that he has had more than 50 surgeries over the years, including the reconstruction of his nose and sinuses. Some were minor surgeries and skin grafts. His last surgery was just a couple of years ago.

"It took 10-15 years to get the face structure that I have now," Seeman said.

Flew to Denver hospital

He flew home via Tokyo to Fitzsimons Army Hospital in Denver. The weekend after he arrived in Denver, his parents drove to see him, staying at a hotel across the street from the hospital. Upon finding out that the family was going to see their wounded son, the hotel manager gave them a free room and meal.

Seeman was released from the hospital and arrived home near Thanksgiving and walked into church without an eye and no glasses.

"I couldn't wear anything because it hurt to have anything touching the scars that were healing," he said. His sister worked for a local eye doctor who fixed an older pair of eyeglasses, bending them around to avoid scar tissue, allowing his near-sightedness to be corrected.

Wanted to drive

He wanted to drive and with the help of the glasses and mirrors on his car, he was mobile again.

Always alert to the impact of his disfigurement, he said that people, generally, were good to him.

"I had a supportive group and people that interacted with me were positive," he said.

After the war, Seeman returned to

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college where a friend, Nancy, who was a student at UN-L and worked at the music department, asked him to pick up her football tickets when he said he was picking up his own.

"Then, we were sitting together for every football game," she said, chuckling. They have been married since 1970 and have two daughters, Kristi and Kelli. Kristi is married to Shawn of Ankeny, Iowa, and Kelli is married to Colin of Denver. They have four grandchildren – Gage, Brooke, Sylvie and Estelle.

UN-L degrees

Seeman earned his bachelor's and master's degrees and his Educational Specialist Degree from UN-L. He taught agricultural education at Hampton High School for 34 years. Nancy was a family and consumer sciences teacher at Aurora High School.

Besides serving his country in the military, Seeman has long been active in his community. He has served on the Aurora City Council and is serving his fourth term as Mayor of Aurora and for the second time on the League of Nebraska Municipalities Executive Board. He also has served as a member of the League's Smaller Cities Legislative Committee for many years. He has been active in several community and professional organizations.

Seeman said he has never underes-

timated the power of his realization that the army would not let "one-eyed guys" carry guns.

"In doing so, I differentiated myself from being a warrior and preparing myself to be a civilian again," he said. "Nancy and I and our friends have gone through the journey – over 52 years now – where you accept and develop and move forward."

Doesn't hesitate

He said he might be unique in his approach to his wartime experiences because he doesn't hesitate to tell most of his story. Vietnam veterans have had their stories told inaccurately by others and they will say it's not true, he said, but they won't take the next step and tell people what they did or what happened in their presence.

"I made a decision years ago that I'm not going to let somebody tell my story," he said. "It's not generally done

without a lot of emotion even after all these years."

He said he has spoken to many veteran and service organizations and has been privileged to hear others whose experiences have been even more violent than his own.

'Everyone's war is different'

"The truth is that war is different for someone who has gone through a year of combat and it is different for someone who has been wounded and it is different for someone who is a clerk typist in an office," Seeman said. "Everybody's war is different. None of them is wrong. The guy that we like the best is the guy that sends us home."

And, on a warm November day in Memorial Stadium, about 90,000 people cheered his service, honored his sacrifice and welcomed him home. ■

**Turn to page 22 to see
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George W. Norris Legislative Chamber, 2019 session. Staff photo.

2020 Legislature to convene for 60-day session; proposals for property tax relief, economic development under discussion

■ **BY LYNN MARIENAU**
COMMUNICATIONS
DIRECTOR, LNM ■

Lawmakers gearing up for a new decade and the 2020 legislative session received welcome news this fall when tax collections were 8.8 percent above the earlier forecast of \$266 million.

The numbers are used to determine how much revenue is available for state budgets, which are created on a two-year cycle in odd-numbered years. Sessions in even-numbered years are used to adjust the budget.

Legislators have met during the 2019 interim to examine proposals to provide more property tax relief and the unanticipated revenue could be used, in part, for that purpose. Senators are working with the knowledge that an initiative petition drive, which was launched earlier this year, would seek a 35 percent rebate for property taxes paid.

Longtime legislative observers say that Senators also will be looking at providing the millions needed for flood recovery and infrastructure repair for local governments. Other issues that could compete for the ad-

ditional revenues include the level of Medicaid rates, which have been cited as a reason for the closure of several nursing homes, and the waiting list for services for people with disabilities.

The 2020 Legislature, which begins Jan. 8 and is a 60-day session, is scheduled to adjourn sine die April 23. During the opening days of a new legislative session, lawmakers will introduce new bills. In the Nebraska Legislature, bills, except appropriations bills, or bills introduced on behalf of the Governor, may only be introduced during a 10-day bill

Continued on page 17

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introduction period. That introduction period will end Jan. 23.

Lawmakers will begin the session with 481 carryover bills and 11 legislative resolutions from 2019, according to legislative records.

Speaker Jim Scheer of Norfolk has said that committee hearings would begin Jan. 21. Bills not acted upon at the end of this legislative session will be indefinitely postponed or killed.

As always, League staff will be working on your behalf at the state Legislature. Among issues of interest to municipalities, include: Land banking (**LB 424** from the 2019 session); financial help for repairing flood-damaged infrastructure; looking at ways for municipalities to maximize their tax dollars when they borrow money; addressing when the Mayor of a City of the First or Second Class can be counted toward a quorum; and, legislation to help municipalities collect special assessments for nuisance abatement.

As municipal officials, it is important for you to know the ways in which you can follow legislative action or become a part of the legislative process.

League publications such as the *Nebraska Municipal Review*, produced monthly, and the *Legislative Bulletin*, produced weekly during the session, can help you stay atop of legislative action that will have an impact on you and your community.

If you would like to testify during a public hearing, please contact League staff to coordinate testimony.

Besides League publications, the Legislature provides a wealth of information about legislative action or how the legislative process functions. Much of this information is available free on the Nebraska Legislature's

website or is offered at a nominal cost. The Legislature's website is <http://nebraskalegislature.gov>.

Information appearing on the Legislature's web page changes to provide current details about legislation being considered during the session. Documents available include the daily agenda, the *Legislative Journal*, the weekly hearing schedule, the Speaker's session calendar, the daily summary sheet, the daily worksheet, fiscal notes, committee statements and a database of the current session's legislative bills in summary form referred to as one-liners. Also, photographs and biographies of the 49 Senators and a map of each Senator's legislative district are available.

Other features include information about the history of the Legislature, the legislative process and the *Nebraska Blue Book* in Adobe Acrobat format.

Resources and information have been included in the following answers to frequently asked questions about the Legislature and legislative process.

How can I get the text of a bill or amendment to a bill?

Bills, amendments and resolutions are available in Adobe Acrobat (PDF) format on the Legislature's website. Committee statements, statements of intent and fiscal notes also are easily accessible. Hard copies of bills may be requested by calling either the Legislative Hot Line at 800-742-7456 or the 24-Hour Request Line at 402-471-2877.

What is carryover legislation?

These are bills and resolutions introduced during the regular session in an odd-numbered year and held over for consideration during the regular session in an even-numbered year.

How do I find out when a bill is

scheduled for a public hearing?

The weekly schedule of committee hearings is prepared for publication each Friday during the session. (Hearings are held during the first half of the session.) The schedule is not available until after the Legislature adjourns for the day.

The schedule is available in the Clerk of the Legislature's Office and is published in the League's *Legislative Bulletin*, local newspapers and the *Unicameral Update*, the Legislature's weekly newsletter produced during session. The schedule also is available on the Internet.

How do I find out where a bill is in the legislative process?

You can check the Legislature's website or call your state Senator or the Legislative Hot Line. The hot line number for Lincoln is 402-472-2709 and for other areas in Nebraska, it is 800-742-7456. This service also is offered to any person who is hearing or speech impaired. ■

Senators' addresses

What address do I use to write my state Senator?

To write your state Senator, you need only to include on the envelope:

Senator's name

District number

State Capitol

Lincoln, NE 68509

Most Senators also have email addresses. The web site address is <http://nebraskalegislature.gov/web/public/home>. ■

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Lincoln Mayor announces new tool in effort to increase affordable housing

Lincoln Mayor Leirion Gaylor Baird in December announced a new affordable housing initiative that would provide home buyers in some areas of Lincoln with a \$5,000 tax credit. The new tool is available because of the passage of **LB 86** in the Nebraska Legislature in 2019 and the work of the city's Urban Development Department.

The new law takes effect Jan. 1 and allows cities to designate certain areas as "extremely blighted." Those buying a home for owner occupancy in one of these areas will qualify for a one-time \$5,000 credit on their state income tax.

"Maintaining and increasing the supply of safe, quality affordable housing

is essential for Lincoln families as our city continues to grow," Mayor Gaylor Baird said. "The tax credit is a huge benefit to those looking to make the step into homeownership. That kind of social investment into neighborhoods is a key part of our revitalization strategies."

To qualify as extremely blighted, an area must meet three criteria:

- It must be declared blighted and substandard by the city council.
- The average unemployment rate in the area must be at least 200 percent of the average state unemployment rate.
- The area's average poverty rate must exceed 20 percent.

Mayor Gaylor Baird thanked the

city's Urban Development Department for conducting the required study and determining the areas that meet the criteria. The eligible areas and the study are available at urban.lincoln.ne.gov (listed under "new").

Mayor Gaylor Baird said the new tools are going into effect at the same time as the community is developing its Affordable Housing Action Plan. The plan is being developed with the help of a national consultant in partnership with neighborhoods, non-profits and the private sector.

"Lincoln is a wonderful place to call home, and our administration is serious about providing the tools and resources to keep it that way," she said. ■

Source – City of Lincoln

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This column is provided, free of charge, for use and reference by Nebraska municipal officials and employees. All others pay 55 cents per word to place ads. Closing date is the first of the month of publication. Ads are subject to editing and will appear once unless otherwise requested. Classified ads also can appear on the League's website at www.lonm.org.

Positions

City Treasurer. City of Broken Bow is accepting applications for City Treasurer, which assists with financial affairs and analyses of the city. Candidates must possess excellent written, verbal, organizational and interpersonal skills. Min. qualifications: Bachelor's degree in accounting, financial management or business administration, CPA preferred, 2 to 5 years of experience in managing finance, accounting and budgeting. Must be able to be bonded. Salary, benefits negotiated based on qualifications and experience. EOE. Applications accepted until position filled. Send resume, completed application, and 3 references to City Treasurer Search, Attn: Stephanie Wright, P.O. Box 504 Broken Bow, NE 68822. Application materials may be submitted electronically at clerk@cityofbrokenbow.org.

Senior Center Manager. Village of Utica accepting applications for Utica Senior Center manager. Information and applications available at clerk's office, 466 1st Street in Utica, or by phone 402-534-4237. Open until filled. EOE.

Clerk/Treasurer. Village of Benet accepting applications for full-time Clerk/Treasurer. Benet located in Lancaster County approximately 10 miles southeast of Lincoln.

Position requires wide experience in government practices. Ideal candidate should possess degree in Public Administration or equivalent experience. Knowledge in finance management and budgeting preferred, with experience in office and personnel management. Wages based on skill, experience and educational attributes and competitive benefit package offered. Application form and job description available at Benet Village Office, 685 Monroe Street. Subject to veteran's preference. Phone 402.782.3300; email bennetvlg@diodecom.net EOE.

Aquatics Center Supervisor. City of Chadron seeks well-qualified individual for Aquatics Center Supervisor. Manages Chadron Aquatics and Wellness Center, a year-round facility featuring a pool, therapy pool, walking track and community room. Ideal candidate is decisive, energetic, insightful leader that presents information in a clear, concise, direct manner; thorough in preparation; and an excellent example and mentor to staff. Position involves substantial public contact and requires strength in multi-tasking, excellent organizational skills and collaborating.

Positions

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Utilities Lineman. City of Chappell accepting applications for Utilities Lineman. Position works under Utilities Foreman in operation and maintenance of city owned electric distribution and water system. Applicant must be willing to obtain Lineman certification, Grade 4 water operator license and have a CDL. Prefer electrical lineman experience. Wage based on qualifications. Quality benefits package. Application can be obtained at PO Box 487, 757 2nd Street, Chappell, NE 69129. Website is www.chappellne.org. Inquiries can be sent to 308-874-2401 or Faxed to 308-874-2508. EOE. Open until filled.

City Administrator. Ralston, pop. 7,220, accepting resumes for City Administrator. Responsible for direction, administration and coordination of daily operations of city. Directs and controls overall operations to ensure optimum services to community in accordance with professional and administrative standards, municipal ordinances and general policy established by Mayor and City Council. Min. requirements include: Bachelor's Degree in public administration, business administration. Master's Degree in public administration is preferred. Must have min. of four (4) years of supervisory/ management experience. A min. of three (3) years working in a municipality with a pop. similar to (or larger than) the pop. of Ralston preferred. ICMA Credentialed Manager designation preferred. Experience or knowledge regarding arena, sports facilities or entertainment venues. Must be bondable. City may accept any equivalent combination of education, training and experience. Salary based on experience, with competitive benefits. Apply with cover letter and resume to Ralston City Hall, 5500 S. 77th Street, Ralston, Nebraska 68127, or to cityhall@cityofralston.com. Job description at www.cityofralston.com. Open until filled. EOE

Utility Manager. Due to retirement, City of Superior seeks Utility Manager. Under broad guidance of Mayor and City Council, directs and manages Electric, Gas, Wastewater and Water

Positions

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Ideal candidate has knowledge and understanding of utility systems and treatment, paving and street repair, engineering and design of roadways, waterways and utility systems, management principles, including personnel management and workforce control and budget and principles of utility financing, including utility rate structures. Candidate should easily convey knowledge to others through good written and oral communication, have high degree of organizational skills and be self-motivated. Bachelor's Degree in public administration, engineering, engineering technology, environmental science or related technical field, and three years' experience is desired; or equivalent of 5 years or more experience in municipal utilities, city streets, city government, or systems and system problem solving.

Send cover letter, resume, completed application to: City Clerk, City of Superior, PO Box 160, Superior, NE 68978 or email to jdiehl@cityofsuperior.net. Applications available on city's website www.cityofsuperior.net. Salary dependent on qualifications. Open until filled. EOE. All applications considered.

Street Maintenance Worker/Operator. Village of McCool is accepting applications for full-time Street Maintenance Worker/Operator. Position will participate in variety of tasks including maintenance of streets and parks, assist in operation and maintenance of Village owned water/sewer system. Must be able to obtain State certification for Water Operator License to be acquired within a 12-month period of employment. Must have valid driver's license. Benefits include paid Health Insurance, Retirement Plan. Wage negotiable. An application and full job description can be obtained by contacting Village office at 323 East M Street, McCool Junction, NE 68401. Applications accepted until position filled. EOE

League of Nebraska Municipalities

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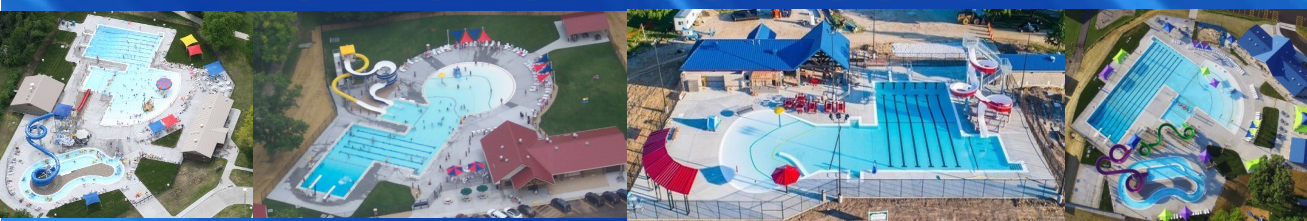
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