

NEBRASKA MUNICIPAL REVIEW

■ 2018 Annual Conference Highlights

■ Norfolk receives \$425,000 grant
to renovate Miracle Skatepark

■ Wayne boasts a revitalized downtown,
hiking trails and community center

Official Publication of the League of Nebraska Municipalities

OCTOBER 2018



*“There is no limit to what
our municipalities can do or
where we can go if we don’t
mind who gets the credit.”*

– League President
North Platte Mayor
Dwight Livingston



Dwight Livingston
League President, 2018-2019
North Platte Mayor

League of Nebraska Municipalities 2018 Annual Conference

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CALENDAR

Utilities/Public Works Section Annual Conference	Jan. 16-18, 2019, Embassy Suites, Lincoln
Midwinter Conference.....	Feb. 25-26, 2019, Cornhusker Marriott Hotel, Lincoln
Municipal Accounting and Finance Conference	June 12-14, 2019, Graduate, Lincoln
Annual Conference.....	Sept. 18-20, 2019, Cornhusker Marriott Hotel, Lincoln

Municipal Legal Calendar

(All statute citations to Revised Statutes of Nebraska)

OCTOBER 2018

CITIES OF THE FIRST CLASS

Within 10 days following meeting or before next meeting (whichever is sooner).....	Clerk to have minutes available for public inspection. (84-1413)
Within 15 days of Passage.....	Clerk publishes ordinances passed. (16-405)
Within 30 days of Council meeting.....	Clerk publishes official proceedings of meeting including claims. (19-1102)
First Day.....	Fiscal year begins. (16-701)
After start of fiscal year.....	Treasurer makes annual report to Mayor and Council. (16-720)
Oct. 9.....	A vote to exceed levy limits must be approved by this date (77-3444)
Oct. 13.....	Final Property Tax Request Certified and forwarded to County Clerk. (77-1601.02)
Within 20 days after end of month.....	Treasurer files monthly financial report. (16-318)
Within 60 days after close of fiscal year.....	Treasurer publishes Statement of Receipts and Disbursements. /Semi-annual financial statement published. (16-318) (16-722) (19-1101)
*	Clerk must prepare agenda prior to next Council meeting. (84-1411)
Within six months after close of fiscal year	Audit of city's accounts completed. (19-2903)

CITIES OF THE SECOND CLASS

Within 10 days following meeting or before next meeting (whichever is sooner).....	Clerk to have minutes available for public inspections. (84-1413)
Within 15 days of Passage.....	Clerk publishes ordinances passed. (17-613)
Within 30 days of Council meeting.....	Clerk publishes official proceedings of meeting including claims. (19-1102)
First Day.....	Fiscal year begins. (17-701)
Oct. 9.....	A vote to exceed levy limits must be approved by this date (77-3444)
Oct. 13.....	Final Property Tax Request Certified and forwarded to County Clerk. (77-1601.02)
Within 20 days after end of month.....	Treasurer files monthly financial report. (17-606)
Within 60 days after close of Fiscal Year.....	Treasurer publishes Statement of Receipts and Disbursements. (17-606) (19-1101)
*	Clerk must prepare agenda prior to next Council meeting. (84-1411)
Within six months after close of fiscal year	Audit of city's accounts completed. (19-2903)

VILLAGES

Within 10 days following meeting or before next meeting (whichever is sooner).....	Clerk to have minutes available for public inspections. (84-1413)
Within 15 days of Passage.....	Clerk publishes ordinances passed. (17-613)
Within 30 days of Board of Trustees' meeting.....	Clerk publishes official proceedings of meeting including claims. (19-1102)
First day.....	Fiscal year commences. (17-701)
Oct. 9.....	A vote to exceed levy limits by election or by townhall meeting must be approved by this date (77-3444)
Oct. 13.....	Final Property Tax Request Certified and forwarded to County Clerk. (77-1601.02)
Within 20 days after end of month.....	Treasurer files monthly financial report. (17-606)
Within 60 days after close of Fiscal Year.....	Treasurer publishes Statement of Receipts and Disbursements. (17-606) (19-1101)
*	Clerk must prepare agenda prior to next Board meeting. (84-1411)
Within six months after close of fiscal year	Audit of Village's accounts completed unless audit requirement waived by State Auditor. (19-2903) (84-304)

ALL MUNICIPALITIES

On or before November 1	Each municipality which offers a defined benefit plan pursuant to section 401(a) of the Internal Revenue Code which was open to new members on January 1, 2004, shall submit written notification to the Nebraska Retirement Systems Committee of the Legislature that it offers such a plan. (13-2402)
October 15.....	Each municipality that offers such a defined benefit retirement plan shall file with the committee a copy of the most recent annual actuarial valuation of the retirement plan. The valuation report shall be filed electronically. (13-2402)
October 15	Each municipality that offers such a defined benefit retirement plan shall file a report with the committee if either of the following conditions exists as of the latest annual actuarial valuation of the retirement plan: (i) The contributions do not equal the actuarial requirement for funding; or (ii) the funded ratio is less than eighty percent. (13-2402)
October 15.....	Each municipality which offers such a defined benefit plan shall conduct an experience study at least once every four years to review the actuarial assumptions used to determine funding needs for its defined benefit plan. Each such political subdivision shall electronically file a copy of the most recent actuarial experience study with the committee by October 15, 2016, and shall electronically file a copy of each study completed pursuant to this subsection by the next October 15 after completion of the study (13-2402)

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*Dwight Livingston
Mayor of North Platte*

New League President: ‘There is no limit to what our municipalities can do or where we can go if we don’t mind who gets the credit’

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

North Platte Mayor Dwight Livingston received a call about three years ago from a person who worked at a local agency asking him if he would be interested in mentoring a 10-year-old boy for a day. He hesitated because of his busy schedule but told the caller that the boy could come to his office. Wearing a vest and tie and looking his best, the boy arrived at Mayor Livingston’s office where Livingston showed him around and took him to a Crime Stoppers meeting. The boy sat eagerly at the table and was interviewed by a reporter afterward.

After the meeting was over, Livingston said the boy grabbed ahold of his pant leg and said, “Would you be my mentor?”

Livingston couldn’t say no. “That young man needs someone,” he told himself. He mentored the boy for three years.

“As Mayor, if I can do anything that will help these young people be successful, then I will do it,” he said.

Giving time, energy

This is but one example of a life spent giving time and energy to others and serving one’s community.

Livingston was elected President of the League of Nebraska Municipali-

ties at the Annual Business Meeting, which was held Sept. 21, in Kearney during the Annual Conference. Livingston has served on the League Executive Board since September 2015.

“There is no limit to what our municipalities can do or where we can go if we don’t mind who gets the credit,” Livingston said.

Interest in youth

His interest in public service and in young people, particularly, stems from his childhood. A native Nebraskan, Livingston was born in Lincoln. His father worked at the state penitentiary and his mother worked as director of recreation at what was then called the Nebraska State Hospital for the Insane and later renamed the Lincoln Regional Center. His parents were divorced when he was young and at the time, his sister lived with his mother and Livingston went to live with his father. Since his father couldn’t be around much, Livingston’s grandmother helped raise him.

“I never wanted to do anything to hurt her. She was a wise person beyond anyone I’ve ever been around.” His grandmother, Mabel Blood, suffered from tuberculosis, but despite poor health, took care of young Living-

ton, encouraged him in school and, importantly, steered him toward good friends.

“Had it not been for my grandmother, I would not be sitting here today talking to you about these things,” he said, his voice choked slightly with emotion. “She was the person who sent me on the correct path. We had a long talk and she told me I needed to start hanging out with good people so that good things would happen.”

Lincoln High graduate

Livingston graduated from Lincoln High School in 1967 during the height of the Vietnam War. His mother helped pay for his tuition and books to attend the University of Nebraska-Lincoln, but his heart wasn’t in attending college. He stayed at the university about two months. Not long after he left school, he received a draft notice telling him to take a physical in Omaha.

“It didn’t take them long to figure out that I wasn’t in school,” he said, referring to a policy during the Vietnam War that allowed young men in college to obtain draft deferments.

He passed his physical but wasn’t drafted that day. He decided he would

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rather enlist in the Navy as his father and brother-in-law had, but the Navy was full and didn't need more recruits. As he walked out of the Navy recruiting office, a recruiter from the Air Force spotted him and asked him if he wanted to be part of the Air Force delayed enlistment plan. Before he agreed to enlist, he took a military aptitude test and then was given a list of jobs that, based on the test results, the military believed would work for him. He saw air traffic controller on the job list and expressed an interest in that work. His delayed enlistment lasted only two months. In the meantime, he got married and shortly thereafter, he was sent to San Antonio, Texas for basic training. It was October 1968.

Left for military

The day that Livingston left for the military, his grandmother went into the hospital where she learned that she had cancer. He said it "just about broke her heart" when she found out that he was going into the military. He told her not to worry and that he would be back.

"She lasted until I got out of boot camp. She died two days after I got out of boot camp. That was such a painful time," he said.

Assigned to military police

After boot camp, Livingston was assigned to security police, which wasn't what he had expected or wanted. He was being sent to Cannon Air Force Base in Clovis, New Mexico for training and he had only 30 days until he left. During military police training, he said he was surprised to discover that he did well with it.

"Apparently, the military knew



Dwight Livingston, former North Platte Deputy Chief of Police. Photo provided courtesy of Livingston family.

something about me that I didn't know," he said.

While he was in New Mexico, the Red Cross contacted him and told him that his wife, who was pregnant, had delivered the baby. This surprised him, because his son was born a month early.

Given 3-day leave

Despite his early arrival, the baby was healthy, and Livingston was given a three-day leave. Not having much money, he flew military standby, which first took him to Dallas, Texas.

"That's when the pilots went on strike. I couldn't get on a plane and sat there for almost a full day when I finally got to Lincoln," he said. He met his wife at the hospital and was able to take her to his mother-in-law's house where she and the baby stayed at the time. Then, he rushed back to New Mexico.

His father called him and said that his grandmother had somehow managed



Dwight Livingston in Air Force uniform. Photo provided courtesy of Livingston family.

to save \$500 for him and his sister to receive when they turned 21. While he wasn't yet 21, his father thought he could obtain the money so that Livingston could move his wife and baby to New Mexico.

He found an apartment in Clovis and his father drove Livingston's wife and son there. Not long after, Livingston received orders to go to Vietnam and, again, he had 30 days before he reported back to San Antonio for combat training. The military moved the couple's belongings and the small family drove back to Lincoln.

Home for son's first haircut

Livingston was home for his son's first haircut before leaving for Vietnam, where he served for a little more than one year.

In Vietnam, he was stationed in Da Nang, located on the South China Sea. His friends called Da Nang "rocket city," he said, because the area

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New League President: 'There is no limit to what our municipalities can do or where we can go if we don't mind who gets the credit'

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was hit so often by enemy fire. He also worked in the surrounding area providing security for the Da Nang Air Force Base.

"We were hit with rockets and mortars a lot," he said.

When he returned from his tour of duty, he went to Colorado Springs to complete his service at the North American Aerospace Defense Command (NORAD).

In August 1972, the Air Force wanted Livingston to reenlist in the service.

"I had a wife and a little boy," he said. "I wanted to be home with them."

Before he left the Air Force, the military paid for him to attend police academy training in Colorado Springs.

"It was a 12-week program and I graduated at the top of my class," he said.

Take recruiters' tests

Military staff encouraged him and others to take the law enforcement recruiters' tests and participate in interviews, he said, after which he was contacted by the City of North Platte.

While he had not visited the city, he stopped, took the exam and passed it. A city official offered him a job, which allowed him to leave the military three months early. He began working for the city Aug. 16, 1972.

He liked North Platte and he stayed.

Livingston's career spanned more than 38 years and he held every rank from patrol officer to Interim Chief of Police. He also graduated from the FBI National Academy's 143rd session in 1986 and earned a Bachelor of Science Degree from the University of Nebraska-Kearney. He received several commendations during his time as an

"I believe these children are our future and I want them to see public service in a positive light." – League President and North Platte Mayor Dwight Livingston

officer, including a commendation of Unusual Bravery and a commendation for the department for defusing a stand-off with an armed suspect.

Livingston was instrumental in bringing Enhanced 911 to Lincoln County and under his direct supervision, 23 programs were implemented, including a Drug Abuse Resistance Education (DARE) program, the graduations at which he always speaks.

"I believe these children are our future and I want them to see public service in a positive light," he said.

Earlier during this time, his wife and he had a second son, but were later divorced and went their separate ways. His sons live in Omaha today. He and his current wife, Ronda, have been married since 1999 and they enjoy a blended family of five children and eight grandchildren, ranging in age from three to 18. The grandchildren are active in football, wrestling, band and choir and keep the couple busy.

Retired from police force

Livingston retired from the police force in 2011 and, in recognition of his accomplishments, he was inducted into the Police Officers' Association of Nebraska Hall of Fame in 2012.

During his career, he said he's been shot at, spit on and stabbed by a rat tail comb, which the assailant had sharpened.

"I'm pretty proud of that. I don't know how many people have been

stabbed with a rat tail comb," he said, laughing.

While most people would wonder why anyone would want such a career, Livingston said there is another side to it – the lives you save, which, in his case, included delivering a baby.

"I think the pros far outweigh the cons," he said, adding that he has had the chance to work with good people and wouldn't change a thing.

Don't realize impact

Law enforcement officers and public officials don't always realize the impact they can make in the lives of those with whom they interact.

Livingston said he still has people he arrested years earlier thank him for treating them well and tell him how they have changed their lives. He also has had victims approach him to thank him for helping them during what may have been the worst time of their lives to let him know they are doing well.

"These people help me remember that we can make a positive difference in the lives of each person we encounter," he said. After he retired, some people asked him if he would be interested in running for Mayor and, initially, he declined.

"I was good at being retired," he said, adding that he liked to cook and keep up with his grandchildren. Soon, however, he found himself increasingly busy because he was volunteering in various ways.

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"I was as busy when I was retired as I was when I was working," he said.

His wife, Ronda, brought home business cards from people who wanted Livingston to run for Mayor.

He thought it over and talked to his children and friends; no one objected.

"I didn't want to be a part of something that would cause my family problems," he said, praising his wife for her support and calling her his "rock."

On the last day to file for office, he and his wife went to city hall to pay the filing fee and then, they filed the papers for him to run for Mayor. Since he filed his papers late on a Friday, he didn't think anyone would know of his plans until the next Monday. On Saturday morning, he awoke to find his photo on the front page of the newspaper. The phone started ringing at 8 a.m. and didn't stop all day.

Won election, reelection

Livingston won the election against an incumbent despite opposition from the sitting governor, negative mailings and a robocall. He won reelection in 2016. He attributes his success in both elections to his approach toward people during his more than 38 years in law enforcement – everyone should be treated with respect regardless of who they are.

During his time as Mayor, he has taken pride in the creation of the Mayor's Housing Task Force, the North Platte Wellness and Recreation Alliance and a real-life reenactment of the North Platte Canteen this past summer where more than 700 service men and women were welcomed to the city. Mayor Livingston greeted the service men and women who were fed steak sandwiches, cold sandwiches,

potato salad, deviled eggs and cookies. *(During World War II, more than six million service men and women who traveled through Nebraska were met at the North Platte train station by volunteers who prepared and served sandwiches, coffee, cookies, cakes and other homemade goods.)*

Deeply satisfying

As always, the interactions with youth prove deeply satisfying for Livingston. For example, several years ago, he called a friend who is a teacher because he had received a letter from a boy in her class. He asked if he could talk to her third-grade students for a government class and the next year, for the same class, he invited them to the North Platte City Council

Chambers. Word spread and this past year, every third-grade class from the city participated over the course of a week and had a chance to meet with Mayor Livingston, the Police Chief and the Fire Chief.

"We do a brief description of our jobs and then the rest of the time is for questions. We always fill our allotted time," he said.

What does the Mayor do for fun?

He enjoys long distance biking. He ran for many years until a compressed disk in his back sidelined him. He saw a newspaper story about an organized bicycle ride and thought he would like to participate. He purchased a bike and began conditioning for the

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From left: Son-in-law Matt Jorgensen and North Platte Mayor Dwight Livingston preparing for a fundraising ride for cancer. The Courage Ride was held in Kalona, Iowa. Photo provided courtesy of Livingston family.

Norfolk receives \$425,000 grant to renovate Miracle Skatepark

The City of Norfolk is pleased to announce the award of \$425,000 in Community Development Block Grant (CDBG) Tourism Development funds from the Nebraska Department of Economic Development. The funds will be used for renovation of Miracle Skatepark, which is located within the Veterans Memorial Park complex.

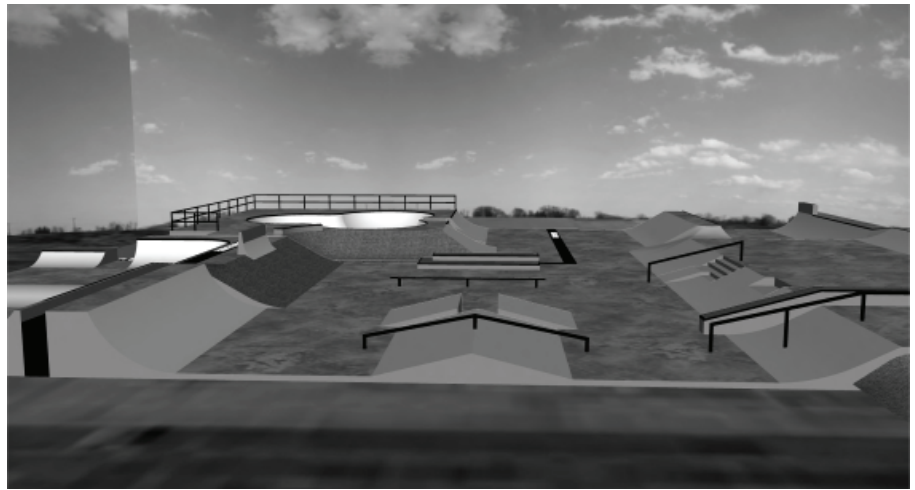
Mayor Josh Moenning discussed the collaboration it took to get to this point.

“A few years ago, a group of dedicated and passionate citizens came forward with the idea of transforming our aging skatepark into the biggest and best skate facility in the Midwest. Over a long period of planning, partnership building and collaborative effort, we are proud to say we can move from talking about this project to doing it,” Moenning said.

Using grant resources

“And to do it, we are utilizing state grant resources from the Nebraska Department of Economic Development, who saw the recreational and tourism value of this project bringing people to our region, as well as the project’s targeted focus on making the park accessible and friendly to the needs of citizens with disabilities and special needs. I am grateful for the tireless work of the citizens’ group, city and regional economic development staff, and local tourism officials for formulating a winning proposal.”

In June 2015, members of the citizens’ advocacy group Good Life Action Sports (GLAS) approached the Norfolk City Council to request upgrades to Miracle Skatepark. The council responded by setting aside \$125,000 to be used toward the project. In addition to the funds set aside as match and leverage for the project,



Miracle Skatepark Project concept image. Provided courtesy of the City of Norfolk.

the Norfolk Area Visitors Bureau, the Johnny Carson Foundation and the fundraising efforts of GLAS secured an additional \$19,500 to be used for the project.

Will enhance other attractions

Traci Jeffrey, the Director for the Norfolk Area Visitors Bureau, said the revitalization of the park will further enhance existing attractions Norfolk boasts and create more opportunities to draw visitors to the region.

“In 2016, we had 243,000 visitors to Madison County who spent \$40.5 million within the local economy. With the help of the CDBG funds, the revitalized skatepark will have the capacity to attract new visitors and events nearly year-round. Some events would include two-day events, three times per year from both BMX and skateboarding, Summer Best Run Contest, special needs days, and BIKE, just to name a few,” Jeffrey said.

The park was built in 2004 using pre-fabricated, wooden ramps, but the renovation will use concrete, which besides lasting longer, has proven to be quieter than wood. Additionally, the revitalized park will be ADA ac-

cessible, opening the door for people of all abilities to use. The park also will include ADA restrooms, drinking fountains and bleachers making the facility an attraction able to support a number of events envisioned by the members of GLAS.

Will serve entire community

Anthony Thompson, president of GLAS and founder of the New Skatepark for Norfolk Committee, said: “The new skatepark will serve the entire community in many beneficial ways. The skatepark will provide a safe place to participate in action sports engaging people with fitness, entertainment and recreational opportunities. I’ve met with skateboard organizations from Colorado to Wisconsin and they are all interested in coming to the largest skatepark in Nebraska. A free public park that offers all these positive aspects and brings travelers to town is a big win for everyone. Funding and building the new skatepark is only the beginning of great things to come to my hometown. Norfolk pride!” ■

Source – City of Norfolk

Meet Your New League President

Continued from page 7

next year.

The first ride in which he participated began in Broken Bow. His wife drove him to Broken Bow and they stayed overnight in a tent on the football field. The first leg of the ride was about 60 miles and there were about 600 riders.

He has ridden in BRAN, the Bicycle Ride Across Nebraska and RAGBRAI, which is the Des Moines Register's Annual Great Bicycle Ride Across Iowa.

He and his son-in-law thought they would ride in a race in Kansas, because

they believed it would be flat.

Big mistake, he said.

"They have a lot of hills in Kansas."

Besides BRAN and RAGBRAI, he has participated in shorter, one-day

rides.

He also loves to cook, especially if it involves grilling.

His wife, he said, is happy to clean up if he cooks. ■

League magazine available on website

The League of Nebraska Municipalities is pleased to announce that the *Nebraska Municipal Review* is available on the League's website at <http://www.lonm.org/> under the "News" and then the "Publications" tabs.

As always, we encourage you to share news from your city or village with fellow municipal officials by sending information for the *Nebraska Municipal Review* to the League of Nebraska Municipalities, Attn: Lynn Marienau at 1335 L Street, Lincoln, NE 68508, 402-476-2829 by phone or lynnm@lonm.org by e-mail. ■



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No-fault attendance policy under the FMLA examined

BY JERRY L. PIGSLEY, WOODS & AITKEN LLP,
LONM LABOR AND EMPLOYMENT LAW COUNSEL

Do you have a no-fault attendance policy? Are you subject to the Family and Medical Leave Act (“FMLA”)? On Aug. 28, 2018, the U.S. Department of Labor’s Wage and Hour Division (“WHD”) issued an opinion letter on “no-fault” attendance policies and roll-off of attendance points under the FMLA.

FMLA COVERAGE FOR MUNICIPALITIES AND EMPLOYEES

The FMLA allows eligible employees to take up to 12 weeks of unpaid leave from their employment if they meet certain statutory requirements (employed for at least 12 months and worked 1250 hours within the preceding 12 months). Municipalities are covered “employers” under the FMLA regardless of the number of employees. The municipal employee is only eligible for FMLA leave if the municipality employs at least 50 employees at the worksite or within 75 miles of his or her worksite at the time FMLA is requested. *See Tilley v. Kalamazoo County Road Commissioners*, 777 F.3d 303 (6th Cir. 2015).

NO-FAULT ATTENDANCE POLICY

The employer’s no-fault attendance policy effectively freezes, throughout the duration of an employee’s FMLA

leave, the number of attendance points that the employee accrued before taking his or her leave. Employees accrue points for tardiness and absences. Employees do not accrue points for certain absences:

1. FMLA,
2. Workers’ Compensation,
3. Vacation, and
4. Other specified reasons.

An employee is automatically discharged if he or she accrues 18 points. Points remain on the employee’s record for 12 months of active service. An employee’s points are extended for the duration of his or her FMLA leave. So, when an employee returns from FMLA leave, he or she has the same number of points that he or she accrued before the leave and the points remain on his or her record for more than 12 months. The same is true for other types of leave for which the employees do not accrue points, such as workers’ compensation-related leave.

FMLA RESTRICTIONS ON ATTENDANCE POLICIES

Municipalities are restricted from “discriminating or retaliating against an employee...for having exercised or attempted to exercise FMLA rights.” 29 C.F.R. §825.220(c). Municipalities cannot consider “FMLA leave as a negative factor in employment ac-

tions” and must provide an employee who takes FMLA leave with the same benefits that “an employee on leave without pay would otherwise be entitled to [receive].” *Id.* Accordingly, “FMLA leave [cannot] be counted under no-fault attendance policies,” meaning employees cannot accrue points for taking FMLA leave under a no-fault attendance policy.” *Id.*, see also *WHD Opinion Letter FMLA 2003-4*, 2003 WL 25739620 (July 29, 2003). Municipalities can have “no-fault” attendance policies...as long as points are not assessed for employees who are absent due to any FMLA qualifying reason” *Id.*

NO ENTITLEMENT TO SUPERIOR BENEFITS

The WHD in its opinion letter stated the “FMLA does not, however, entitle an employee to superior benefits or position simply because he or she took FMLA leave.” In addition, an employee “may, but is not entitled to, accrue any additional benefits or seniority during unpaid FMLA leave.” 29 C.F.R. § 825.215(d)(2). An employee also is not entitled to additional benefits or payments that are contingent on achieving a specified goal that the employee was unable to achieve because he or she

Continued on page 11

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took FMLA leave. An employee's entitlement to benefits (other than group health benefits) is "determined by the employer's established policy for providing such benefits when the employee is on other forms of leave (paid or unpaid, as appropriate)." 29 C.F.R. § 825.209(h).

ROLL-OFF OF ATTENDANCE POINTS

WHD stated: "[r]emoval of absenteeism points is a reward for working and therefore an employment benefit under the FMLA." The employer's policy of freezing the number of accrued points during FMLA leave causes the employee neither to lose a benefit that accrued prior to taking the leave nor accrue any additional benefit to which he or she would not otherwise be entitled. Thus, WHD found such a practice does not violate the FMLA, as long as the employees on equivalent types of leave receive the same treatment. However, if the employer counts equivalent types of

leave as "active service" under the no-fault attendance policy – meaning the employer counts such leave towards the 12 months necessary to remove points – then the employer may be unlawfully discriminating against employees who take FMLA leave.

SUMMARY

A municipality's no-fault attendance policy that effectively freezes, throughout the duration of the FMLA leave, the number of attendance points that the employee accrued prior to taking his or her leave does not violate the FMLA, provided it is applied in a non-discriminatory manner. This WHD opinion letter provides guidance to municipalities on how to construct or review a current no-fault attendance policy so it does not run counter to the FMLA. ■

Editor's Note: This article is not intended to provide legal advice to our readers. Rather, this article is intended to alert our 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, Jerry L. Pigsley, can be contacted at (402) 437-8500, jpigsley@woodsaitken.com, or at Woods & Aitken LLP, 301 S. 13th Street, Suite 500, Lincoln, NE 68508-2578.

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Thriving West Point offers theater, community center

■ **BY CHRISTY ABRAHAM**
LEGAL COUNSEL, LNM ■

The City of West Point is located in northeast Nebraska with a population of more than 3,300 residents. The West Point Municipal building houses the city offices, fire and rescue departments, police station and city council chambers.

West Point's Nielsen Community Center, built in 2008, is a state-of-the-art facility that hosts business meetings, seminars, high school graduations and wedding receptions.

The Nielsen Community Center can accommodate up to 1,200 people in its meeting rooms and has a 44,000

square-foot convention center. It also has a 10,000 square-foot covered entrance and a beautiful foyer.

The West Point Community Theatre states that its mission is to be "Northeast Nebraska's destination for family-friendly movies and entertainment, educational programming and performing arts."

The theatre shows first-run movies as well as live stage performances. In addition to the theatre receiving Civic and Community Center Financing Fund dollars to help with renovations, numerous volunteers worked to transform the former auditorium into a stunning 250-seat theater. ■



The Nielsen Community Center was built in 2008. Photo by Christy Abraham, Legal Counsel, LNM.



West Point Mayor Marlene Johnson is standing in the aisle of the West Point Community Theatre. Photo by Christy Abraham, Legal Counsel, LNM.



The West Point Municipal building. Photo by Christy Abraham, Legal Counsel, LNM.

Wayne boasts a revitalized downtown, hiking trails and community center

■ **BY CHRISTY ABRAHAM**
LEGAL COUNSEL, LNM ■

Wayne, the county seat of Wayne County, is in northeast Nebraska with a population of more than 5,500 residents. It is home of the Wayne Chicken Show, held in July, which features an art show of decorated cement chickens. Wayne also boasts a revitalized downtown, miles of hiking trails and the Wayne Community Activity Center, a \$4.2 million project that was funded by 1 percent city sales tax, grants and private donations.

Wayne State College (WSC) is a four-year public college in the Nebraska State College System located in the heart of Wayne. WSC began as a college primarily for teacher education but now offers more than 90 undergraduate programs and four graduate programs. The beautiful Willow Bowl on the WSC campus hosts many events, including graduations.

One of the many renovated and revitalized buildings in downtown Wayne includes the “1912 Emporium,” which specializes in home decor items. It is located in the old city hall building. The owners of the business chose to keep the “1912 City Hall” sign on the building to preserve that history.

The Wayne Municipal Airport/Stan Morris Field was one of many businesses and homes destroyed in the Oct. 3, 2013 tornado that caused millions in damage in the City of Wayne and the surrounding area.

After nearly 95 percent of the airport was destroyed in that tornado, the Wayne Municipal Airport received Nebraska’s 2014 Airport of the Year Award. ■



Top: In downtown Wayne is the old City Hall building.



Bottom: Willow Bowl at Wayne State College. Photo by Christy Abraham, Legal Counsel, LNM.



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2018 Annual Conference Highlights

Municipal officials from across the state attended the 2018 Annual Conference at the Kearney Holiday Inn Sept. 19-21. Delegates attended sessions on a variety of subjects, including an update on rural broadband issues, municipal land banks and the best practices for handling dog issues in your municipality.

As always, a highlight of the Annual Conference is the delegate luncheon honoring League Past Presidents.

Plattsmouth Mayor Paul Lambert will serve as president-elect of the organization's board; Gibbon Mayor Deb VanMatre, will serve as Vice President, and Wendall Gaston, Sidney City Council Member, will remain a member of the board as Past President.

Directors elected to the board are the following: Jean Stothert, Mayor of Omaha; Chris Beutler, Mayor of Lincoln; Tony Kaufman, Mayor of Gering; Sandra Foote, Council Member of Superior; John Lohr, Council Member of Columbus; John Wyant, Mayor of Newman Grove; Doug Gaswick, Council Member of Imperial; and, Jae Fintel, Council Member of Deshler.

Representatives on the board are the following: Silas Clarke, City Administrator/Economic Development Director of Hickman; Nancy Bryan, Clerk/Treasurer of Stromsburg; and, Tobias Tempelmeyer, City Administrator and Board of Public Works General Manager of Beatrice. ■



From left: Incoming League President Dwight Livingston, Mayor of North Platte, accepts gavel from outgoing League President Wendall Gaston, Sidney City Council Member.



From left: Outgoing League President Wendall Gaston, Sidney City Council Member, accepts plaque of appreciation from incoming League President Dwight Livingston, Mayor of North Platte.



Top left: Keynote Speaker Jim Smith, former state Senator and current Executive Director of Blueprint Nebraska. Top right: Phillip Seawright, Vice President, TriCorps Technologies. Middle from left: Alan Michl, Exeter Village Board Chairperson; Ben Gray, Omaha City Council President.

2017-2018 League Executive Board Officers. From left: Plattsmouth Mayor Paul Lambert, Vice President; North Platte Mayor Dwight Livingston, President-Elect; Sidney City Council Member Wendall Gaston, President; Exeter Chairperson Alan Michl, Past President.



2018 Annual Conference Highlights



Top left from left: Jo Leyland, City Administrator/Clerk/Treasurer, Imperial; Jane Skinner, Clerk/Treasurer, Ogallala.

Top right: Marty Barnhart, Executive Director, Omaha Land Bank.

Lower left: Desirae Solomon, City Attorney, Blair.

Lower right from left: Clint Schukei, Attorney, Norfolk; Wes Blecke, City Administrator, Wayne.



Top right: Kearney Mayor Stan Clouse.

Middle left from left: Blair Mayor Jim Realph; Blair City Administrator Rod Storm.

Middle right: David Young, Fiber Infrastructure and Right of Way Manager, Lincoln Public Works.

Bottom: Annual Conference Delegate Luncheon honoring League Past Presidents.



2018 Annual Conference Highlights



Top left: Andrew Devine, Administrator/Clerk/Treasurer, Albion.

Top right from left: Linda Carroll, Clerk/Treasurer, Fairmont; Elaine Fortik, Village Chair, Brainard.

Lower left from left: Kearney Mayor Stan Clouse; Past President and former Lexington Mayor Robert Hawks and wife, Genie Hawks.

Lower right: Jim Hawks, City Administrator, North Platte.



*Top left: Jon Schroeder, City Attorney, Curtis.
Top right from left: West Point Mayor Marlene Johnson;
Ralston Mayor Don Groesser, both Past League Presi-
dents.
Lower left from left: Lea Ann Doak, Clerk/Treasurer,
McCook; Janet Hepp, Council Member, McCook;
Wendy McKain, Clerk/Treasurer, Trenton.
Lower right: Steve Wolf, Community Engagement
Director, JEO Consulting Group, Inc.*

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Directory of Municipal Officials

Position/Information Changes

City or Village	Position/Information	Delete	Add
Grand Island	Interim Finance Director/Treasurer	William Clingman	Delete title and name
	Finance Director/Treasurer		Patrick Brown
Norfolk	Council Member	Shane Clausen	Jarad Dahlkoetter
	City Attorney	Clint Schukei	Danielle Myers-Noelle
	Planning Commission	Brian Lundy	Dan Spray
Palmer	Clerk/Treasurer	Sarah Davis	Heidi Mendyk
Pilger	Utility Superintendent	Kenneth Wiechman	Delete title and name
	Water/Wastewater Operator		Justin Ramsay

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Positions

City of Gering Administration offices or on the City of Gering website, www.gering.org. Return application, resume, & references in an envelope marked "Director of Parks, Recreation & Leisure Services applicant" to Human Resources, 1025 P Street, Gering, NE 69341. Applications must be received by Oct. 26, 2018 in order to be considered in the initial review process. Position will remain open until filled. EOE.

Utility/City Superintendent. City of Red Cloud is seeking applicants for the position of Utility/City Superintendent. This is a supervisory position for overseeing all departments within the City's jurisdiction. Checks to make sure municipal-owned utilities remain in operational condition; schedules and assigns work to subordinates; supervises and works with employees in all departments; ensures tests at the wastewater, wells and power plant are properly conducted in accordance with State and Federal regulations; performs and oversees preventive maintenance and repairs at wastewater plant, power plant and wells as well as on all public works equipment; oversees maintenance and repairs of streets in terms of snow removal, sign placements and construction and repair of streets; monitors and maintains all water and sewer lines; directs the operation of the landfill and C & D Site; ensures compliance of the Compost Site, C & D Site as required by the Department of Envi-

Positions

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