

PM Bulletin Board

Here are the answers that were received in response to the PM Bulletin Board question posed on page 27 of the June 1998 issue of *Public Management*:
 What do managers value in a local government attorney?

As city manager of Sanibel, I want and need the city's attorney to be open, consistent, cooperative, participative, and supportive.

A city attorney who is truly part of the city team can be proactive in preventing legal entanglements before they happen. However, for this system to work, the city attorney must be open and easily available to address the various staff issues as they arise, and must be considered by all as a staff supporter.

Sanibel has been blessed with a city attorney who meets these requirements while providing superior legal service to the city.

—Gary A. Price
 City Manager
 Sanibel, Florida

The following is a list of city attorney activities/tasks/duties that I identified in a program for the Texas Municipal League entitled "If I Were City Attorney for the Day . . ." They are listed in order of priority and represent what I value in a city attorney.

1. Don't hesitate to give advice because you fear being fired.
2. Give legal advice; don't make policy. However, do not hesitate to give legal advice when appropriate. Just make sure that "when appropriate" does not stymie problem solving and/or brainstorming. For example, don't automatically respond to rhetorical questions like "Can we do this?" in a problem-solving meeting. Give the nonlegal

professionals an opportunity to address a problem before limiting their discussions with a legal determination. Also, keep quiet sometimes. Do nothing. Let the problem-solving process proceed.

3. Understand the slippery-slope syndrome so that the city does not think that one slip means a fall of 1,000feet—i.e., that one action is a precedent.
4. Keep the city manager in the loop on legal projects (and the city manager should do the same for the city attorney on nonlegal projects).
5. Recognize the city organization as a client, and be service-oriented—i.e., help the client to achieve goals, and don't be the deal killer. (See numbers 2, 3, and 9.)
6. Know when to obtain outside counsel for the city—i.e., know your legal-expertise limitations, and do not take on legal work beyond your experience.
7. Understand the various roles held by the city attorney, and perform in these roles accordingly. For example,

legal counsel
 adviser to the elected officials and city staff
 prosecutor, as the need arises
 contract attorney
 negotiator
 policymaker
 legal researcher
 department head

8. Accept your client's—the city organization's—decision. If legal issues arise later over a course of action you originally advised was risky, get over it and help your client.
9. Educate everyone, including employees and elected officials, [on the point] that the city can be sued for anything and everything, so don't let the threats of lawsuits become impediments to progress.
10. Triage the legal work appropriately. Accept routine contract renewals if they have worked in the past. Know what is a council priority and what is not.
11. Stay on top of the information-technology learning curve.

—James Thurmond
 City Manager
 Missouri City, Texas

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What do managers value in a local government attorney?

1. Willingness to give a legal opinion without hedging.
2. An ability to explain legal issues in understandable terms.
3. Proactively seeks to keep local government's risk low.
4. Provides alternatives rather than just identifying obstacles.
5. Politically astute but not political.

—Doug Schulze
City Manager
Medina, Washington

Although now fully retired, I cannot help but provide you with comments in response to the June *PM* request, "What do managers value in a local government attorney?"

My statements here are intended for publication and attribution. In other words, I can live with and defend them. They are based on intimately working with perhaps 500+ city attorneys as a professional administrator, management consultant, legal consultant, and city charter drafter and implementer over my 48+-year municipal career.

That I was legally trained by a municipal attorney via "reading for the law" as his "indentured servant" qualifies me to respond somewhat authoritatively. A significant element of my career was providing highly specialized legal work to, and reviewing the work of, municipal law firms.

I value most in a local government attorney documented, definitive legal opinions having sources, citations, points, and authorities.

During my career and from 500+ municipal attorneys, I rarely received such opinions. I only got such documentation from those attorneys who were appointed by and responsible to the city manager. From most others, I received political guidance masked as legal opinion. In fact, on questioning in private, many municipal attorneys admitted to me that their "legal opinions" were "what the city council wants to hear" since "I am appointed by and responsible only to the city council."

Many municipal attorneys view themselves as *the* "checks and balances on the city manager on behalf of the

city council," which view irretrievably contaminates the legitimate legal opinion process.

The *only* way to secure consistent, valid, and binding legal—as opposed to political—opinions is to have the attorney appointed by, responsible to, and removable by the city manager.

—Douglas W. Ayres
Sedona, Arizona

From our village attorney (and from everyone who prepares information for meetings), I expect timely responses that are organized to summarize the situation/question, state the alternative courses of action and potential consequences, and recommend the best course of action.

However, when the time needed to research alternatives and their consequences is expected to be lengthy and/or expensive, I truly value the ability of a local government attorney to "shoot from the hip" and provide general guidance as to whether the additional time/expense is in the best interest of the village; working as a team with the attorney to consider both the legal and financial consequences is an asset to the village as a whole.

—Jean Wilson Hale
Village Administrator
Anna, Ohio

What do managers value in a local government attorney?

1. Must be a fighter.
2. Must not be a bureaucrat.
3. Should respect the manager's role and not try to be the manager.
4. Should be willing to take a risk.
5. Should be aggressive.
6. Should be knowledgeable about municipal law.
7. Should have a positive and not a "legal" attitude.

—Ivan L. Widom
Manager in Transition
Sun Lakes, Arizona