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Antitrust: Local Governments May See More of The Courtroom

Frostbelt/Sunbelt—What's Happening to Our Urban Areas?

By Timothy G. O'Rourke

By the early 1980s, Frostbelt and Sunbelt had become common terms in the parlance of American politics and public policy, even though uneven regional development had emerged as a national issue only a few years earlier. If familiarity breeds contempt, it also may breed neglect, and important questions of policy raised in the course of the debate over regional growth may be ignored in the familiarity of Frostbelt decline and Sunbelt surge.

One such question is whether regional is a useful denominator of economic trends with the wide variation in rates of economic growth among states in a given geographic area. A second significant issue is the extent to which regional growth and urban problems are interrelated.

The Frostbelt as defined here includes the band of 16 cold-weather states stretching from New England across the Middle Atlantic region (including Maryland and Delaware) and through the industrialized Midwest (encompassing Wisconsin and Illinois). For some time the Frostbelt has suffered the pains of economic stagnation and slow population. During the 1970s, for example, the number of manufacturing jobs in the Frostbelt declined by roughly 960,000. Although total nonagricultural employment in the Frostbelt during the same period expanded by about 13 percent, growth in nonagricultural employment outside the Frostbelt exceeded 40 percent. Similarly, while the national population grew by 11.4 percent from 1970 to 1980, the population of the Frostbelt region grew by less than two percent.

The sluggish economic and population growth of the Frostbelt stands in contrast to the dramatic expansion of business and population in the Sunbelt—here defined as

the 11 states of the Old Confederacy plus West Virginia, Kentucky, Oklahoma, New Mexico and Arizona. Nonagricultural employment in the Sunbelt in general, and in Virginia in particular, doubled between 1960 and 1980. Spurred by the net immigration of roughly five million people to the region, from 1970 to 1980, all 16 Sunbelt states exceeded the national average in population growth, with states such as Florida (43 percent) and Texas (27 percent) experiencing phenomenal growth.

The divergence in the economic fortunes of the Frostbelt and Sunbelt are related to the condition of American cities. Indeed, the urban crisis has become closely identified in the public's mind with the plight of the large, aging industrial cities of the Frostbelt, nearly all of which lost population during the 1970s. The population of New York City alone declined by about 860,000. More significant than the loss of population itself for these cities, however, has been the middle-income people moving to the suburbs and the corresponding emergence of disparities in the per capita income—and thus tax base—of central cities and suburbs. In 1976 the per capita income of suburbs exceeded that of central cities in 33 of the 35 largest metropolitan areas of the Frostbelt. In 15 of the 28 largest metropolitan areas of the Sunbelt, in contrast, the per capita income of central cities exceeded that for suburbs. Richmond and Norfolk were among the 13 Sunbelt areas where suburban income exceeded city income.

This movement of people and businesses from central cities to suburbs (which is far more pronounced in the Frostbelt than in the Sunbelt) is tied to the same economic forces that have spawned the economic and population growth of the Sunbelt as a region. As a panel of the President's Commission for a National Agenda for the Eighties noted in a 1980 report, innovations in production, communications and transportation technologies have fostered the "deconcentration" or dispersal of economic activity away

from the "industrially based urban centers" of the Frostbelt to their suburbs, to the newer urban areas of the Sunbelt, and, in cases such as the automobile industry, "out of the United States entirely." Dispersal of population within and beyond metropolitan areas, as well as across regions, has occurred along with the deconcentration of businesses.

That deconcentration is not necessarily good news for the Sunbelt. Growth in the Sunbelt has proceeded at an uneven pace and with widely divergent consequences geographically; in many parts of the Sunbelt, the economic boom is of recent vintage and uncertain staying power. As recently as the decade of the 1960s, for example, population growth in 11 of the 16 Sunbelt states lagged behind the national average, although Virginia was among the five states exhibiting above average growth. While per capita income in the Sunbelt has been increasing more rapidly than for the country overall in recent decades, per capita income in 11 of the Sunbelt states in 1980 stood below 90 percent of the national average. Moreover, between 1974 and 1980 nine of 16 Sunbelt states either registered no gain or suffered a decline in per capita income relative to the national average. On the other hand, Virginia's per capita income showed a more modest rise—from 98 percent to 99 percent of the national average.

Finally, it should be noted that even if the growth of the Sunbelt during the 1980s were to match the performance of the late 1960s and 1970s, the forces of deconcentration in an increasing number of southern and southwestern metropolitan areas will lead to the kinds of disparities in income and resources between the central cities and suburbs common now among urban areas of the Frostbelt. A crucial challenge for both state and local governments in the Sunbelt will be the development of new strategies for confronting these disparities, particularly as annexation ceases to be a viable alternative.

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The photograph of a mock trial was taken by *The Dallas Morning News* at an American Bar Association annual meeting in 1979. The session topic was "Cameras in the Courtroom." Photograph courtesy of the *American Bar Association Journal*.

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The Council Member: How to Be a Team Player

By Charles Wythe Dunn

Too often people do not understand what a team player is. They often think to "get along" a team player must "go along." Nothing could be farther from the truth.

Think of the best offensive guard in basketball. He is a team player, not because of the passive acquiescence implied in "getting along and going along," but rather because he leads the offense. By initiating the offense, he creates scoring alternatives for his team. He is an aggressive leader.

Frequently council members complain that managers and mayors—the executive branch—dominate the council and the council lacks influence in decisionmaking. In short, the council is on the defensive; managers and mayors, on the offensive.

There are two related reasons for the council's defensive posture: (1) failure of the council to take the initiative and (2) lack of information in the council's hands.

How can the council go on the offense rather than remain on the defense?

The answer is in one or more council members' initiating and creating alternatives for the council rather than merely following the alternative proposed by managers and mayors.

Types of Council Member

Generally three types of individuals who serve on councils: the trustee, the delegate and the politico. The trustee, envisioning his role as merely saying and voting exactly as he feels his constituents want, responds to public opinion. The delegate, looking upon himself as an individual with an independent mind and convictions, believes he can decide what is best for his constituents.

About the Author

Charles Wythe Dunn heads the Department of Political Science at Clemson University in Clemson, S.C. He is the author of *The Future of the American Presidency*, and has served as consultant for many political organizations. Reprinted with permission of *Urban Georgia* February, 1982.



The politico, recognizing the difficulties of being either a trustee or a delegate all the time, may play either role, depending upon the issue and related circumstances.

Many council members, failing to recognize what type of council member they are, function like a basketball player who does not know what offense his team is running. It is very important for a council member to know what type of council member he is and to play that role accordingly. Frequently, council members bring trouble to themselves as well as to the council by shifting from one role to the other. When neither their constituents nor their fellow council members know what to expect of them, their political base erodes and the council lacks the offensive punch they could otherwise bring to council deliberations.

Credibility, an important element in a council member's success, evaporates rapidly when he shifts from one type of council member to another.

Not only is it important to know what type of council member one is, but it is also important to know what type each of the other council members is. Knowledge of this en-

ables a council member to function more effectively in the deliberative process of council decisionmaking.

Finding Resources

That information is influence and power merely states a truism. If information is a key to influence and power, then resources are the key to information. Knowledge of these resources can significantly enhance a council member's influence and power and, more importantly, create alternatives for the council besides that alternative presented by the manager or mayor.

Foremost, a council member should know what interest groups exist in the city and what capabilities these groups have to provide information.

Another resource is support groups, such as state municipal leagues, National League of Cities, Advisory Commission on Intergovernmental Relations and Committee for Economic Development, which often provide sophisticated research on a range of issues.

College and university resources are probably the most underutilized of any information sources, yet faculty and students in political sci-

ence, public administration, economics, sociology and other disciplines generally relish opportunities to make practical application of their knowledge and research skills. Importantly, this resource is often very inexpensive and, perhaps, free.

Friends and neighbors who have professional occupations, such as law, can also be of great assistance and may provide their services free-of-charge as a public service.

Also, state and federal governments can provide excellent resource information through a variety of departments and agencies.

A council member must anticipate well in advance when an issue will arise and then begin the lengthy process of compiling data, analysis and alternatives. Doing this will enable the council member to be informed.

Strategy For Using Information

A well-conceived and executed strategy by a council member involves four ingredients.

First, the council member must concentrate his energies on only a limited number of long-range issues. A fatal tendency is for a council member to get involved in every issue when generally only two or three significant and substantial issues should occupy his time.

The reason for limiting one's focus on issues is that time itself will not allow a council member to become an expert on more than just a few issues. By becoming an expert in a select number of issues, a council member will have other councilmembers, townspeople, and the press turning to him for advice and counsel, thereby enhancing his influence.

"Homework makes the difference between members whose views are sought and whose views are ignored."

Second, homework makes the difference between the council member whose views are sought and the member whose views are ignored. Adequate advance preparation helps to ensure that a council member can not only participate effectively in debate, but also guide the debate to the conclusion he wants.

Third, the legislative record on an issue is very important. As a council member acquires pertinent information on an issue, he should determine when and how to release it for the purpose of having maximum fa-

vorable impact on the decision he wants the council to make. Editors and journalists often make a good outlet for this information, because they can write columns and editorials based upon it—thus educating both the council and the public at the same time.

Fourth, a well-conceived strategy should consider timing. Good information is often wasted because it is used in an untimely fashion.

Tactics

The "how to's" contribute much to the successful creation of alternatives and their consideration by the council:

- How to use parliamentary procedure;
- How (and whether) to involve the public;
- How to motivate and involve other council members;
- How to use the press;
- How to present the material.

Many very influential members of legislative bodies have arrived at positions of influence, not because of substantive knowledge of issues, but because of knowledge of parliamentary procedure. The really influential member of a legislative body, of course, becomes a master of both.

To be an effective council member, one should know other council members in depth: their issue interests, their social lives, and what type of council member they are (whether trustee, delegate, or politico). This knowledge enables one

to relate to them in the most effective and successful way.

The press and the council member have mutually compatible needs which do not have to be and generally should not be met because of close friendships. The press needs the council member's information; the council member needs the press to communicate. The good council member and the good journalist will not seek to be "bosom buddies" but they will exchange information which is their common bond.

There are various types of communication, but the one which council members often do not use is the very readable outline of one to five pages which highlights the case which a council member wants to make. This technique is good for use with other council members, the press and constituents.

In conclusion, council members need to be team players in order to get something done. But council members don't merely have to "go along," they can get to know each other, get to know council issues through research and use of good resources and make proper use of the information once they have it.

Remember, homework makes the difference in what kind of a council member one can be.

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People

VML Policy Chairmen Named

President Raymond F. Ratcliffe appointed chairmen for the Virginia Municipal League's six policy committees.

Heading the Community and Economic Development Committee is Alexandria Mayor **Charles E. Beatley** and chairing the Public Safety Committee is Norfolk Councilman **Claude J. Staylor, Jr.**

Fairfax County Boardmember **Sandra Duckworth** was appointed chairman of the Human Development Committee. The Transportation Committee is chaired by Roanoke Councilmember **Elizabeth K. Bowles** and Williamsburg Councilmember **James M. McCord, Jr.** heads the Environmental Quality Committee.

Lynchburg Mayor **Elliott L. Shearer** will oversee the Effective Government Committee.

The six policy committees met last month and will meet again in September. The committees are responsible for developing the

League's position in their respective areas. VML staff frequently refer to the policy statements while the General Assembly is in session.

The committee chairmen also sit on the VML Legislative Committee.

Pennino Appointed

Mrs. Martha V. Pennino was named Chairman of the Urban Section of the Virginia Municipal League and, as chairman, will be a member of the VML Executive Committee. She was the vice chairman of the Urban Section and succeeds Alexandria Mayor Charles E. Beatley as chairman.

A graduate of Emerson College in Boston, Massachusetts, Mrs. Pennino is vice chairman of the Fairfax County Board of Supervisors. She has been representing the Centreville District since 1968.

Mrs. Pennino is on the Board of Directors of the Metropolitan Washington Council of Governments and is active in the National Association of Counties, the National League of Cities and the Northern Virginia Planning District Commission.

Hammer Appointed

Alexandria will welcome a new deputy city manager in charge of the budget by the end of the summer. **Bradford S. Hammer** will replace James W. Randall, who resigned in February. Hammer was the budget director for the City of Newport News.

Ellestad Goes to Fairfax

T. Jon Ellestad assumed the assistant city manager's position for the City of Fairfax last month. Since 1977, Ellestad was assistant to the town manager in Blacksburg and served as interim manager for a period. Succeeding Robert Norris, Ellestad is a native of Wisconsin.

Eubanks Heads Division

Paul Scott Eubanks will become the director of Virginia's Industrial Development Division on July 12. He currently serves as Rhode Island's chief of economic development. Hugh Keogh, who was acting director during the search, will be Eubank's deputy.



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In Memoriam

The Virginia Municipal League regrets the loss of five dedicated public servants.

On May 28, 1982 Portsmouth City Manager G. Robert House and four other city employees died in an airplane accident while on city business. Chesley H. McGinnis, Thomas D. Gordon, Ralph D. Hester, Joseph M. Weth and Mr. House were en route to Annapolis, Maryland to look at that city's waterfront, hoping to incorporate some of those ideas used in Annapolis into a pleasant waterfront for Portsmouth.

The League extends sympathy to the City of Portsmouth and the families of Messrs. House, McGinnis, Gordon, Hester and Weth.

WHAT TO DO UNTIL THE CHECK COMES IN

Coping With the Pre-award Jitters

By Maggie Goll

For every variation in the grant application process, there is at least one variation in the grant award process. What, if anything, the applicant should do in the period of suspended animation known as post-submittal/pre-award state may be one of the more problematic aspects of the grant process. There are guidelines for preparing the application, spending the money and evaluating project effectiveness. Even the auditor who comes in after-the-fact has guidelines to follow but what is noticeably absent are broadly applicable, clear guidelines for what to do until the check comes in.

Manifestations of the pre-award jitters may begin to surface before the copying machine has had a chance to cool. Should the application be mailed or hand delivered? Should someone just drop it off or make an appointment with the staff of the funding agency? Who should be responsible for such tasks? How does one find out who's who . . . who's talking . . . who's reliable?

Like most grant-related questions, the answer to all of these questions is that it depends. While that may not seem particularly helpful, it may be the most useful concept for the novice to learn—it always "depends." The ability to identify the variable on which it depends, however, is one of the major differences between successful and unsuccessful grant seeking. The most reliable way to begin identifying the variables is to contact the funding agency.

Somewhere in the guidelines announcement, annual report, or whatever, should be a contact name, phone number and address. The initial contact should be made, in most cases, early in the application process.¹ There are practical advantages to early contact such as to see if the guidelines have been correctly interpreted, whether the deadline is a date of receipt or a postmark date and that the forms

¹ One exception is the small private foundation, which may not have a staff to contact. There may be little information available except what can be learned from other applicants and that appearing on the foundation's annual IRS form, called the "990AR." These forms are often available at the regional libraries of the Foundation Center in Richmond or Washington, D.C.

ABOUT THE AUTHOR

Maggie Goll is Grant Coordinator on the staff of the Department of Developmental Programs in the City of Hampton.

being completed are not outdated. It is also possible, sometimes, to get an idea of how many grants are to be awarded, what type of review process will be used and whether or not technical assistance is available from the agency. This initial contact can make the followup, once the application is complete, both easier and more productive.

If time and resources permit, a personal visit is always preferable to making the contact by phone provided the contact is handled properly. Applicants who misinterpret the purpose of "contacts" may do almost irreparable harm to their funding prospects.

Some novice grant-seekers have been led to believe a friend on the staff of the funding agency is as good as a check in the bank. The ability to obtain grant funds, according to this school of thought, increases in direct proportion to the number of personal and influential friendships developed. Circumstantial evidence helps to perpetuate this glad-hand School of Grantsmanship. It is certainly undeniable that grant-seekers who routinely contact grant-makers get more grant funds. There is, however, an ethical explanation. A clear understanding of funding criteria and agency requirements fosters accurate, well-prepared, highly fundable proposals. Information, not favoritism, is the name of the game.

Contacts established during the early planning phase can be very helpful in coping with the anxiety that builds during the pre-award period. But, again, these contacts must be handled appropriately. Follow-up on an application should be limited, in order to make certain the packet has been received and to determine whether the agency or the applicant is to assume responsibility for initiating any necessary revisions or additions. Tact and careful listening are crucial, since agency staff may be operating under fairly rigid policies concerning information given to applicants. Thus, in asking "a small favor" or "pressing" for certain information, applicants may undermine their own credibility and jeopardize the staff person's job.

The specific steps the agency takes in reviewing applications and announcing awards should be outlined in the guidelines or other agency materials. At minimum, the process will include three basic steps:

- *Administrative Review* A cursory check to see that the required forms and various parts of the proposal are included, that the authorizing signature is on the correct line and the necessary blanks have been filled in.
- *Review and Recommendation* The budget and proposal narrative are assessed (often based on a list that covers many of the points included in Dr. McAlister's article on page 5, particularly those concerning program design and project administration). In some agencies, staff members conduct this review. Stall other agencies use peer review, applicant presentation, or a combination of methods. Regardless of who completes it, the result is a recommendation for the formal action to be taken on the proposal.
- *Formal Action* Typically, the final funding decision is made by a policy board (council, trustees, board of directors, commission, etc.) or the agency head. As a rule, staff or review

panel recommendations are followed, but even this "depends."

Sometimes the net result of following-up an application is the proverbial "don't call us, we'll call you." The applicant can gain very little by ignoring the advice. Some applicants use this period to finalize the details of implementation, firm up cooperative agreements and draft promotional materials. The detail and extent of activity "depends." The primary variables this time are the probability of ultimately receiving the funds and the policy of the funding agency concerning pre-award expenditures or retro-active payments.

When the funding is reasonably sure, the objectives ambitious, and the grant period brief, it's probably worth the risk to do as much as possible to speed up the implementation process. It is probably not worth the risk to hire the staff, rent the office, or order the equipment since the agency may disallow the expense when the auditor finally comes to call. When the application is "a long shot" it may be best to spend the pre-award period cleaning up work that piled up while the application was being prepared. Obtaining a grant is a long, involved process and this pre-award period is difficult, not only to the novice but to the professional as well.



CHARLOTTE KINGERY NAMED EDITOR

Charlotte Kingery, Staff Associate of the Virginia Municipal League and Managing Editor of *Virginia Town & City*, has been named Editor of the Magazine. Miss Kingery joined the League in 1974 from the position of intern with the City of Virginia Beach. In addition to her magazine duties, she staffs three League affiliate organizations. She is responsible for media relations and public information and has conducted various training programs. As editor, she will continue with these duties.

Her primary activity has been with *Virginia Town & City* and her initial duties were to prepare feature articles and columns. She gradually assumed more duties in preparation and publication of the magazine. Through her efforts, *Virginia Town & City* altered its appearance and content, enhancing its value as a source of information to governmental officials.

Miss Kingery is a graduate of the Virginia Polytechnic Institute and State University with a bachelor's degree in political science. She is presently enrolled in graduate courses at Virginia Commonwealth University in mass communications. The League is proud to have Miss Kingery serve as Editor of *Virginia Town & City*.

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People



Jones Dies

CECIL F. JONES, Finance Director of Henrico County, died Tuesday, May 9. A graduate of the University of Richmond, Jones earned both a bachelor's and master's degrees in business administration. Prior to his post with Henrico County, he was affiliated with the University of Richmond, T. Coleman Andrews, an accounting firm, and the House of Delegates Appropriations Committee. He succeeded Edward G. Heatwole as Henrico's finance director August, 1976. The Virginia Municipal League extends sincere sympathy to the family of Cecil F. Jones and to Henrico County.

Yates Named To Post

J. EDGAR YATES, Salem's Director of Public Works, has been named Assistant City Manager. Yates fills the position left vacant when Jerry L. Gwaltney resigned the post to become city manager of Concord, North Carolina. Yates has been with the City for 46 years.

Wasserman Appointed

DR. MARTIN P. WASSERMAN was appointed Director of the Arlington County Department of Human Resources. He succeeds Dr. Helen Hackman who resigned in April. Dr. Wasserman holds a bachelor's degree from Williams College, a medical degree from Johns Hopkins and a law degree from the University of Maryland. Dr. Wasserman was formerly the chief medical officer for Community Health Centers, Bureau of Community Health of the Department of Health, Education and Welfare. He has also been involved in legal-medical activities relating to children, particularly in the area of child abuse. Wasserman has served as director of the pediatric emergency room at Uni-

versity Hospital, Baltimore, and was a medical officer in the U.S. Public Health Service.

Cooper Named

The City of Falls Church has announced the appointment of *DAVID R. COOPER* as the new Director of Business Development. He has a master's degree in urban planning from Harvard and has served as a consultant and planning official. Prior to his appointment with Falls Church, he served as director of the Department of Planning and Community Development for the City of Alexandria. As development director, Cooper will work to promote business development in the City and will serve as a liaison between the City government and the business community.

Fire Chief Honored

Norfolk Fire Chief *THOMAS E. GARDNER* won top honors while earning a certificate in municipal administration from the Institute of Government, University of North Carolina. He is the recipient of the George C. Franklin Award, established by the North Carolina League of Municipalities to honor the late George C. Franklin, the league's general counsel for 12 years. The award is given to the municipal administration student with the most distinguished record. Chief Gardner began the course while working in Charlotte, North Carolina and continued it after he became Norfolk's fire chief March 1, 1978.

Hopewell Names Assistant

A native of Hopewell, *DOUGLAS A. HERETICK*, has been named Assistant to the City Manager. He has a graduate degree in public administration from Virginia Commonwealth University; his primary responsibilities with the City will be in personnel. His post was effective May 1.

Beck Honored

EDWARD A. BECK, former County Manager of Henrico County, was presented the Richmond-First Club's "Good Government Award." In presenting the award, the judging panel cited 25 years of distinguished leadership in county government and his contributions to Henrico's growth from a relatively rural county to an

urban jurisdiction. The "Good Government Award" is designed to recognize and commend individuals who have made outstanding contributions to local government in the Richmond metropolitan area. Beck was county manager of Henrico from March, 1952 until April, 1977. He is a past president of the Virginia Section, International City Management Association.

Virginia Section Honors

During the 1978 Annual Conference of the Virginia Section, International City Management Association, the membership honored three retired members. *C. CLAY HARRELL*, former Town Manager, Vienna, *THOMAS W. BLOOMFIELD*, former Town Manager, Farmville, and *WILLARD DAY*, former City Manager, Staunton, and County Manager, Henrico, were awarded honorary membership.

Governor Appoints

Governor John N. Dalton appointed *HAROLD C. KING* to succeed Commissioner John E. Harwood as State Highway and Transportation Commissioner. The appointment became effective July 1. King, who attended Union College and Denison University, began his engineering career with the New York State Department of Public Works in 1947. Since that time he has been affiliated with the former U.S. Bureau of Public Roads, which is now the Federal Highway Administration. Prior to his appointment as Commissioner, he had been the Virginia Division Administrator for the Federal Highway Administration.

Monti Dies

Petersburg Councilman *GILBERT A. MONTI* died May 22 following a lengthy illness. He is a retired Army officer and was serving his first term as a member of council. He retired from military service in 1963 and was employed with the State Division of Planning and Community Affairs. The Virginia Municipal League extends sincere sympathy to his family and to the City of Petersburg.

Places

FAIRFAX CITY—The City assumed control of its fire and rescue services from Fairfax County on May 1. The new department is staffed with experienced firefighters and some of the most modern equipment available for fire suppression and rescue services. The City not only has a new fire department but also has a new fire station under construction.

WYTHEVILLE—Mayor Carl Stark called a meeting of the citizens to discuss improvement of the downtown area. The Mayor reminded the attendees that the renovation of downtown Wytheville had been discussed but plans have never been formulated. A committee of property owners, merchants and members of Council was appointed to get renovation plans underway.

PETERSBURG—The City is making some key decisions on their tourism program. A study is being made to see if it is feasible for the City to build a small boat marina. Also included in the tourism program is a plan to purchase the Norfolk and Western Railroad station and property near the river. The City has applied for a federal grant to renovate the whole waterfront area.

WILLIAMSBURG/JAMES CITY COUNTY/YORK COUNTY—These three localities are exploring a master plan to develop York County's proposed new Quarter Park as an 18 hole golf course. The plan proposes a joint funding package as a way to regionalize the development and operation of the \$1.7 million park. The funding would involve the three jurisdictions through the issuance of revenue bonds to partially pay for the development cost; the remainder would be met with grants.

MARION—Downtown merchants recently proposed a "town lift" project to Council. Emphasizing that downtown Marion could be a good shopping area, the merchants proposed that building and landscaping improvements should be continued as well as establishing good parking. They also requested an ordinance that would limit the size, location and removal of large overhanging signs.

VIENNA—Mayor Charles A. Robinson, Jr. greeted high school students

and other volunteers during the spring clean up for the Town's business community. Businessmen were urged to participate in the clean up in the immediate areas of their business and make general beautification improvements. Town trash trucks also assisted the volunteers in the clean up of the commercial sections of the Town.

VIRGINIA BEACH—The police Telephone Reporting Unit is a new system to increase the availability of uniformed patrol officers for response to major incidents and crime prevention. The T.R.U., a specialized unit located in the emergency communications center, can receive and record certain complaints by telephone, currently requiring responses by uniformed police officers. It is hoped that the system will be able to process approximately 30 percent of the complaints presently dispatched to patrol officers.

VINTON—The Town offered a free trash and brush pick-up to all citizens who contacted the Town office. The service was offered to encourage all citizens to assist in cleaning up the town prior to the Annual Dogwood Festival. A woman's club also sponsored a Town-wide "Clean Up Day" the same day. Approximately 200 people participated.

FALLS CHURCH—The City sold its Historic Triangle property to a developer in order to build a commercial complex. The City purchased the land in July, 1975 with the idea of consolidating small lots and reselling the land for development which would be compatible with City Council goals. The main goal was to stimulate growth in the central business district and eventually broaden the City's tax base.

ARLINGTON COUNTY—A matching grant of \$18,000 has been awarded to the County in support of a sculpture for Rosslyn's first planned urban park. The sculpture will be the first major public art piece for the County and will serve as a focal point for Rosslyn, which is a major gateway to Arlington. The grant is provided by the National Endowment for the Arts Agency and the grant funds are to be matched by local monies.

FAIRFAX COUNTY—The County may become the first Virginia jurisdiction to provide incentives for solar energy equipment in private homes. The Board of Supervisors may pass an ordinance that would exempt solar energy equipment from both personal property and real estate taxes. The ordinance, however, would affect only a few of the homeowners in the County. The ordinance would allow more homeowners to use solar energy since the equipment now is too expensive for the average homeowner. The tax incentive plan might provide the necessary impetus for more homeowners to turn to sun rather than to electric and gas companies for power.

BLACKSTONE—The Town will apply for a Housing and Urban Development grant for street repair work and for possible restoration of part of the Schwartz Tavern. The Town Council instructed Richard Lee, Town Manager, to apply for the HUD grant that would develop a section of road work and sewers in the Town. The grant guidelines also allow for improvement of historic sites.

LOCALITIES RECEIVE LITTER GRANTS

The Virginia Division of Litter Control announced that grants totaling \$107,000 have been awarded to 32 localities for anti-litter activity. Many of the recent grant recipients plan to conduct public information/education programs which will bring to light the many issues surrounding the litter problem. Division Commissioner Robert W. Slocum reports that this is a key component to continued litter control. He said that few people realize litter cost millions of tax dollars to control, causes accidents and injuries and can drive away tourists and businesses. The grant program was designed to aid localities in developing continuing and comprehensive anti-litter programs. Funds provided to a locality are based upon its population and miles of roadway.

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7. *Prohibition of Employment Discrimination by Contractors, Subcontractors and Vendors.* In contracts of over \$10,000, with contractors, localities are now required to include a provision which says the contractor agrees not to discriminate in employment on the basis of race, religion, color, sex or national origin. All subcontracts must also include such a provision and the general contractor must include in all his employment advertisements a statement that he is an equal opportunity employer. Current state law requires only state agencies, not localities, to incorporate these provisions in contracts.

Designing a Local Procurement Ordinance

A number of localities will undoubtedly decide not to follow the nonmandatory sections of the state's new Procurement Act and will formulate their own policies and procedures as permitted by the new Act. At an Attorney General Law Conference in May, Roanoke City Attorney Wil Dibling had some suggestions for localities who wish to adopt their own procurement policy.

1. Define competitive bidding.
2. State when competitive bidding will be required. The new Act, for example, exempts purchases of \$10,000 and under from competitive bidding if the locality adopts a written policy for small purchases which provides for competition whenever practicable. Nothing would prohibit a locality from adopting a lower ceiling for the requirement of competitive bidding.
3. Spell out advertising requirements for competitive bidding and other procedures.
4. Explain what factors can be considered in deciding who is the lowest responsible bidder. Some of the factors which can be considered are: ability to perform contract without delay; whether bidder has the equipment and facilities to perform; whether bidder has the financial resources to perform; and whether the bidder has the ability to provide maintenance and parts.
5. A provision giving the locality the right to reject any and all bids should be included.

(Continued, page 18)

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Employee Orientation

New employees may not instinctively know when and where to take lunch breaks, where the stock room is and many other details about a new job. For this reason, the public works department in Lodi, California has developed guidelines and a checklist for supervisors when conducting employee orientations. The guidelines include a list of goals and documents needed to conduct the orientation session and a list of items to be discussed such as lunch and coffee breaks, attendance, use of equipment, safety rules, job or position description, performance standards and a tour of the organization. Contact Lodi's Public Works Department, (209) 334-5634.

Marketing Local Government

The City of Menlo Park, California reported success in marketing local government by publishing a Community Gifts Catalog sent to all city residents before Christmas, urging them to make tax deductible donations to the city for public use. Within a few months, Menlo Park received about \$10,000 in gifts ranging from a \$10 gift for childcare to \$1,700 for library books.

(Continued from page 8)

may not take all the customers whose names begin with the letters A-M with another firm taking N-Z. These examples are considered very serious violations because they are the antithesis to competition in as much as "private agreements have replaced competition as the engine of the market," Shenfield explained. These kinds of activities are considered so reprehensible that they are considered per se unlawful. The court—in contrast to most violations under the Acts—will not even look at the question whether these kinds of practices made sense for the people who entered into them.

The second anticompetitive situation prohibited under the antitrust laws deals with the relationship between a manufacturer of goods and a retailer or a retailer and a consumer. It is a felony, for example, for a manufacturer to sell to a retailer and to dictate the price at which the item must be sold. Likewise, it is illegal for a seller to refuse to sell something to a customer unless the customer also buys something else from the seller that the customer does not really want. This is known as tying. (If a local government indicates that it will sell electricity if the buyer will purchase water on sewerage service, that is a tying arrangement that may well be in violation of the antitrust laws.)

The third anticompetitive category involves the concept of monopolization. Violations of the acts will occur where a person seeks to prevent competitors from coming into the person's market or seeks to monopolize the market by making it impossible for others to effectively compete with the person.

These private sector lawsuits frequently represent conduct that goes beyond hard tough competition to the point of cohesion and sometimes violence.

Numerous questions remain unanswered regarding the application of the federal antitrust laws to local governments. Unfortunately, the answers will probably painfully evolve through the myriad of litigation that is already beginning throughout the country.

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4:00 p.m.
6:00 p.m.

Registration
President's Reception

MONDAY, AUGUST 23

8:30 a.m.
9:00 a.m.
9:00 a.m.
10:00 a.m.

Registration
Opening Session
Spouses' Craft Demonstration
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11:15 a.m.
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9:00 a.m.
12:30 p.m.
2:00 p.m.
2:00 p.m.
4:00 p.m.
6:00 p.m.

Registration
Cutback Management
VPI Greenhouse Tours
Spouses' Fashion Show/Luncheon
Disaster Critique
Smithfield Plantation Tours
Legislation 1983
Reception/Banquet/Dance

WEDNESDAY, AUGUST 25

9:00 a.m.
9:00 a.m.
10:30 a.m.
12:00 p.m.

Safety Legislation
Spouses' Shopping Spree
Business Session
Adjournment

President H. B. Childress, Chief of Police, Pulaski will preside over the 57th Annual Conference. Appreciation is extended to the Conference Planning Committee for arranging the entertainment. For further information, please contact Joni Terry (804) 649-8471.

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(Guidelines, from page 10)

The best medicine for the pains of *Lafayette*, *Midcal* and *Boulder* would be federal legislation clearly exempting local governments from the effects of antitrust violations. Efforts have begun at the federal level to initiate legislation of that type but at this writing none has been introduced and the federal legislative process is laborious and unpredictable. So, what should localities do in the meantime?

The next best protection is to follow the Supreme Court's mandates, that is, have the General Assembly adopt specific legislation bringing localities under the *Parker* umbrella or state action. The amount of state supervision necessary to meet the Court's muster is still a question. Some experts have opined the mere filing of annual reports or other similar lip-service to the supervision requirement will be sufficient compliance. Other experts, however, assert this limited compliance is risky and probably will not meet the test. If actual supervision by state agencies, state officials or periodic reviews and audits should be required, it becomes apparent that Virginia (and the other states) will lose much of the advantage of government at the local level.

But effective legislation, even at the state level, cannot be accomplished overnight and the antitrust challengers are not likely to wait. Hence, most of those with antitrust experience are advising local governments to behave as if they have no antitrust immunity at all. To the writer, this means elected and appointed officials, including local attorneys, must begin to think and act as if every action or activity will be challenged.

Local governments should follow the experience of business enterprises and establish antitrust compliance companies. A proper compliance program will require analysis of every activity undertaken or expected to be undertaken, identifying potential antitrust problems. The program should include the locality's antitrust policy which tells local officials what the applicable law is and how to comply with it. The program should also provide training sessions and seminars for employees.

A document retention program should be instituted prescribing the documents to be retained (with the period) so they will be available to support the locality's antitrust policy is important. Although "good faith" is no defense to antitrust vio-

(Continued on next page)

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lations, antitrust lawyers seem to agree local governments should bolster every possible "public interest" defense to antitrust actions by documenting the reasons why competition is being limited from a viewpoint of public safety, health or welfare.

Competition should not be restrained except in exceptional cases and only to the absolute minimum necessary. Local governments should examine their bidding procedures and procedures for amendment to zoning ordinance or for award of licenses and franchises, to assure they are fair and applied in an even-handed manner. The greatest amount of attention should be focused on the areas where localities have the highest vulnerability especially where the locality acts in a proprietary way and competes with non-government entities. Local officials must also avoid activity giving the appearance of impropriety or conspiracy, i.e. no secret meetings.

Finally: Employ antitrust counsel. Although it is not surprising that the recommendation to employ counsel is universal, since most people offering advice are either antitrust lawyers or would like to be, it will pay handsome dividends to get good advice before landing in court—in particular, seek help in formulating a compliance program and policy.

(Procurement, from page 13)

6. Specify exemptions from competitive bidding such as in emergency situations or sole source procurement. If the river is rising and the locality needs sand bags immediately, competitive bidding is not required. A sole source exemption applies when there is only one place to get an item such as postage stamps.
7. Give either the chief administrative officer, or the head of the purchasing department the authority to formulate administrative rules and regulations. Local governing bodies should not try to write everything into the local procurement code, many details are best left to administrative rules and regulations. All bidders and local government employees involved with purchasing must be familiar with the rules and regulations because everyone involved with purchasing must play by the same rules.

8. Include a procedure to debar from further bidding any vendor or contractor who does not abide by the law. Vendors and contractors do defraud the government as shown recently by the highway bid rigging cases in the Commonwealth. A debaring procedure must provide due process for bidders accused of fraud and must specify the length of time a vendor or contractor will be forbidden from participating in the bidding process.
9. A procedure for obtaining professional services (accounting, architecture, land surveying, medicine, or engineering) should be considered. Competitive negotiation or some similar competitive procedure may be used.
10. The general policy statement should indicate that the locality encourages competition among vendors or contractors, works to increase public confidence in its purchasing practices, administers fairly and equitably its policies among bidders and tries to obtain high quality goods and services at the lowest possible price.

Conclusion

The Virginia Public Procurement Act is not a straitjacket but rather a flexible tool for localities to use to reshape their purchasing practices. After localities conform their policies to the Act's seven requirements, the general guidelines of the Act may be followed to formulate practices and procedures for purchasing goods and services.

Localities are beginning to work on restructuring their purchasing procedures to meet the January 1, 1983 deadline for being in conformance with the Act. One of the last amendments to the Act extended the deadline from July 1, 1982 to the first of next year. That change was made at the request of the Virginia Municipal League whose staff in Richmond is assisting localities in revising their purchasing policies.

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Procurement Workshop

In response to the new Procurement Act, the Virginia Municipal League has planned two workshops to assist local governments to comply with it.

For localities over 3,500 population, officials will meet Thursday, July 29, 1982 at the Holiday Inn West (I-64) in Richmond. For towns under 3,500, a workshop will be held Wednesday, July 28, 1982 at the Boar's Head Inn in Charlottesville.

Registration information will be mailed to all member localities and be included in the League's newsletter, *LEAGUE LETTER*.

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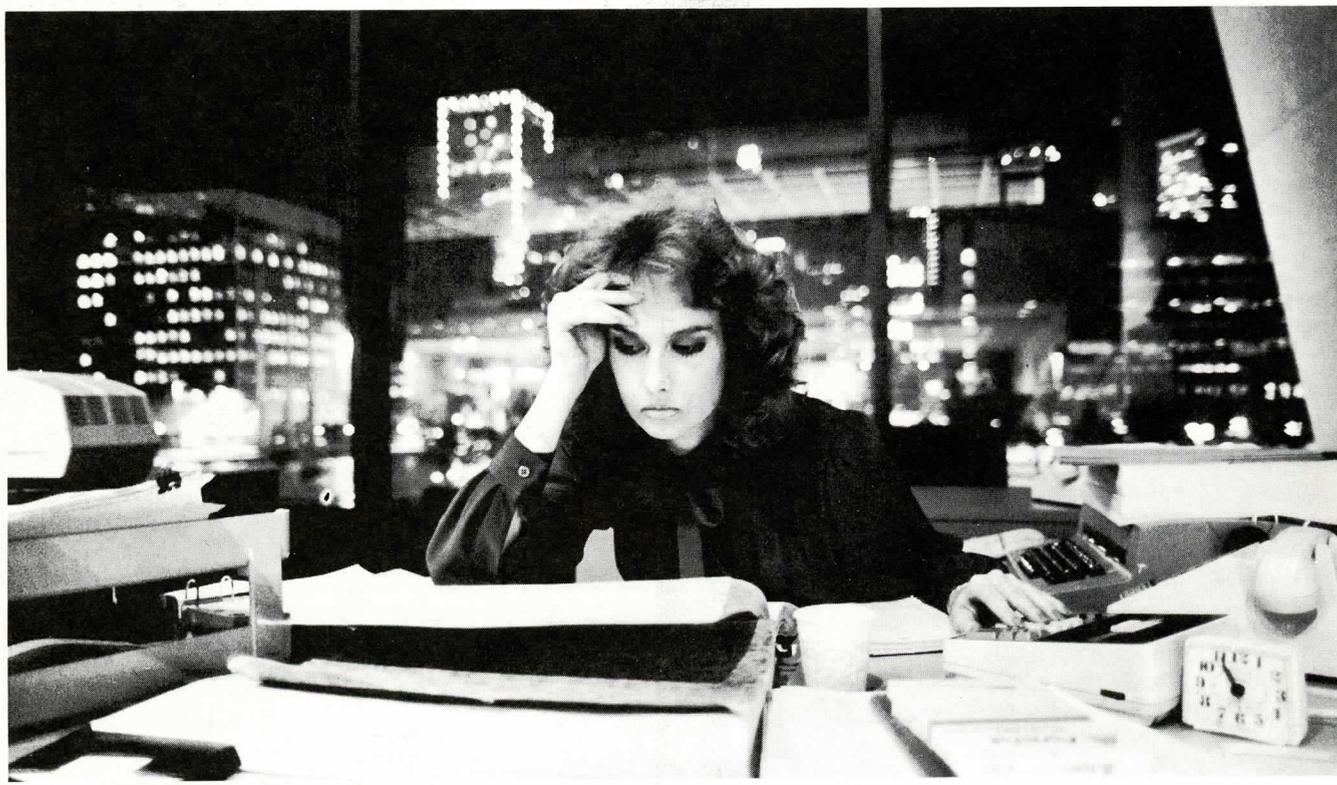
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