MCIT BULLETIN

A PUBLICATION OF MINNESOTA COUNTIES INTERGOVERNMENTAL TRUST

Annual Meeting Reviews MCIT's Finances, Highlights Program Developments

Members gathered for the MCIT annual meeting Dec. 4 in Minneapolis, where they heard the trust's financial report and details about the current state of the trust, and delegates returned three members to the board.

Financial Strength Continues

Executive Director Gerd Clabaugh provided a brief review of MCIT's financial status, indicating that it remains strong and ended 2022 with a total fund balance of $145 million. The lower fund balance in 2022 compared to 2021 is indicative of an increase in paid claims and reserves, higher reinsurance premiums and a drop in the accounting entry of unrealized investment income.

Despite these factors, MCIT was able to return a $7 million dividend to mem-bers in 2022 and $4 million in 2023, both from the Workers' Compensation division, continuing a many years-long practice of returning fund balance to members.

As for 2023, MCIT continues to be on solid financial footing as of Sept. 30. The higher interest rate environment is starting to benefit MCIT's investment portfolio, for example. Paid losses are higher than at the same time in 2022, but MCIT had accounted for this in its rating development for 2023.

Responding to Challenges

When discussing the current state of MCIT, Clabaugh noted that MCIT is taking an active approach to meeting the trust's challenges.

Members Elect Incumbents to Board

Pursuant to the MCIT Bylaws, the election of board members was conducted during the 2023 annual meeting Dec. 4. This year, three seats were up for election.

Don Wachal

Board Chair Ron Antony outlined the process to call for candidates. A call was issued Oct. 1 to all individuals eligible to serve on the MCIT Board of Directors. At the close of the Nov. 3 deadline, only the incumbents expressed interest in the positions: Jackson County Commissioner Don Wachal, Stearns County Auditor-treasurer Randy Schreifels and Lac qui Parle County Commissioner Todd Patzer.

Randy Schreifels

Todd Patzer

The incumbents were unanimously elected to the board for four-year terms, expiring Dec. 31, 2027. Each began his service on the board with an appointment to an unexpired term: Wachal in March 2019, Schreifels in June 2013 and Patzer in February 2023.

COMING EVENTS

Jan. 12
MCIT BUILDING, ST. PAUL
9 A.M.: Board of Directors Meeting
1 P.M.: Claims Committee Meeting

Jan. 17 - VIRTUAL, 11 A.M.
"Open Meeting Law and Remote Participation" webinar

Jan. 31 - VIRTUAL, 11 A.M.
"Hiring Toolkit: Job Applications, Advertising and Job Descriptions" webinar

Feb. 9
MCIT BUILDING, ST. PAUL
9 A.M.: Board of Directors Meeting
1 P.M.: Claims Committee Meeting

For example, law enforcement-related claims and costs are rising, but MCIT has not just accepted this as inevitable. Rather, MCIT has a number of initiatives in this area, such as:

- Continuing to support and promote the PATROL training program for sheriff's offices
- Implementing a grant program to fund surveillance cameras and innovative use of them in jail operations
- Engaging Benchmark Analytics to help identify risks that lead to claims and how to reduce those

Another area of increasing costs relate to post-traumatic stress disorder workers' compensation claims. Clabaugh highlighted the new duty disability legislation that passed last year that should assist with treating and returning employees to work while reducing the cost of the claims, a benefit to both members and their employees. In addition, MCIT Employee Assistance Program provided through MCIT complies with a component of this legislation, so members can be assured that the program is ready to serve their employees.

MCIT was happy to help facilitate a connection between a broker and members who need to purchase workers' compensation coverage for employees who work outside of Minnesota regularly. MCIT is not allowed by law to provide coverage for those who regularly work outside of the state.

Clabaugh reviewed a few other areas in which MCIT is working to provide assistance to members, including employment risk management and cybersecurity best practices.

He concluded his remarks by saying, "I am honored to serve MCIT members and by extension the people of Minnesota. The MCIT staff and I are excited to continue to do our work for you [members] when you have a bad day."

Washington County representatives accept the 2023 County of the Year award from MCIT Board Chair Ron Antony.

Grant County representatives and MCIT Board Chair Ron Antony.

MCIT Board Chair Ron Antony with Morrison County representatives.

Members' Outstanding Achievements Awarded

MCIT Board Chair Ron Antony announced the recipients of MCIT's annual awards during the 2023 MCIT annual meeting Dec. 4 in Minneapolis. Every year MCIT recognizes three counties that excel at risk management and loss control, as preventing and mitigating losses is important to the overall success and stability of MCIT.

Criteria used for the awards include:
- Performance in risk management and loss control efforts
- Responsiveness to MCIT program initiatives
- Improvement in property/casualty claims experience and administration over the past four coverage years (2019-2022)
- Improvement in workers' compensation claims experience and administration over the past four coverage years (2019-2022)

Washington, Grant, Morrison Counties Recognized

Washington County earned the 2023 County of the Year award. This award honors the county that has set the standard of excellence in risk management and loss control for the year.

The other two awards recognize performance in the specific areas of property and casualty (liability) and workers' compensation risk management and loss control. Grant County received the Outstanding Performance in the Property and Casualty Division award and Morrison County earned the Outstanding Performance in the Workers' Compensation Division award.

These division awards are presented to counties that demonstrate consistent performance in the areas during the assessment period. For property and casualty, that means improvements in the county's loss ratio through commitment to implementing better loss control and risk management methods, as well as a dedication to protecting county property and citizens.

For workers' compensation, the award recognizes performance in the county's experience modification factor and reduced claims in the areas of workplace injury and illness, as well as a commitment to reducing employee injuries and improving loss control efforts.

On behalf of the entire board, Antony congratulated the winners on their accomplishments.

Phase II Begins for On-Site Property Appraisals

Over the years, MCIT has stressed that members schedule their buildings and assign accurate replacement cost values to those buildings. This ensures adequate coverage in the event of loss or damage.

To assist members in this effort, MCIT engages an appraisal firm physically to inspect and appraise all buildings above a predetermined scheduled value every five years. The MCIT Board of Directors awarded a contract for these services to valuation experts HCA Asset Management, which began its work last year.

PROPERTY APPRAISAL PHASES
Phase I - 2023   Phase II - 2024   Phase III - 2025

Consistent with past practice, this project is divided into three phases over three years. Members in the northern third of the state were appraised in 2023, the middle third will be appraised this year and the southern third in 2025, followed by a two-year break.

Members in the middle third of the state will be contacted by a representative from HCA Asset Management starting in February. Its appraisal team will inspect all buildings with a scheduled value in excess of $100,000. This project requires that members assist by providing access to buildings, answering questions and in some cases supplying building plans and diagrams.

For planning purposes, MCIT ensures that members are notified of the appraiser's visit well in advance.

Any adjustments to building values based on the appraisals will be made mid-year after consideration by the MCIT board. As in prior years, there will be no change in contribution charged for property values adjusted as a result of appraisals during the current coverage year.

All members will receive an appraisal report that includes current photos of buildings, a detailed description of the structure and its features, along with the current replacement and actual cash values.

Reminder: Hang New Minnesota Workplace Notices, Posters

The Minnesota Department of Labor and Industry (DLI) released new and revised workplace posters and notices in December. Most of these should have been displayed or distributed by Jan. 1, 2024.

Minimum-wage Poster

- DLI updated the Minnesota minimum-wage poster in light of the minimum-wage rate increase at the beginning of this year.
- All employers are required to display this poster in a location where employees can easily see it.

Veterans Benefits and Services Poster

- This new poster provides information about benefits that may be available to veterans and their families.
- Employers with more than 50 full-time employees are required to display this new poster in a location where employees can easily see it.

Earned Sick and Safe Time Notice and Poster

Minnesota's new earned sick and safe time law took effect Jan. 1. The ESST law requires employers to provide paid leave to employees who work in the state.

- All employers must provide notice about earned sick and safe time to each of their employees by Jan. 1, 2024, or at the start of employment if employment begins after that.
- Employers that have an employee handbook must include the notice in the handbook.

- DLI has developed a sample notice for employer use. Employers are not required to use the sample notice as long as their notice contains all of the information required by law.

More information about the contents of this notice and the manner in which it must be provided can be found on the FAQs: Earned Sick and Safe Time page at *DLI.mn.gov*.

DLI has also created an ESST informational poster. Although not required, DLI encourages employers to display the poster where employees can easily see it.

Employer-sponsored Meetings or Communications Notice

Under the new employer-sponsored meetings or communications law (Minn. Stat. § 181.531), employers are prohibited

How to Respond to a Ransomware Attack

Provided by Matthew Meade, Breach Counsel, Eckert Seamans' Cybersecurity, Data Protection & Privacy

Ransomware attacks continue to plague local government entities throughout the United States at an unprecedented rate. Unfortunately, Minnesota counties have not been immune to these incidents, with more than 10 counties affected by ransomware within just the past six months.

Although members can take steps to reduce the chances of a ransomware attack (which will be addressed in a subsequent article), members can also take immediate measures if the organization experiences ransomware to limit its effects.

Threat Actors Deploy Two-pronged Ransomware Approach

During the past several years, most threat actors executing ransomware attacks have been using a two-pronged approach to extort money from their victims:

1. Once they gain access to a network, they exfiltrate data from the network before encrypting the data on the network. To increase the likelihood of payment, they frequently attempt to destroy backups of critical systems.

2. They then demand payment: 1) to provide a decryption key to unlock the data, and 2) to agree to delete whatever they have taken and not release the data on the dark web.

In this scenario, even if a member entity has viable backups that the threat actors were not able to destroy, the organization's data being released on the dark web can be highly damaging to the member, both from a reputational and a litigious perspective.

Sensitive Data at Risk

Member data repositories often hold sensitive information relating to residents and others. This can include personally identifiable information (PII), as well as protected health information (PHI) from a range of sources and departments including human resources, social services, coroner and veterans services.

Further, the potential release of highly sensitive sheriff's office files detailing sex crimes investigations, domestic abuse, ongoing investigations and crimes against children can be injurious.

The unauthorized acquisition of data maintained by a Minnesota government entity that compromises the security and classification of that data is a breach under Minnesota law. The definition of access includes obtaining, accessing or viewing government data.
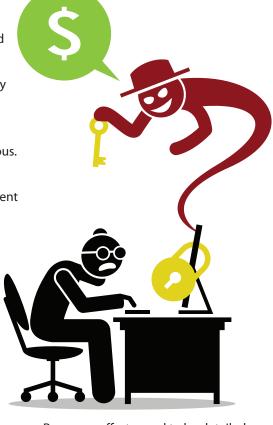
When there is a ransomware attack, a member needs to conduct an investigation to determine the extent of the incident, whether there has been unauthorized acquisition of government data and, if so, notify those residents whose data was affected.

The Incident Response Plan

MCIT's cyber-security incident response team, which includes cyber forensic investigators, Sylint, working in conjunction with and under the direction of legal counsel Matthew Meade, Esq., have developed an incident response protocol. It helps limit the impact of an attack and determines, to the extent possible, when and how threat actors gained accessed to the network, as well as the specific data compromised.

Counties should have a cyber-incident response plan that identifies the incident response team and describes the procedures the county will take in the event of an attack.

It is important to note that a ransomware incident is a crime scene and should be treated accordingly. Valuable evidentiary data can be obfuscated or destroyed by IT teams rushing in to restore from backups (which may themselves contain malware).

Response efforts need to be detailed in the incident response plan and must balance the desire to return to normal operations with the need to accurately determine what occurred and what data was impacted.

One function of the cyber-security incident response team is to provide a detailed plan to recover and conduct the needed investigation as expediently as possible. However, there are steps a public entity can take immediately, to reduce impact and improve resiliency as outlined on page 5.

Learn More About Cybersecurity Best Practices

MCIT offers members a number of resources to assist them in their cyber-security efforts. Check them out at *MCIT.org/resources/*.

Members may also contact their MCIT risk management consultant at **1.866.547.6516** to discuss cyber-security concerns.

IMMEDIATE STEPS TO TAKE AFTER CYBER-ATTACK

Pull the Plug

If ransomware is detected in the network, disconnect devices from the network and isolate backups. The goal is to contain the incident and keep it from spreading to other devices or networks that may be unaffected.

- Any devices that are shut down should be left off. If disconnecting is going to impact county services, notify that department and help them shift to emergency processes.
- Internal segmentation can be a component in decisions to disconnect. For example, if the sheriff's office runs on an isolated subnet or separate network, it may be able to continue operations if connections and trusts are broken with potentially affected devices/networks.

Call MCIT

Report the incident to MCIT as soon as possible; do not wait weeks, days or even hours. The sooner the member alerts MCIT, the quicker the cyber-security incident response team can provide guidance and assistance.

- Members should call **1.866.547.6516** immediately even if they "think they might" have a problem.
- Then members should complete and submit the online incident notice through the member portal at *MCIT.org*.

Do Not Issue a Statement

Although most members want to be as transparent as possible, it is important not to overcommunicate, especially when the facts are not yet known.

- Disclosing that the member has "experienced a cyber-incident that is being investigated" is likely to be accurate without being overly alarming.
- Threat actors often monitor news about their victims, further emphasizing the need to keep public disclosure during the early stages of response to a minimum.
- If media outlets attempt to interview anyone, ask them to put their questions in writing and advise that the organization will respond when appropriate. Just as it would be inappropriate to comment on a homicide investigation until it is concluded, it would similarly be inappropriate to comment on a cyber-incident investigation while it is still ongoing.
- Department heads and elected officials should be informed and also cautioned not to make statements prematurely.

Preserve Evidence

It is important that digital evidence be preserved.

- Do not attempt to copy, restore or decrypt data until a plan to preserve critical evidence has been created in conjunction with the cyber-security incident response team.

- If local, state or federal law enforcement want access to evidentiary material, Sylint* can provide forensic images as needed. They have extensive experience working with law enforcement, and follow strict chain of custody and evidence handling protocols for evidence used in state and federal courts.

Do Not Contact Threat Actors

Although communication with the threat actors can often yield valuable clues and intelligence, the best practice is not to communicate directly with them. Sylint has extensive experience dealing with cyber-extortionists and is best equipped to communicate on the member's behalf.

Start Assessing Damage

A ransomware incident can be chaotic. Systems are failing, data is unavailable and users start to panic.

- If you have an incident response plan, follow it, keeping in mind evidence preservation.
- Start making a list of devices (servers, workstations, mobile devices) in the environment and note: 1) if they appear to be impacted, 2) what data resides on them, and 3) what functions they provide. This is the first step to assessing the scope of the incident and understanding how much damage has occurred. It also is critical in determining the member's options for restoring data and continuing to provide services to the community.

*MCIT's partner cyber forensic investigator.

Reminder: Hang New Minnesota Workplace Notices, Posters

from taking or threatening to take any adverse employment action against an employee who declines to attend an employer-sponsored meeting or receive employer communications related to the employer's opinion about religious or political matters, as defined by statute.

- Employers were required to post notice of employees' rights under this statute by Aug. 31, 2023.
- DLI has noted that it does not have authority under the law to prescribe the poster the employer must use. However, DLI has provided this text from the law for guidance: "State law prohibits employers from taking or threatening to take any adverse employment action against employees who decline to attend employer-sponsored meetings concerning religious or political matters (see Minnesota Statutes 181.531)."
- DLI encourages employers to consult with an employment law attorney for questions about implementation of this law.

Posters, Notices Available at No Cost

The posters and notices noted above are available for no cost at *DLI.mn.gov/posters*. They can be printed directly or ordered.

Members are encouraged to review all of the posters and notices on the DLI's Workplace Notices and Posters webpage to ensure that they are in compliance with Minnesota law. Posters generally need to be updated when Minnesota law changes.

Workplace posters required by federal law are available from the U.S. Department of Labor website *(DOL.gov/general/topics/posters)* at no cost. The U.S. Department of Labor's elaws Poster Advisor is a convenient tool for determining which posters employers are required to display at their place(s) of business.

Members should contact their legal counsel with any questions about complying with state or federal workplace posters or notices.

2024 MCIT Training Events Preview

MCIT's training events are specifically developed to assist members in managing and reducing the operational risks they face. Each session delivers practical ideas members can apply immediately.

As event dates approach, more details about each training session will be provided at *MCIT.org/events* and sent directly to members, including when registration opens. Events are subject to change.

Series: Hiring Toolkit
January-March
No-cost Webinars

This series of webinars offers hiring process risk management best practices for those involved in hiring, such as human resources staff, department heads, managers, etc.

Each of the below topics is a stand-alone webinar, but they are developed to be attended in series:

- Job applications, advertising and job descriptions
- Veterans Preference Act and candidate screening
- Interviewing
- Reference checks, background checks and pre-employment testing

How to Conduct an Employee Investigation
April 17-18
In person, Park Event Center, Waite Park, Minn.
$150 per person for MCIT members

Allegations of employee misconduct can run the gamut from an inappropriate comment to the exceptionally serious and require the employer to respond appropriately. The investigation must be fair, thorough and comply with the law. This fast-paced, two-day seminar helps investigators meet these requirements. This seminar is designed for the human resources professional who wants to conduct his or her own investigations and is limited to 35 participants.

Series: Employee Performance Management Strategies
May-June
No-cost Webinars

This series of webinars reviews best practices for managing employee performance to maximize the talents and skills of current employees and identifies common traps that snare managers while offering strategies to sidestep them. These webinars are designed for those who are responsible for managing employee performance.

Each of the below topics is a stand-alone webinar, but they are developed to be attended in series:

- Performance management basics, such as coaching throughout the year, documentation and formal annual performance evaluations
- Employee discipline and performance improvement plans
- Substance use and addiction and how to manage it in the workplace relative to performance management
- Strategies for effective difficult conversations

Series: Preventing and Addressing Employee Bad Behavior

July-August
No-cost Webinars

Employers are responsible for providing an environment in which employees can work free of harassment and discrimination. This series of webinars explains the legal standards relative to these issues and how employees and managers can comply. The series also addresses how to manage other bad behaviors that can contribute to a toxic work environment.

The series includes the following sessions, but they are developed to be attended in series:*

- Identifying, preventing and correcting discrimination in the workplace
- What sexual harassment is and what supervisors and staff can do to create a workplace culture of respect and accountability
- Factors that contribute to a toxic work environment and strategies to prevent or turnaround a toxic environment

*The topics of discrimination and harassment prevention may be combined into one webinar as the sessions are developed if deemed appropriate.

Navigating Key Land Use Issues

Aug. 29
In person, Park Event Center, Waite Park, Minn.
$75 per person for MCIT members

This seminar offers information about many of the most pressing land use concerns for Minnesota counties and related governmental organizations. This training is suggested for planning and zoning employees, county commissioners, boards of adjustment members, planning commission members and county attorneys.

Register Now for 'Open Meeting Law and Remote Participation' Webinar

Jan. 17
No cost

This webinar details how and when members of public entity governing bodies can join and participate in open meetings remotely while being in compliance with the Minnesota Open Meeting Law.

This law has two sections that allow local government board members to be counted as part of the quorum and participate remotely in meetings. Each statute has different requirements, including notice requirements. Failure to comply with the provisions of the particular statute under which the board is meeting may mean that the remote board member:

- Is unable to be counted as part of the quorum
- Is unable to participate in all proceedings

Common questions about board members' remote participation at open meetings are addressed, including:

- The number of times a board member may participate remotely in an open meeting
- Circumstances under which a remote location may be closed to the public
- Participating from an out-of-state location
- Last-minute remote participation
- When technological difficulties arise for remote participation, such as losing video or audio connection

Time is provided for attendees to ask questions. The session is presented by MCIT staff counsel for risk control who has a deep understanding of the Minnesota Open Meeting Law and providing risk management advice to MCIT members regarding compliance.

Recommended Attendees

- Members of governing bodies for public entities, such as county commissioners, SWCD supervisors, joint powers entity board members
- Administrators/coordinators, executive directors, clerks to the board
- County attorneys

Register Now

Members can register for this no-cost webinar at *MCIT.org/events*. Simply follow the registration link on the event page and complete the registration form.

Tip: Be sure the email address entered on the form is correct before submitting it. This is the address to which the link to join the live event will be sent.

Take Action Now: Reduce Risk of Fires at Solid Waste Transfer Stations

Recent incidents and observations have highlighted an increased risk of fires at solid waste transfer stations among MCIT members, including hazards associated with both loaded and empty trucks parked overnight at the facilities.

The presence of flammable materials and the unique nature of solid waste transfer station operations make it essential for members to review this issue promptly. These fires pose significant dangers to personnel and property, financial costs to the member and reputational consequences for the entity.

Reduce Fires Related to Parked Trucks, Trailers

Waste in trucks or trailers has been a common source of fires at transfer stations due to:

- Smoldering ash
- Lithium batteries
- Other flame-producing items in the waste

Other fire-ignition sources include the internal and external electrical systems of trucks.

MCIT encourages all transfer station operators to take immediate action to address these concerns including but not limited to the following.

Restrict overnight parking. If possible, prohibit overnight parking of vehicles, equipment and trailers owned by others. Fires over the weekend have proven to be especially frequent.

Establish designated parking areas. Create designated outside parking areas for trucks. These should be a safe distance from materials, push piles, buildings and equipment that could sustain fire damage. Install clear signage to direct drivers to these designated parking zones.

Review hauler agreements. Contracts with haulers should effectively transfer risks to the haulers and include hold harmless, indemnification and insurance requirement language favoring the MCIT member. The contracts should also include language stating that damage to trailers and/or vehicles is not the member's responsibility.

Implement Additional Fire Prevention Measures

Members should also ensure that they have implemented strategies to reduce the risk of fires at transfer stations from other common causes, such as those noted below.

Control and monitor ignition sources:

- Establish and strictly follow a practice of not leaving unprocessed materials inside the facility overnight, including loaded trailers or containers.
- Create and maintain a reliable method of monitoring waste and vehicles during evenings, weekends and holidays. This is especially important.

Fire suppression and detection systems:

- Ensure that the facility is equipped with adequate fire detection and suppression systems, including monitored smoke detection alarms, fire extinguishers, hydrants and sprinkler systems.
- Regular maintenance and inspection of these systems are crucial.

Truck inspections of owned vehicles:

- Implement regular truck inspections of the entity's owned vehicles to identify and address any potential fire hazards.
- This includes checking for fuel leaks and worn-out wiring, and ensuring that trucks are in good working condition.

No-smoking policy:

- Enforce a strict no-smoking policy on the transfer station premises.
- Install signage and establish designated smoking areas, if necessary. Smoking areas should be an adequate distance from ignitable materials/building, contain fireproof receptacles and mandate their exclusive use.

Driver training:

- Provide training to the member's drivers regarding fire prevention and safety protocols.
- Training should include the proper handling of flammable materials and immediate reporting of any safety concerns.

Emergency response plan:

- Develop a comprehensive emergency response plan that includes procedures for dealing with fires, evacuation and communication with emergency services.
- Conduct regular drills to ensure that employees are familiar with these procedures.

Review coverage:

- Review the member's current coverage with MCIT to ensure that it adequately addresses the specific risks associated with the transfer station's operations, including fire-related risks.
- Common issues include failure to schedule

Ensure Employees Who Work Alone Are Safe

Solitary work may expose an employee to greater risk, as response time for rendering aid in the event of severe injury is often delayed. If employees work alone, employers should identify and review hazardous tasks and situations, and modify these tasks as needed for the solitary worker. In addition, effective methods of communication or check-ins should be developed to minimize risks when individuals work alone.

Identifying Hazardous Tasks

Begin by identifying hazardous tasks that may pose risks to employees while working alone. Particular attention should be directed to tasks involving powered equipment, working at height or using hazardous substances. Time of day may also be a factor, as it may affect the ability to communicate or check in.

Seasonal tasks should also be considered, as extreme heat and cold can create hazardous conditions.

Employers should assess the risks of tasks and know the estimated response times for emergency services should an injury occur. Lone workers may not be in a position to self-administer first aid or call for assistance. A job hazard analysis can be an effective tool in identifying workplace hazards.

Modifying Workplace Tasks

After hazardous tasks are identified, employers can take steps to modify procedures that pose a danger when working alone. Some hazards to consider and means to address them are detailed below.

- Identify tasks that may be modified to require that more than one employee be present nearby.
- If the hazards arise from the use of particular equipment, consider using alternate equipment that make the task safer. As manufacturers continue to improve equipment and safety, employers should consider the tools and equipment employees use and update as needed.
- Certain tasks can be contracted to specialized vendors to transfer the risk away from employees.

- Consider emergency services response time if an injury does occur. Often an injury to a lone worker may go unreported for a considerable time as the injured person may be unable to ask for help. A regular check-in procedure can help address this. This becomes particularly important if an employee is working before or after typical shift hours, as there may be fewer staff who can respond to check-ins.
- Cell phones, radios or other devices may be necessary for employees to maintain communication. These tools should be reliable and functional in the areas where employees work, even if the location is remote.

Any changes to work plans and procedures should be developed with employee input after explaining the hazards. Employees will need to be trained and required to follow the lone worker safety rules. Policy changes should be reviewed periodically and revised as needed to ensure that they have the desired effect.

DRIVE WISELY:
Window Tint and the Law

From a safety standpoint, having a clear and unobstructed view inside and outside of a car is important for communication between drivers, unimpeded visibility of potential road hazards and pedestrians, as well as for the safety of all of those involved during a law enforcement stop.

Adding a tint to vehicle windows may help with fighting the heat or protecting one's eyes and skin from the sun, but it is against the law:*

- To have any tint on the front windshield.
- To have tint that allows less than 50 percent of light through on other windows.

A few exceptions to the statute include a medical prescription that must be renewed every two years; tint to a squad car window; or tint beyond 50 percent applied only to the rear and back windows of larger vehicles, such as trucks, vans and SUVs.

*Minn. Stat. §169.71

Can Board Members Communicate Outside of Open Meetings?

A question often raised under the Minnesota Open Meeting Law (Minn. Stat. Ch. 13D) is to what extent a commissioner or board member can communicate with other board members outside of official meetings.

The OML applies to all meetings of a public body and, in general, meetings of its committees and subcommittees. The law requires most meetings to be open to the public. For the law to apply, a quorum (a majority of the members of the public body) must be present.

The OML generally does not apply to conversations, letters or other communication among less than a quorum of board members. However, courts have recognized that this exception could be used to circumvent the law through serial meetings.[1]

Serial Meetings in General

Serial meetings have been described as exchanges between individual members of a public body on a particular topic that are close in time and that collectively involve a quorum or more of the public body.[2]

Courts have held that a violation of the Open Meeting Law may occur when serial meetings in groups of less than a quorum are conducted for the purpose of avoiding a public hearing or to fashion an agreement on an issue in advance of an open meeting, depending on the facts of the individual case.

For example, a serial meeting could occur when board member A meets with board member B, B meets with board member C, and C meets with board member D on issues relating to the official business of the public body. These could be considered serial meetings and a violation of the law if the members were meeting with each other for the purpose of avoiding a public hearing or to fashion an agreement on an issue in advance of a meeting.[3]

Serial meetings can also occur through an intermediary.[4] For example, if a staff member meets with each board member individually and shares the other board members' views and positions on official business or polls the members on how they will vote on a matter.[5] This could be a violation of the law if it were determined that the procedure was used to fashion an agreement.

Electronic and Written Communication

Serial meetings can occur through electronic or written communication, including phone conversations, emails, texts and social media.[6]

Forwarding emails could potentially result in a violation. For example, if board member A receives an email from board member B regarding the member's position on an issue, then A forwards the email to board member C, and the three begin discussing the issue. It could be considered a serial meeting because a quorum is discussing an issue in advance of an open meeting.

Note: No violation of the law occurs when material is distributed to board members by mail, either electronic or printed. But a violation could occur if the board members respond to the information and begin a discussion of the materials.[7]

Members of a public body should also use caution with social media. Because of the interactive nature of social media, a problem may arise if board members have a discussion on social media about an issue before the public body. The discussion would occur outside of an open meeting, even if the social media account is open to the public.

However, social media use by members of a public body does not violate the Open Meeting Law if the use is limited to exchanges with members of the general public.[8]

Risk Management Recommendations

Board members may talk to other board members outside of meetings. But they should be thoughtful and use caution when communicating on matters that may come before the board.

Any discussion or deliberation on issues relating to the official business of the public body should occur during the official meeting.

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[1] *Moberg v. Indep. Sch. Dist. No. 281*, 336 N.W.2d 510, 518 (Minn. 1983).

[2] Minn. Dep't of Admin., Data Practices, Advisory Op. 10-011 (April 23, 2010).

[3] *See id.*

[4] *See Mankato Free Press Co. v. City of North Mankato*, 563 N.W.2d 291, 294 (Minn. Ct. App. 1997).

[5] *See* Minn. Dep't of Admin., Data Practices, Advisory Op. 06-017 (May 25, 2006).

[6] *See* Minn. Dep't of Admin., Data Practices, Advisory Op. 17-005 (June 22, 2017).

[7] *See Moberg*, 336 N.W.2d at 518-19; Minn. Dep't of Admin., Data Practices, Advisory Op. 09-020 (Sept. 8, 2009).

[8] Minn. Stat. § 13D.065.

Spotlight on the MCIT Facility Team

The MCIT building is more than 20 years old, but thanks to the commitment of the MCIT team of Facility Manager Kevin Coleman and facility maintenance technician Nathan Haupt the building operates at a high level and remains in top condition.

The MCIT building, located just north of the Minnesota State Capitol in St. Paul, is three stories, totaling 36,771 square feet on 2.5 acres of property. The MCIT facility team is tasked with overseeing all building- and property-related activities. The team ensures that the building environment performs and functions the way the facility was designed and intended to operate, while maintaining a high-level of quality and safety standards.

Staying on Top of Small Issues

Daily tasks for the facility team include preparing meeting rooms for use by various members and tenants, grounds keeping (e.g., mowing in summer, snow removal in winter), routine safety and operation audits and repairs, as well as other activities to maintain the integrity of the facility. The MCIT building hosts about 900 meetings on average each year.

Implementing Large Improvement Projects

The facility team's work goes well beyond these daily activities, however. The team ensures the preservation of the building's integrity and infrastructure, which includes the utility systems, parking lots, drainage structure and grounds. These activities include planned, preventive, predictive and corrective (repair) maintenance.

Recently Coleman has undertaken a number of small and large capital improvement projects:

- Last summer, the original roof-top HVAC system had reached the end of its service life, and Coleman coordinated its replacement. This is one of the largest capital improvement projects the MCIT building has undertaken since it opened. The new system provides greater efficiency and improved indoor air quality to the building.

- The electronic access and intrusion systems hardware and software were updated in fall 2023.

- Last November, proactive measures were taken to protect the building's sealing components. Aging exterior sealant (caulking and gaskets) were removed and replaced to prevent air and water from penetrating the building envelope.

Looking into this year, the entry plaza and parking lots will receive a major upgrade to correct age-incurred damage to pavement and weather-sustained harm to retaining walls that can no longer be repaired. This has been in the planning stages for several years, and MCIT is excited to be moving forward with it. Corrective design improvements have been included in this project to help with longevity and sustainability in the future.

MCIT BUILDING TENANTS

In addition to housing the MCIT service team, several other organizations have their offices in the MCIT building:

- Minnesota Association of Soil and Water Conservation Districts
- Minnesota Community Action Partnership
- Minnesota Counties Computer Cooperative
- Minnesota County Attorneys Association
- Minnesota Sheriffs' Association

property or scheduling property at inaccurate or outdated values.

- Consider consulting the member's MCIT risk management consultant to make necessary adjustments.

Protect Property, Employees

For members, ensuring the safety and security of their operations is of paramount importance, and it is MCIT's goal to work with them to mitigate risks and protect their interests.

By implementing the above risk management recommendations, members can significantly reduce the risk of fires at their solid waste transfer stations, ultimately safeguarding the facility, employees and the surrounding community.

Members are encouraged to contact MCIT with any questions or to request further assistance at **1.866.547.6516.** MCIT's staff is here to support members in minimizing risks and ensuring a safe and secure operations.

FIND ALL MCIT RESOURCES IN ONE SPOT

MCIT.org/resources

This is the hub for finding all materials on all topics provided to MCIT members (e.g., articles, handbooks, guides, awareness materials, videos, webinar recordings, forms, checklists and more).

Coverage Videos

WHAT'S INSIDE...

The MCIT Bulletin has a new look.

Register Now for Jan. 17 'Open Meeting Law and Remote Participation' Webinar

This no-cost webinar details how and when members of public entity governing bodies can join and participate in open meetings remotely while being in compliance with the Minnesota Open Meeting Law.