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MMRMA Follows Time-Tested Leadership Lessons

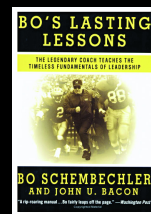
By Michael Rhyner,
MMRMA Executive Director

AT THE MARCH Risk Management Workshop, author John U. Bacon, whose most recent book is *Bo's Lasting Lessons*, described the fundamentals of leadership based on his experiences with legendary University of Michigan football coach Bo Schembechler. I believe Bo's lessons in leadership are particularly timely for MMRMA as we celebrate our 30-year anniversary.

Bacon told us that for Bo and his Wolverine team, history and tradition were fundamental keys to their success. Organizations that fail to recognize their history, Bo said, tend not to endure. MMRMA's rich history in delivering high-quality risk management programs and services has been returned in remarkable member loyalty, one of the keys to our stability and success.

Forged during a time of crisis when insurance coverage for municipalities was unavailable or prohibitively expensive, MMRMA stood up to meet this critical need. Our founders devoted countless hours to building the organization

There are clear parallels between Bo Schembechler's lessons about leadership and MMRMA's tradition of excellent member service.



and convincing other municipal leaders to join a new, untested entity.

From its earliest years, MMRMA created a culture of effective member service and support. Putting this goal into action distinguished us as an innovator in the insurance industry, pioneering risk management firsts in member education, risk sharing with reinsurers, and member-driven leadership. The benefits current members enjoy are the direct result of our tradition of excellence.

The economic climate we face today brings new and more difficult problems our founders couldn't have anticipated. As we respond

to challenges in an ever more rapidly changing environment, we must never forget why MMRMA was created and the essential role it continues to fill.

Another of Bo's lessons: preparation is a hallmark of good leadership. His Michigan coaching staff devoted considerable time to preparing for every aspect of the game. In the business of risk management, preparation is equally important. We must carefully evaluate and analyze risk exposures to avoid or mitigate losses.

Bo also prided himself on being a good listener. His leadership style was to thoroughly debate the issue and then speak with one voice. Bacon said elected and appointed officials should follow Bo's lead and take all viewpoints into consideration during the decision-making process.

Debate is healthy—but once a decision is made, the organization should speak confidently with one voice and move forward.

MMRMA has devoted considerable resources to developing sound governance models for itself and its members. Good governance is essential to well-run municipalities, which, in turn, are less susceptible to losses.

Bacon said that as busy as Bo was, he took time to work with people, one-on-one. Whether it was a star player or a third stringer, Bo made time to help people through difficult times. He remembered people, and, in turn, they remembered him for many years beyond their college football careers.

A member-driven service organization like MMRMA depends on its ability to deliver personalized service, respond quickly to member problems, and offer solutions. Bacon's remarks and *Bo's Lasting Lessons* certainly support the values we hold important as MMRMA celebrates 30 years of success.

Traffic Sign Visibility: Plan Now to Ensure Compliance

by Terry VanDoren
Risk Control Consultant

WHILE ONLY ABOUT 25 percent of road travel occurs after dark, nighttime driving accounts for nearly half of all traffic fatalities. One might suspect drunken driving and driver fatigue as the reasons for such a high rate of nighttime crashes. In fact, a major factor is the inherently hazardous nature of nighttime driving due to decreased visibility.

Poor visibility conditions can cause drivers to leave the roadway and collide with fixed objects or other cars. Some drivers may also get lost due to difficulty reading dark street signs. Traffic signs provide important information, but they need to be visible in order to be effective.

In recent years, retroreflective sheeting materials have been used more and more to enhance sign illumination at night and under other conditions causing reduced visibility. Retroreflective sheeting redirects the light from a vehicle's headlamps back toward the driver, making signs and roadway markings appear brighter and easier to read.

Nationally, efforts are underway to develop guidelines for minimum retroreflectivity standards for traffic signs.



Effective illuminated signage improves nighttime visibility and decreases highway accidents and fatalities.

Local governmental agencies have until January 2012 to establish a way to assess the retroreflectivity of traffic signs on public roadways.

In 2009, the Federal Highway Administration (FHWA) issued its *Manual on Uniform Traffic Control Devices*. The manual provides valuable information on retroreflectivity, including how well a material reflects light back to its original source—critical to nighttime driving safety.

Under a January 2008 Federal rule, local governmental agencies have until January 2012 to establish an assessment method to maintain minimum levels of sign retroreflectivity. Following this assessment, the compliance date for meeting the

minimum retroreflectivity requirements for ground-mounted signs is January 2015. Overhead signs and street name signs must be in compliance by January 2018.

The new rules apply to public roads and private property where the public is “invited to travel.” The requirements apply to most regulatory, warning, and street name signs, whether permanent, temporary, or portable. This includes stop signs, yield signs, speed limit signs, construction traffic signs, warning signs, and street signs.

The compliance dates of 2015–2018 may seem a long way off, but the phased deadlines allow local governments to prepare and allocate the necessary time, money, labor, and effort. Your community should start the process without delay.

Getting Started

The first steps are to evaluate current retroreflectivity levels and create a plan of action for bringing noncompliant signs up to standard. There are two assessment methods for determining the retroreflectivity of traffic signs:

Measuring signs with a retroreflectometer.

This is the most accurate method, but each meter costs \$10,000 or more.

Visual nighttime inspections.

This method is 88 percent accurate, costs much less, and takes less time than using a retroreflectometer.

Because the retroreflective properties of traffic control devices deteriorate over time, municipal agencies need to actively maintain signs and pavement markings to ensure that they are clearly visible at night.

MMRMA recommends that municipalities take an inventory of their signs. Each sign should be inspected annually and the results documented to prove maintenance and compliance.

For more information on developing and implementing a sign replacement plan, contact Terry VanDoren, Risk Control Consultant, at 734.513-0300.

Appellate Court: Private E-Mail May Not Be Public Record

by Jim Dyer, Attorney
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MEDIA COVERAGE of a recent Michigan Court of Appeals case, *Howell Education Association v Howell School Board*, reported that the private e-mails of public school teachers are not subject to release under the Michigan Freedom of Information Act (FOIA). Although the headlines accurately reported the decision, the impact may not be as far-reaching as news reports might suggest.

Howell v Howell clearly states that private records *may* become public records, depending on how they are used by a public employee or entity. While the case breaks new ground concerning municipal e-mail systems, this case shouldn't be interpreted too broadly, or used to deny access to records simply because they are stored electronically, as e-mail messages are.

In *Howell v Howell*, the court ruled that the personal e-mails of a public school teacher (who is also a union official) were not public records and need not be disclosed under FOIA. The school board argued the e-mails were public records because they were:

- Created on an e-mail system owned by the school district.



A Michigan appellate court ruled that the personal e-mails of a public school teacher need not be disclosed under the state's Freedom of Information Act because they didn't involve official school business.

- Stored in the district's e-mail backup system.
- School policy and the e-mail logon screen clearly warned every employee that all data on the school computer system was owned by the district.

The school board wanted to release the e-mails. In response, the teachers union filed a "reverse FOIA" action to prevent disclosure.

The court rejected the school board's arguments, citing three reasons:

1. **An e-mail must be both** retained by the public body and used "in the performance of an official function." Unless both conditions are met, the e-mail is not a public record, and disclosure under FOIA is not required.
2. **Communication between** the union and a teacher regarding union business was private communication and not "an official function" of the school district.

3. **The fact that private** e-mails were saved in a backup system did not, by itself, turn a private record into a public record subject to FOIA disclosure.

Because the e-mails in question were between union officials, were related to union business, and not used "in the performance of an official function," the court concluded they were not public records and not subject to disclosure.

Properly understood, this case can be very helpful in evaluating whether or not to disclose e-mail records. The case suggests several important considerations:

Privacy Exemption Doesn't Apply

Don't confuse this decision with the privacy exemption, which requires balancing the right to privacy against the public's right to know. These e-mails were not subject to disclosure because they were not records of an official public function. The balancing test is not applicable.

Private Matters Can Become Public Record

Simply because the e-mail relates to a private matter doesn't mean it will never be subject to disclosure. For example, an e-mail about a purely private matter might become a public record if it is used as the basis for a public decision, such as whether to award a contract or to discipline an employee for sending private e-mail on the public email system.

Public Meetings May Create Public Records

The court suggested, but did not specifically decide, that a private document read into the record at a public meeting while business is conducted could, for that reason alone, become a public record and subject to disclosure.

This case is an interesting application of the Freedom of Information Act in the context of electronic records. Although *Howell v Howell* is an unpublished decision and it is not binding on trial courts, it may well be an indication of how Michigan appellate courts will view this issue in the future.



Trillium, a protected flower in Michigan, is a welcome sign of spring.

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The *Risk Journal* is published six times a year for members of the Michigan Municipal Risk Management Authority. We welcome your feedback. To comment or suggest story ideas, please contact Tamara Christie, communications specialist, at 734.513-0300, 800.243-1324, or tchristie@mmrma.org.

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Members Get MMRMA History Lesson at Workshop

MARCH'S RISK MANAGEMENT WORKSHOP

in Lansing was a wonderful opportunity for MMRMA members to reconnect with colleagues and refresh their know-how. Turnout surpassed that of 2009, and participants were glad they took the time to attend. "It was helpful to network with MMRMA employees and put a face to a name," said one.

The opening session featured perennial favorite Tim Skubick of TV's *Off the Record*. A Lansing fixture, Tim has a unique perspective on the inner workings of Michigan government and its elections—and his insights are delivered with a healthy dose of humor.

In the first general session, MMRMA Executive Director Michael Rhyner and Director of Claims Michael Ellis reviewed the history and philosophy of MMRMA. After lunch, the Risk Management team presented an overview of its many projects and services, including outstanding training opportunities for members. At its meeting in conjunction with the March workshop, MMRMA's Membership Committee awarded RAP grants for these training-related projects:

- > Sudden Death In Custody Workshop
- > Sudden Death In Custody Curriculum Revision
- > Tactical Encounters for Police Officers
- > Writing Protocols: Policies & Procedures

- > Controlling Through Effective Discipline and Effective Grievance Processing
- > Canine Refresher Training
- > Rapid Deployment to Active Shooters
- > Advanced Sheriffs & Chiefs School
- > U.P. Criminal Justice Association Conference
- > TASER Recertification Training
- > Firearms Diagnostic Unit Upgrade

Breakouts Deliver Practical Tips

The workshop also featured breakout sessions on current hot topics, from homeland security issues in Michigan to the latest laws on governmental immunity. Two sessions on human resources—one on hiring and probation, and another on effective discipline and firing—proved very popular. One participant said, "I attended the HR training and found it helpful with tips I'll put to use on the job."

After a full day of listening, learning, and networking, guests were happy to mingle at the reception and then have a few more laughs thanks to special guest John U. Bacon. (See front page for a discussion of how Bacon encapsulated Bo Schembechler's leadership lessons and how they reflect MMRMA's success and longevity.)

MMRMA thanks everyone who attended the fifth annual Risk Management Workshop. Your participation helps make this event a success, year in and year out.

Emergency Scene Traffic Management Resource

MMRMA's Fire/EMS Advisory Committee has published a model policy and procedure guide, *Emergency Scene Traffic Management*, for MMRMA member Fire/EMS agencies. The guide establishes safe parking practices for fire department apparatus and

vehicles operating in or near moving traffic, and also suggests ways to keep firefighters and law enforcement officers safe while working in hazardous traffic situations. Contact the Risk Management Department at 734.513-0300 to request a copy of the guide.



Safety reference cards with diagrams of proper vehicle placement are also available.