A Day In The Life



Harriet Steiner, Best Best & Krieger

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ML: Harriet, tell us where your career path began.
After college at the State University of New York (SUNY) Binghamton, I obtained a master's degree in library science from SUNY at Albany and began working as a librarian in a town outside of New York City. While I enjoyed library work, I wanted a career that could have more immediate impact. After working on a program in which lawyers came to the library and gave talks, and talking to several attorneys, I decided that being a lawyer sounded like something I would enjoy (and maybe be good at). I picked up, moved to California and entered McGeorge School of Law in Sacramento.

ML: From town librarian in New York to California law student, in three sentences. You make it sound easy. How did your connection with municipal law come about?
The same day I started McGeorge School of Law's evening program, I was hired by the local law firm of McDonough Holland and Allen as its librarian. Shortly after, I became the legal assistant for the public agency lawyers at the firm. I started working on city projects – both litigation and non-litigation matters. I loved both the legal work and my association with city officials and employees. When I graduated law school, I was lucky to be able to continue to work for the firm and with these clients--which included cities and other public agencies. As soon as I passed the bar, I took over as the city attorney of Lincoln, California, a client I had worked with previously. Working with Lincoln and with the other public agencies provided wonderful "on the job" training. I joined Best Best & Krieger in 2010.

ML: So you've stayed *in* the private sector while working *with* the public sector. How would you compare your effectiveness as a municicplal attorney being in a private firm to serving full-time as an in-house municipal lawyer?
One of the advantages to my affiliation with BB&K is the ability to work for more than one agency at a time and see how different agencies address similar situations. The variety of experiences helps me provide sound advice to different cities with different goals. In addition, the variety helps keep me on top of trending issues that may affect my city clients. Working in a private firm also allows me to both provide general counsel advice and have time to specialize in areas that I find challenging and interesting, such as telecommunications, public finance and land use.

As to disadvantages – depending on the city client, I am often not brought in early enough on new projects and plans, which limits my ability to prevent and address issues at the earliest stage possible. I have not worked as an in-house city attorney, but I know many and I think that the in-house attorneys may have a closer relationship to staff and be more attuned to the city's internal processes and, possibly, emerging issues at the city.

ML: And what would you say are the ramifications to the municipalities that use outside counsel rather than employ full-time in house attorneys?
There are, obviously, pros and cons to the cities with contract city attorneys versus in-house attorneys. I think that one of the pros is our ability to provide services as needed – some months the city has more legal issues or projects than other months, and we have the flexibility to provide services as needs arise and on a timely basis. In addition, I am able to draw on the expertise of other attorneys in the firm on a moment's notice by walking down the hall or picking up the phone. For example, a while ago, very late in the afternoon, I got a call regarding medical marijuana storage and use from the city's cold weather shelter operator. I was able to reach one of my partners who is known statewide for medical marijuana regulations in California and he provided a knowledgeable answer in time for the nightly check-in at the cold weather shelter.

Similarly, I can provide my expertise to other city attorneys and general counsels at BB&K in areas such as cell tower siting, city taxes and fees, and land use issues and impact fees.

ML: Are you retained on an annual/monthly/hourly basis—how does the "money part" work?
The majority of my public agency clients pay on an hourly fee basis, with different rates depending on the type of legal work required. One of my city clients has an overall monthly retainer for general city attorney work, with hourly rates for specialized work and work that is reimbursed by third parties.

ML: To whom are you accountable within your municipality?
I am accountable to the city council, which hires two people – the city manager and the city attorney. I work closely with the city manager and management staff, but I am independent of the city management and accountable only to the city council.

ML: Clearly there's a lot of flexibility in-

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volved. How do you allocate your time?
Allocation of time is a difficult and fluid issue. I often think I would drown in projects without the wonderful attorneys at my firm that function as my assistant city attorneys and do most of the drafting and research necessary to respond to the city on a timely basis. Most days, my to-do list starts with the phone calls I get on my drive to the office. No two days are the same and there is never a dull moment.

Most of my time is spent in meetings or on phone calls with city management staff, talking through issues that don't have easy answers or projects that need to be scoped or reviewed. I spend the majority of my time these days working on utility issues – water and sewer issues, including rate setting, and finance issues. In addition I spend a lot of my time on land use and planning issues. Most recently, as the clients approach the election season, I have been working on structuring taxes that will be placed on the ballot and reviewing other ballot and election issues. In addition, I am very involved in litigation regarding the legality of the way water and sewer fees are structured.

ML: That's a broad spectrum, plenty wide to have generated some notable moments. What are some of the successes you're most proud of?
Thanks to Davis, California's desire to conserve the farm land adjacent to the city, I drafted what I think was the first, or one of the first, agricultural preservation ordinances in the country. This ordinance required new development to obtain preservation easements on two acres of land for every one acre that was to be developed. The city holds conservation easements on most of this property, and the fee interest in others. This ordinance, together with an open space tax ordinance that the voters approved by more than a two-thirds vote, has resulted in the preservation of 5,000 acres of farm and open space lands in the area around Davis. I also helped develop and draft an affordable housing inclusionary zoning ordinance that has provided land for much-needed affordable housing projects and developer-built affordable units in the city over the last 25 years.

I have also worked on numerous cable franchise renewals and cell facility matters that have provided added value to my public clients. For example, I have negotiated several fiber optic institutional networks for cities and other agencies that are currently in place and are providing broadband services to the agencies. Some of the public agency clients that I have assisted in siting cell towers or other facilities have been receiving rental income that has helped them to whether the recession.

Lately I have been working on greenhouse gas reduction and energy issues that are extremely interesting. For example, I have been working on energy conservation requirements for new development and net zero energy development standards. In addition, the City of Davis has begun a review of electricity service and costs to determine, after due diligence, whether it wishes to become a publicly owned utility and acquire the existing electrical facilities from the incumbent investor owned utility.

ML: So you continue to be involved in leading-edge issues. May we assume you'd recommend the municipal law route to other attorneys?
I would encourage attorneys who are interested in public service to consider working for cities and counties. The work is extremely challenging, offering both the ability to assist local agencies in reaching their policy goals and helping create facilities and services to improve the lives of citizens within the jurisdiction. In addition, even after practicing in this area for 30 years, there continue to be questions posed that have not arisen before and have no easy answers, creating a continual challenge to provide practical and constructive advice to city clients.

ML: Parting thoughts?
When I drive or bike around the City of Davis, where I have been city attorney for more than 25 years, I marvel at the many projects and facilities that I have assisted the city in creating and implementing. I think the day-to-day work that has helped the city over the years is truly rewarding as I look back to see if I have helped to make a difference.

-Thank you, Harriet. ML

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beneficial. Further, I believe that responsible owners will understand the need for some reasonable regulation of the activity and likely comply without hesitation. The problem will arise with those owners who get the chickens just for fun and really have no concept of how to keep and maintain them properly.

Another issue that has come to mind with backyard chickens is the issue of slaughter. I understand that chickens may only lay eggs for a finite time frame. Once that time period ends and the chickens no longer provide eggs to the owner, what if the owner wants to slaughter the birds for meat? The distinct possibility of an owner desiring an allowance for that activity brings another set of circumstances and problems to address. Hopefully we will gain enough input and information from those interested in the activity to address all of the issues that might arise.

As I get geared up to work on backyard chickens, my mind turns to the future and whether I will also be looking at potbellied pigs and goats. Hmmm... food for thought (so to speak).

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cation? Two important reservations about unquestionably accepting a sworn application for later certification as a business record: First, even a truthful applicant could be relying in good faith on information from others. Second, virtually every document submitted to a government raises a risk of criminal penalties for the submitter if the document contains material falsehoods – the oath (or certificate under penalty of perjury) really adds no additional assurance of veracity.

What if the sworn application includes a statement that the applicant has personal knowledge of the facts in the application? As a practical matter, I think this is as close as we can expect to get to providing an assurance of "personal knowledge," unless the custodian has reason to doubt the accuracy of either the statement of personal knowledge or the truth of substantive matters stated in the application.[5] The form of the record cannot substitute for the custodian