

THE MUNICIPAL REPORTER

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2016 DISTRICT MEETING SCHEDULE

<u>DATE</u>	<u>DISTRICT</u>	<u>LOCATION</u>
Monday, March 14	#4	Tucumcari Convention Center 1500 Route 66 Tucumcari, NM 88401 (575) 461-3064
Tuesday, March 15	#5	Roswell Museum & Art Center 100 West 11 th Street Roswell, NM 88201 (575) 624-6744
Wednesday, March 16	#6	Sgt. Willie Estrada Memorial Civic Center 800 East First Street Alamogordo, M 88310 (575) 439-4100
Friday, March 18	#7	Global Resource Center Auditorium Western NM University 1000 West College Avenue Silver City, NM 88062 (575) 538-6011
Monday, March 21	#2	Santa Fe Convention Center 201 West Marcy Street Santa Fe, NM 87501 (800) 777-2489
Tuesday, March 22	#3	Raton Convention Center 901 South 3 rd Street Raton, NM 87740 (575) 445-8679
Wednesday, March 23	#1	Cibola County Convention Room Cibola County Courthouse 515 West High Street Grants, NM 87020 (505) 287-9431
Thursday, March 24	#8	Los Poblanos Historic Inn 4803 Rio Grande Boulevard NW Los Ranchos de Albuquerque, NM 87107 (505) 344-9297

Interstate Stream Commission Appoints New Administration Operations Manager for Water Planning

The Interstate Stream Commission (ISC) has appointed Emily Geery as its new Administration Operations Manager for Water Planning. She will manage both the Regional and State Water Planning Program.

Emily previously worked for the Office of the State Engineer's Water Use and Conservation Bureau. Before that she worked for the New Mexico Environment Department as the Drinking Water Bureau Source Water Protection Program Coordinator.

Emily holds a Bachelor's Degree in Mass Communications as well as Masters Degrees in Water Resources and Community and Regional Planning.

The nine-member Interstate Stream Commission is charged with protecting New Mexico's right to water under eight interstate stream compacts, ensuring the state complies with each of those compacts, as well as investigating, conserving and protecting the waters of the State, in addition to water planning.



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GovSense Joins ICMA Strategic Partner Program

The International City/County Management Association (ICMA) welcomes GovSense, LLC, developers of a cloud-based enterprise resource planning (ERP) tool designed specifically for local government, to the [ICMA Strategic Partners Program](#) at the general partnership level.

Govsense provides local governments with an efficient, yet, inexpensive tool they can use to facilitate land-use planning, project review, regulatory management, permitting and inspections, code enforcement, citizen requests, asset management, work-order management, and more while being the best possible stewards of taxpayer dollars. GovSense's experience with practical technology applications will contribute to ICMA's thought leadership on best practices for local community management.

"Partnering with a company such as Govsense underscores ICMA's commitment to helping our members embrace and better utilize technological advances," said ICMA Executive Director Robert J. O'Neill, Jr. "As an ICMA Strategic Partner, Govsense's expertise and experience will enrich our organizational content and put a cost-effective, cloud-based solution into the hands of our members."

"We're excited to join ICMA as a Strategic Partner and to bring state and local governments a revolutionary ERP solution focusing on land, license, and financials," said Gary McTall, GovSense co-founder and chief technology officer. "We're confident that our partnership with ICMA will help more jurisdictions build smarter communities faster."

The ICMA Strategic Partners Program was created in 1996 as an access point for private-sector participation in ICMA programs and activities. ICMA Strategic Partners are granted opportunities to help professional local government managers by showcasing leading practice solutions and providing thought leadership.

[About ICMA](#)

ICMA, the International City/County Management Association, advances professional local government management worldwide. The organization's mission is to create excellence in local governance by developing and advancing professional management to create sustainable communities that improve lives worldwide. The management decisions made by ICMA's members affect millions of individuals living in thousands of communities, from small villages and towns to large metropolitan areas. Visit <http://icma.org>.

[About Govsense](#)

GovSense is a cloud-based enterprise resource planning tool designed specifically for local government. The company's goal is to provide local government with efficient, inexpensive tools they need to build smarter communities that will unify their departments and communities, while being the best possible stewards of taxpayer dollars. GovSense wants to make frustrating lines, broken processes, and department silos a thing of the past. Visit www.govsense.com.



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Supreme Court Case Focuses on Constitutionality of Local Sign Ordinances

By Randy Van Vleck, League General Counsel

On June 18, 2015, the Supreme Court of the United States decided the case of *Reed v. Town of Gilbert*. ___ U.S. ___, 135 S.Ct. 2887(2015). The *Reed* decision addressed one of the most vexing, yet common areas of municipal regulation - signs. The Supreme Court, on the one hand simplified the law in this area, but on the other hand in all likelihood rendered large portions of most sign codes unconstitutional. Thus, this decision is very important for local governmental officials and their attorneys to understand.

As a backdrop, it is important to understand that local government authority to regulate signs is based upon the exercise of “police power.” The regulation of signs however is further limited because signs are a form of communication that is protected by the First Amendment free speech provisions of the state and federal constitutions. The First Amendment prohibits adopting laws “abridging the freedom of speech .” Local governments consequently have “no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *Police Department of Chicago v. Mosley* 408 U.S. 92 (1972).

The Town of Gilbert, Arizona adopted a comprehensive code governing the manner in which people may display outdoor signs. The Sign Code prohibits the display of outdoor signs anywhere within the Town without a permit, but it then exempts 23 categories of signs from that requirement. Three categories of signs were the subject of the Court’s decision: Ideological Signs, which include signs “communicating a message or ideas for noncommercial purposes; Political Signs, which include temporary signs designed to influence the outcome of an election called by a public body; and Temporary Directional Signs Relating to a Qualifying Event, which includes any temporary sign intended to direct pedestrians, motorists, and other passersby to a qualifying event.

A “qualifying event” is defined as any “assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, or other similar non-profit organization. Each category of signs was subject to different regulations. Ideological signs could be up to 20 square feet in size and could be placed in all zoning districts without any time limitations. Political Signs were limited to 16 square feet on residential property and up to 32 square feet on nonresidential property, undeveloped municipal property, and rights-of-way. Political signs could be displayed up to 60 days before a primary election and up to 15 days following a general election. Temporary Directional Signs Relating to a Qualifying Event must be no larger than 6 square feet and may be placed on private property or public right of way, but only up to 12 hours before the qualifying event and no more than 1 hour after the event.

(Continued on page 5)



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Supreme Court Rule . . . continued from page 4

Pastor Clyde Reed of Good News Community Church challenged the sign regulations as an infringement of the Church's First Amendment right to free speech. The Supreme Court, unsurprisingly held that Content-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and maybe justified only if the government proves that they are narrowly tailored to serve compelling state interests. *R. A. V. v. St. Paul*, 505 U. S. 377, 395 (1992); *Simon & Schuster, Inc. v. Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 115, 118 (1991).

The Court further found that the Town of Gilbert's sign ordinance was content based on its face. The ordinance defined "Temporary Directional Signs" on the basis of whether a sign conveys the message of directing the public to church or some other "qualifying event." It defined "Political Signs" on the basis of whether a sign's message is "designed to influence the outcome of an election." And it defined "Ideological Signs" on the basis of whether a sign "communicates a message or ideas" that do not fit within the Code's other categories. *Id.*, at 23. It then subjects each of these categories to different restrictions. The Court was correct in deciding that this ordinance must face a strict scrutiny analysis, namely that it must survive an analysis demonstrating that it is narrowly tailored to serve a compelling governmental interest. This ordinance, like countless others throughout the country, cannot meet this test and therefore are unconstitutional. Regulating signs, based upon their message, even if there is no discriminatory intent nor intent to regulate a sign based upon any disagreement with the message. The decision simply said that regulations that are content based should be subjected to strict judicial scrutiny because of the fundamental right to free speech.

Take a close look at your local sign code. If it makes distinctions based upon the message of the sign, it is most likely unconstitutional after *Reed*. Distinctions such as are traditionally made for political signs, real estate signs, garage sale signs and the like cannot survive strict judicial scrutiny, which requires the regulation to be narrowly tailored to serve a compelling governmental interest. There is, however, some good news. The majority opinion identified several content neutral vehicles for regulating signs: size, building materials, lighting, moving parts, and portability area just a few. The opinion even suggests the Town could "go a long way toward" banning all signs on public property if it did so in an even-handed, content neutral manner. In his concurring opinion, Justice Alito outlines several specific ways in which signs can be regulated and still comply with the directives in *Reed*.

Justice Alito suggests that any of the following "rules" would not be content based:

1. Rules regulating the size of signs;
2. Rules regulating the locations in which signs may be placed;
3. Rules may distinguish between free standing signs and those attached to buildings;
4. Rules distinguishing between lighted and unlighted signs;

5. Rules distinguishing between signs with fixed messages and electronic signs with messages that change;
6. Rules that distinguish between the placement of signs on private and public property;
7. Rules distinguishing between the placement of signs on commercial and residential property;
8. Rules distinguishing between on-premises and off-premises signs;
9. Rules restricting the total number of signs allowed per mile of roadway; and
10. Rules imposing time restrictions on signs advertising a one-time event.

Cities can, should and must revise their sign codes to comply with *Reed*. There are reasonable and effective means to achieve the desired goals surrounding the regulation of signs without offending free speech values. The *Reed* decisions gives municipalities an opportunity to review their existing sign ordinances with a view towards making them effective, yet content neutral.

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