

Popular Government

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Also A New Model for Local
Government Responsibilities
Tying the Knot in N.C.



Popular Government

James Madison and other leaders in the American Revolution employed the term "popular government" to signify the ideal of a democratic, or "popular," government—a government, as Abraham Lincoln later put it, of the people, by the people, and for the people. In that spirit *Popular Government* offers research and analysis on state and local government in North Carolina and other issues of public concern. For, as Madison said, "A people who mean to be their own governors must arm themselves with the power which knowledge gives."

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Established in 1931, the Institute of Government provides training, advisory, and research services to public officials and others interested in the operation of state and local government in North Carolina. The Institute and the University's Master of Public Administration Program are the core activities of the School of Government at The University of North Carolina at Chapel Hill.

Each year approximately 14,000 public officials and others attend one or more of the more than 200 classes, seminars, and conferences offered by the Institute. Faculty members annually publish up to fifty books, bulletins, and other reference works related to state and local government. Each day that the General Assembly is in session, the Institute's *Daily Bulletin*, available in electronic format, reports on the day's activities for members of the legislature and others who need to follow the course of legislation. An extensive website (www.sog.unc.edu) provides access to publications and faculty research, course listings, program and service information, and links to other useful sites related to government.

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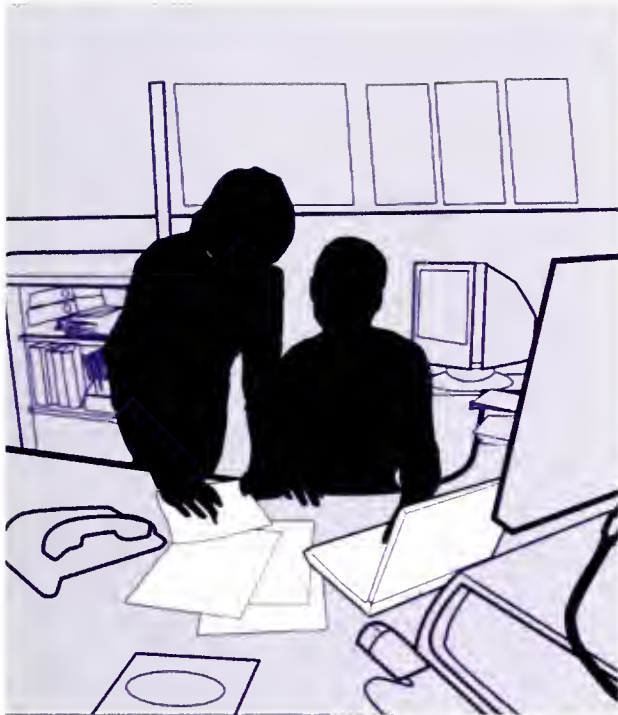
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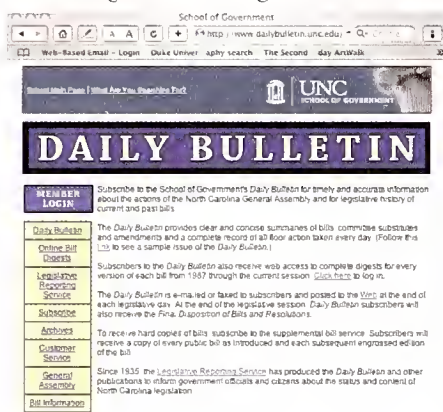


ON THE COVER: North Carolina is transforming its laws and procedures for maintenance of land records.

Digests of Bills Now Available Online through School of Government

As part of its Legislative Reporting Service, the Institute of Government now is offering a new feature: online digests of bills filed in the General Assembly. This unique service was previously available only to legislators and their staff.

For each bill, a single document provides a digest of the original bill and a



summary of each subsequent change, including amendments, committee substitutes, conference reports, and enactment.

For more than sixty years, the subscription-based Legislative Reporting Service has informed local governments, state agencies, and North Carolina citizens about the status and the content of North Carolina legislation. The centerpiece of the Legislative Reporting Service has been the *Daily Bulletin*, published at the end of each day that the General Assembly is in session. The *Daily Bulletin* contains a summary of every bill introduced and every amendment, committee substitute, and conference report adopted. It also records the daily action taken on the floor of the House and the Senate with respect to each bill.

Summaries of each version of every bill introduced in the General Assembly from 1987 through 2002 now are avail-

able to the public online. By subscribing to the *Daily Bulletin*, clients gain access from 1987 through the current session.

Access to the digests of these bills provides insight into context and background, as well as evidence of legislative intent. It allows researchers to trace the evolution of a bill from proposal to law. Librarians, attorneys, judges, law clerks, law school personnel, lobbyists, and others find the *Daily Bulletin* and its associated programs useful, for they save time and effort in researching legislation.

To access the new free online service (digests from 1987 through 2002), go to www.dailybulletin.unc.edu, and click the Archives link.

To subscribe to the *Daily Bulletin*, go to www.dailybulletin.unc.edu, or contact the School of Government's publications office, at (919) 966-4119 or sales@sog.unc.edu.

Gastonia Mayor Honored as Woman Municipal Leader

On December 9, at its annual Congress of Cities, the National League of Cities named Jennifer Stultz, mayor of Gastonia, as one of two winners of the first Women in Municipal Government (WIMG) Leadership Award. Stultz, Gastonia's first female mayor, and Marilee Chinnici-Zuercher, mayor of Dublin, Ohio, were honored for their outstanding achievements as local elected leaders.

Since taking office in 1999, Stultz has overseen investments of more than \$25 million in the center city and downtown development and more than \$104 million in a new and expanded industrial base. In 2000 she established a Mayor's Task Force on Homelessness, which has reduced Gastonia's homelessness by 20 percent and is now developing a Ten-Year Plan to End Chronic Home-



lessness. She was instrumental in halting the demolition of the city's historic courthouse, built in 1911, and she and the city council worked to get it remodeled into a one-stop shop for business. In 2003 she established the city's first Mayor's Youth Council. In 2004, NC TASH (formerly the Association for Persons with Severe Handicaps) named her its Community Advocate for her support of disabled and homeless persons.

WIMG launched the Leadership Award to showcase and honor the achievements of women in local leadership. The sponsors are General Motors Corporation and ICMA Retirement Corporation. WIMG was established in 1974 to serve as a forum for communication, networking, and information-sharing among female municipal officials and their colleagues around the nation.

Workshops to Build Community Capacity to Stop Domestic and Sexual Violence

All communities in North Carolina experience domestic and sexual violence. Most have programs to respond to the needs of victims and to educate the community about prevention of future violence. Unfortunately, that might not be enough.

With support from the N.C. Governor's Crime Commission, the Public Intersection Project at the School of Government will host seven workshops in early 2006 bringing key stakeholders together to assess and strengthen their community's capacity to stop domestic and sexual violence.

Invitations have been sent to city and county managers and elected officials, directors of domestic and sexual violence programs, leaders of area United Ways, and foundation officers. Community leaders from the private sector and from faith-based organizations are encouraged to attend.

A team of up to eight participants from each community will decide which workshop to attend together. For more information about the workshops or registration, go to www.publicintersection.unc.edu/registration.htm.

Dates and locations for the seven workshops are as follows:

January 18	Washington
February 7	Wilmington
February 15	Chapel Hill
March 13	Lenoir
March 14	Winston-Salem
March 22	Concord
April 7	Sylva

For more information about the content of the workshops or about encouraging the participation of your community stakeholders, contact Margaret Henderson at (919) 966-3455, margaret@sog.unc.edu, or Lydian Altman-Sauer at (910) 592-4408, lydian@sog.unc.edu.

A Treasure Chest of Practical Knowledge

In 1931, law professor Albert Coates began a private enterprise, the Institute of Government. He saw a need for organized instruction, research, and advice to meet the practical needs of North Carolina public officials. Seventy-five years later, the School of Government is the legacy of Coates's vision and drive, supported by many North Carolinians across the decades. The School is a treasure chest of practical knowledge, enhancing the lives of North Carolinians by engaging in scholarship that helps public officials and citizens understand and improve state and local government.

Popular Government has been one mainstay of the School's history, publishing continuously since 1931. Throughout 2006 the magazine will mark the School's seventy-fifth anniversary in a variety of ways, including seeking the views of public officials about the next twenty-five years for North Carolina, its governing institutions, and the role of the School.

In this issue I am glad to highlight the core of how the School helps citizens and public officials. A list of topics in which faculty have expertise is included as a perforated insert. Faculty teach, write, and advise officials in all one hundred counties and in hundreds of cities across the state. Further, they assist officials of the judicial system, state government agency officials, and members of the North Carolina General Assembly.

The array of subjects in which faculty have expertise goes from A to Z—from laws on abuse and neglect (of children or elderly people) to zoning. It reflects the consistency of the School's mission and its flexibility to meet the needs of the twenty-first century. Some recent efforts of the School to keep pace with developments in law, finance, and public administration are the North Carolina Civic Education Consortium, the Center for Public Technology, and its support and hosting of the UNC at Chapel Hill Environmental Finance Center.

We welcome your thoughts on what the role of the School should be in supporting government officials and citizens in 2006, and what the future holds for North Carolina, its citizens, and state and local government officials. Send your ideas to John Stephens, editor, *Popular Government*, at (919) 962-5190 or stephens@sog.unc.edu.

Michael R. Smith, Dean, School of Government

First Class Graduates from CIO Certification Program

In November 2005 the inaugural class of the School of Government's Chief Information Officer (CIO) Certification Program graduated. The class included thirty-four local government directors of information technology from various counties and municipalities across the state.

Initiated in January 2005, the program is the first in the nation specifically targeted at local government CIOs. It consists of ten two-day modules, yielding 240 hours of instruction. Topics include enterprise issues, strategic technology planning, communication, project management, emerging trends, risk assessment and management, acquisition management, change management, leadership, security, grantsmanship, and financial trends.

For additional information on the CIO program and other offerings of the Center for Public Technology, visit the center's website at www.cpt.unc.edu.



A Metamorphosis in the Maintenance of Land Records

Charles A. Szypszak

Local governments perform the usually inconspicuous but vital function of maintaining public records of private real estate ownership. The purchase and the financing of real estate in a market economy depend on accessible and reliable information

North Carolina's public real estate records are managed by county registers of deeds. These elected officials are governed by laws and practices that fundamentally have remained the same during radical increases in the volume and the complexity of real estate conveyances and finance, even as entirely new technologies have become available for processing information.

about ownership interests: Purchasers count on the records to confirm that sellers have rights that may be transferred. Lenders rely on the records to make certain that the interests borrowers offer as security are what they are represented to be.

The author is a School of Government faculty member specializing in real property law. Contact him at szypszak@sg.unc.edu.

North Carolina's public real estate records are managed by county registers of deeds (for definitions of "register" and other terms that appear in boldface type, see the sidebar on page 6). These elected officials are governed by laws and practices that fundamentally have remained the same during radical increases in the volume and the complexity of real estate conveyances and finance, even as entirely new technologies have become available for processing information.

North Carolina now is transforming its land record laws and recording procedures to adjust to the modern transactional environment. The state just took a big step with legislation that fundamentally changes the registers' role by limiting their responsibility for reviewing documents submitted for recording, or registration.

The registers' role soon will change even more dramatically with the implementation of widespread electronic recording. This article briefly describes the challenges and the opportunities now facing registers of deeds.

Real Estate Transfers

Real estate is a major component of investment and wealth. From an individual perspective, it may be someone's cherished home. Valuable assets attract fraud. Much of real estate law is in-

tended to address this risk, providing mechanisms for protecting valid rights of ownership against wrongdoing.

At the heart of this law are rules requiring documentary proof of ownership and giving priority rights in competing claims to those who record their documents publicly. The land records maintained by county registers play a central role in the operation of the rules. This role is evolving in response to changes in the nature of real estate transactions and in the technology for creating, transferring, and storing documents.

Authenticating Documents

For centuries the law has required that those claiming to have acquired an interest in real estate have some written evidence of the conveyance.¹ This rule stems from the English Statute of Frauds, which was imported into the American legal system and is firmly embedded in North Carolina law.

But documents can be forged and used to commit fraud. The law therefore imposes requirements of formality on documents intended to convey real estate interests.

Not much is required for a document to prove a real estate conveyance—only enough information to identify the property and the parties, and a signature by the person making the conveyance. But such an informal document may raise questions of authenticity.

To address this concern, a document's execution is acknowledged by a third party with official capacity. Usually this function is performed by a notary or a notary public, who is commissioned by the state and governed by procedural

rules (which in North Carolina fall within the secretary of state's jurisdiction). Certain other government officials, such as clerks of court and registers, also are authorized by statute to perform this function. The official verifies the signer's identity on the basis of the official's personal knowledge, identification such as a driver's license, or recognition by someone else known to the official. The official then puts evidence of this acknowledgment on the document, with a statement of the event and his or her signature and seal. In North Carolina, instruments of conveyance, including deeds, deeds of

prevent fabricated claims that real estate was conveyed. Fraud also can occur with multiple transfers, each of which involves a document that is properly signed and acknowledged. The recording system provides a mechanism for buyers to ascertain the ownership rights of people offering to convey real estate, and to protect themselves against wrongful claims.

Elaborate rules have evolved on the basis of the notion that those who first make a public record of their ownership have priority over those who do not. Potential buyers can protect themselves

person conveys the same real estate twice, and only recording matters, a second buyer who knows of the prior conveyance is rewarded by recording first.

Most states address this problem by subordinating the rights of a buyer who had actual knowledge of a prior transfer to the first person who innocently bought real estate. North Carolina is one of the few states that do not take actual knowledge into consideration in determining the priorities of competing real estate transfers. Since 1885 the state has had what is known as a "race" type of recording statute, in which the first to



trust, and mortgages, may not be recorded without such acknowledgments or equivalent forms of proof or verification recognized by state law. If they are, they are denied the legal effect accorded to instruments properly recorded.²

Recording Documents

The requirements for documentation and acknowledgment are intended to

against fraud and verify the sellers' rights by examining the public record for prior conveyances. Someone who fails to record a conveyance runs the risk that someone else will acquire a superior right to the property by recording first.

Although recording priority may seem straightforward, occasionally someone has actual knowledge of a prior conveyance that has not yet been recorded. If a

record prevails in a contest of priorities, with only very narrow exceptions.³ Thus, recording promptly and properly is extremely important.

The land records maintained by registers therefore are vital to real estate transactions. The enforceability of someone's claim to ownership depends on both the validity of the instrument by which the ownership was acquired

Some Common Terms Used at the Register of Deeds

Acknowledgment: An act in which a signer who is personally known to an official, or whose identity is proven to the official by satisfactory evidence, indicates in the official's presence that he or she has signed a record voluntarily.

Conveyance: Transfer of property, or an interest in property, from one owner, usually known as the grantor, to another, usually known as the grantee.

Deed: An instrument conveying an interest in real property. Usually referred to by the nature of the assurances being given by the seller, such as "warranty deed," which gives the greatest assurances, or "special warranty deed" or "quitclaim deed," which give more limited or no assurances. Deeds also can be used for transfer of real estate interests that are less than ownership, such as easements.

Deed of trust: A security instrument by which a third-party "trustee" is conveyed an interest in real estate as security for an obligation owed by the owner to a lender. The deed enables the trustee to sell the real estate and apply the proceeds to the obligation if the owner breaches the loan agreement.

Mortgage: An interest in real estate conveyed by its owner to a lender as security for an obligation, which will entitle the lender to sell the real estate and apply the proceeds to the obligation if the owner breaches the loan agreement.

Notary, notary public: A person commissioned by a state authority to perform notarial acts, including acknowledgments, verifications, and proofs. The laws of various states and nations also give similar powers to other officials, such as registers, clerks of court, attorneys, justices of the peace, military officials, and consular officers.

Proof, verification: An act in which a person certifies under oath or affirmation to have witnessed another person execute, record, or acknowledge his or her signature on a record already executed.

Register: In North Carolina, an elected county official charged with maintaining real estate records, which involves accepting real estate instruments for recording, indexing them, and maintaining the records for public access. In some jurisdictions, called "registrar" or "recorder." Registers in North Carolina are local custodians for several other types of records, such as marriage licenses, military discharges, birth and death records, certificates of assumed names, and notary commissions.

Registration: The process by which an instrument conveying an interest in real property becomes a public record and is deemed to give constructive notice to the public. Historically this notice was given by storing the instruments, or copies of them, in the order of receipt in sequentially numbered pages in books. Also called "recordation."

Satisfaction: A record that a security instrument, such as a deed of trust or a mortgage, is no longer an effective lien on the real estate. Also, the act of fulfilling the obligations of a security instrument, or the act of making a record of that event. Sometimes called "discharge," "release," "termination," or "cancellation."

Security instrument: Any of a number of documents granting a creditor an interest in property as security for an obligation, including a mortgage or a deed of trust.

and the rights that follow from having properly recorded the transfer with the register of deeds.

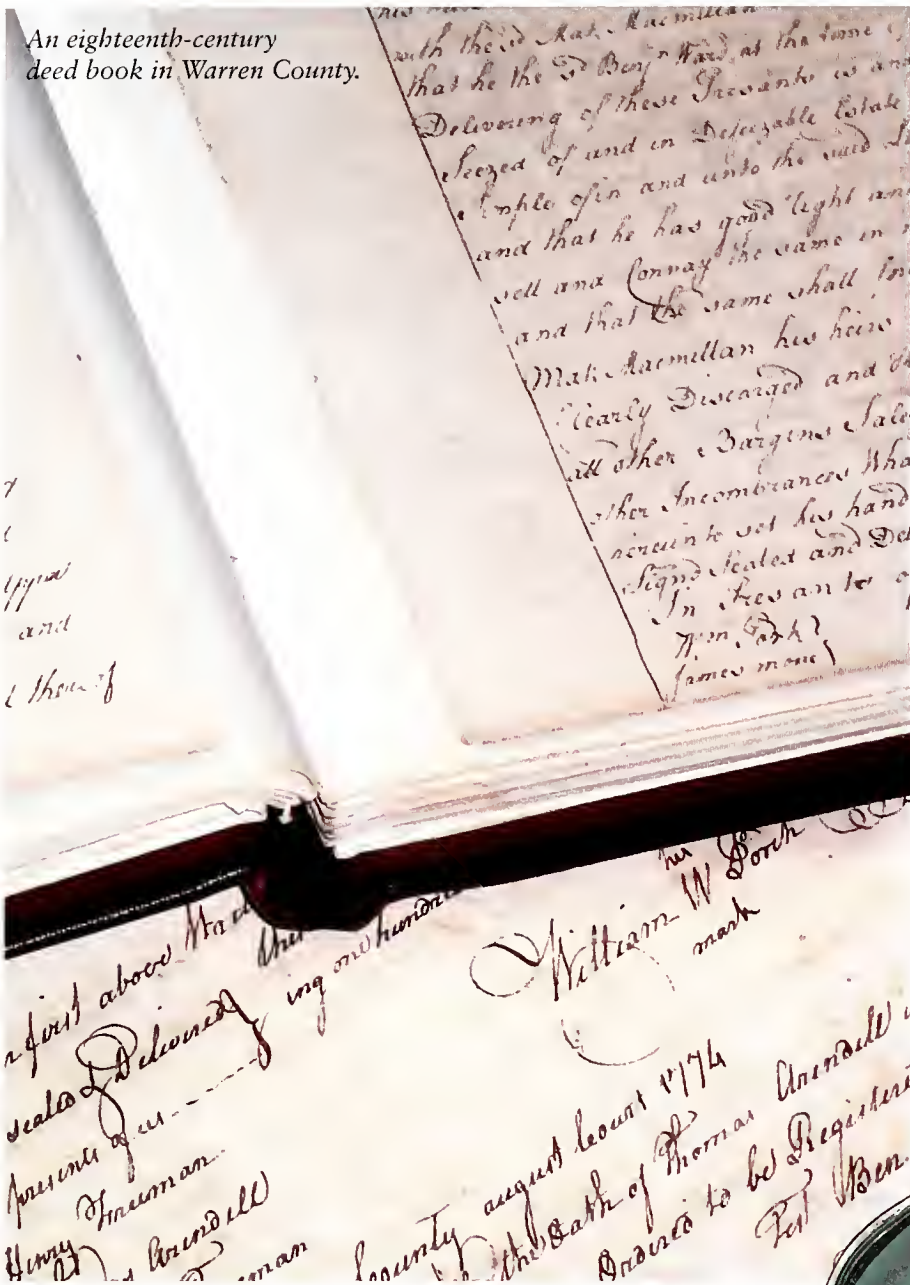
To perform their intended function, the records must be both accessible and reliable. The laws intended to make them so were written when transfers were infrequent and mortgage arrangements were simple. The laws and their related practices remain much the same today, despite an explosion in the volume and the complexity of real estate transactions and mortgage financing. What once called for a simple, familiar document now often involves lengthy documents prepared to comply with complex regulatory and mortgage market requirements assembled via an electronic process connecting distant parties. Changes now are under way to align the registers' role with these modern realities.

The Registers' Role

The importance of public recording places a heavy burden on registers. As a general rule, registers only provide a mechanism for private parties to record their instruments of conveyance. Registers are not licensing or reviewing authorities who validate conveyances. But rules for recording are inescapable if the records are to be accessible and reliable. The rules that all registers must enforce include ensuring that the instruments submitted for recording are land records, that they can be reproduced legibly, and, increasingly, that certain other formalities are observed, such as payment of recording fees and excise taxes.

In almost all states, registers have tightly circumscribed responsibilities for reviewing the contents of documents submitted to them for recording. The law requires, for example, that registers review documents presented for recording only for basic indexing information and reproduction quality; registers do not look at the documents' contents to see that they include everything needed for legal sufficiency, such as a notarial acknowledgment.⁴ Some jurisdictions require that the register simply check for an acknowledgment or a proof and not accept an instrument if an acknowledgment or a proof is missing.⁵

An eighteenth-century deed book in Warren County.



judged the instruments to be duly acknowledged and the certificates to be in due form, it ordered the instruments to be recorded by the register. In 1967 the burden of probating was shifted to the registers of deeds and remained with them until 2005.⁹

North Carolina registers also have played an unusually active role in handling records of real estate finance. A security instrument, which in North Carolina may be a mortgage or a deed of trust, is recorded with the register at the time the loan is made, to give the lender rights in the real estate, including the right to foreclose on default. Usually when a loan is made for a new mortgage or deed of trust, the real estate is subject to a prior mortgage or deed of trust, which will be satisfied with the proceeds from the new loan (for a graphic representation of a real estate closing, see Figure 1). Lenders want to be sure that the record shows satisfaction of the prior loan to avoid problems if the lender later needs to foreclose. Borrowers want to be sure that the record does not indicate the existence of a security interest that already has been discharged. The instrument showing satisfaction is therefore important to real estate conveyances and financing.

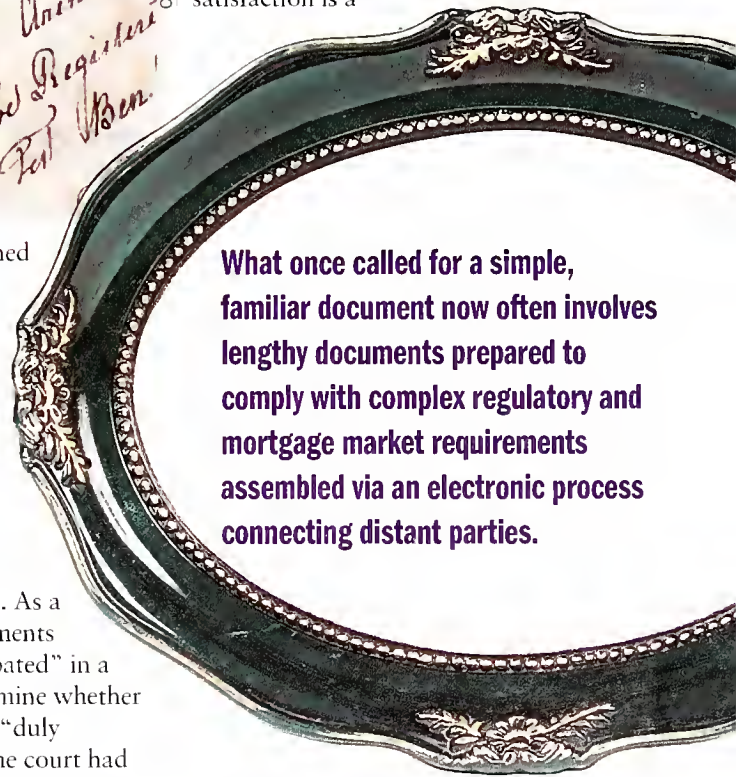
In most states, creating a record of satisfaction is a

North Carolina registers have long been charged with additional, unusual responsibilities. They are directed to record only after determining “that all statutory and locally adopted prerequisites for recording have been met.”⁶ Also, until 2005 they were obliged to “pass on” (evaluate) the acknowledgment or the proof that appeared on the instrument by determining whether it was in “due form” (the form specified by statute) and “duly proved or acknowledged” (apparently legitimate with no visible improprieties) and, if so, by placing a certification on the instrument.⁷

These certification responsibilities were a remnant of eighteenth-century

law, when those who wished to register their real estate ownership were required to complete a judicial procedure. This process can be traced further back to early land ownership, when many real estate instruments were not recorded and competing claims derived from different proprietors. As a kind of validation, instruments were required to be “probated” in a court, which would determine whether the instruments had been “duly acknowledged.”⁸ When the court had

What once called for a simple, familiar document now often involves lengthy documents prepared to comply with complex regulatory and mortgage market requirements assembled via an electronic process connecting distant parties.



Charles Szypszak

Figure 1. **The Real Estate Closing**



simple procedure of lenders preparing a one-page document and mailing it to the register, who simply records it. In North Carolina, lenders also have been able to mail in satisfaction documents, but the process was not reliable enough from their perspective. Registers, abiding by the review responsibilities that they understood were imposed on them by state law, examined the satisfactions and the acknowledgments on them for completeness, accuracy, and compliance with form. This review usually meant a delay between when lenders submitted satisfactions and when the record showed their submission, especially during busy times for financing and refinancing. Lenders also worried that the satisfactions would be rejected for a technical reason, causing further delay and complication.

As a result, they tended to use an alternative to the mail-in procedure: their representatives would take instruments with payment endorsements to the registers, the registers would review the documents for sufficiency, and the registers themselves would prepare records of satisfaction. This cumbersome process might result in complications, and it required lenders to devote resources to managing a process that was much simpler in other jurisdictions. It also consumed registers' limited resources.

These unusual review and document-preparation responsibilities were assigned to registers when most real estate transactions were simple and occurred within a small community. North Caro-

lina registers have not necessarily wanted to relinquish their unusual role or the opportunity to be helpful to their constituents. But maintaining the records has become a much greater challenge, and modern real estate transactions occur at a furious pace and often involve much

Figure 2. **The Old and New Processes of Recording Documents**

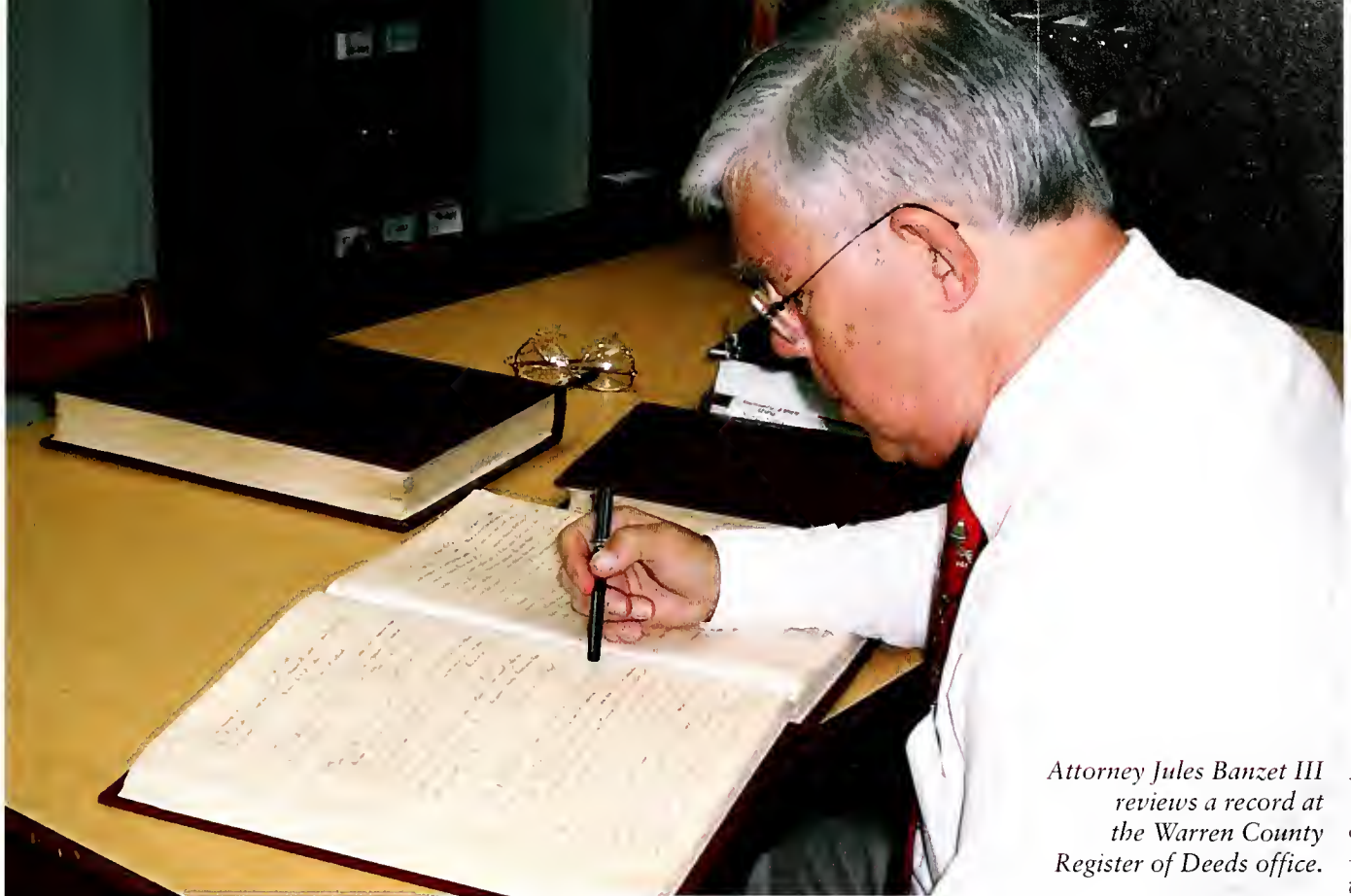


complexity and many legal subtleties. Registers necessarily focus on matters of form in their review, which may have little to do with transactional realities and at best have a tenuous relationship with prevention of fraud.

Yet the decision about accepting an instrument for recording could have serious financial implications for the parties to the transaction. Many parts of the transactional machinery may be in motion when instruments are presented for recording, and those parts may be difficult or impossible to reassemble if a recording is thwarted. For example, loan proceeds will be disbursed at the closing to pay off prior security instruments encumbering the real estate, to bring real estate taxes current, and to pay other obligations connected to the transfer. If complications arise that delay consummation of the closing after disbursements have been made, the lender may be unable to retrieve the disbursements and not yet have any enforceable security interest in the real estate to recover losses.

In America's litigious society, registers worry that someone will seek to hold them liable for loss alleged to have resulted from a decision to accept or reject an instrument for recording. This might occur, for instance, if a forged instrument is recorded with an irregularity in the acknowledgment form that could have been the basis for rejection, even though the irregularity was not connected with the fraud. Risk of liability has given registers an incentive to err on the side of rejecting instruments submitted for recording, even though substantial financial loss to the parties is at least as likely from a rejection as from an oversight in acceptance. This puts registers in a position that is unusual and unexpected in modern real estate transactions nationally.

The parties always bear a risk of fraud and error, a risk now largely borne by well-developed assurance mechanisms, especially title insurance, a ubiquitous multibillion dollar industry. Title insurance involves risk prevention: policies are issued on the basis of title searches intended to identify existing problems, and title insurers have standards and protocols aimed at preventing new problems when conveyances are



Attorney Jules Banzet III reviews a record at the Warren County Register of Deeds office.

Charles Szypszak

made. The development of such assurances alone warrants reconsideration of the extent to which registers bear responsibility for instruments prepared by others and submitted for recording.

Sea Change

Legislation that became effective on October 1, 2005, has limited North Carolina registers' review obligations.¹⁰ It is the biggest change in registers' responsibilities in decades.

The North Carolina legislation was prompted by introduction of the Uniform Mortgage Satisfaction Act, which was drafted by the National Conference of Commissioners on Uniform State Laws. The uniform act is intended to reduce the transactional complexities, costs, and risks in real estate transactions that result from idiosyncratic rules for mortgage satisfactions, and to ad-

dress problems that arise when the satisfactions cannot be obtained from lenders. The North Carolina General Assembly adopted key aspects of the uniform act and made other fundamental changes in registers' responsibilities.

North Carolina registers no longer certify that an instrument has been "duly" proved or acknowledged or that the proof or the acknowledgment is in "due form." Instead, registers review an instrument to see if it "appears to have been proved or acknowledged before an officer with the apparent authority to take proofs or acknowledgements, and the said proof or acknowledgement includes the officer's signature, commission, expiration date, and official seal, if required."¹¹ Registers therefore check for basic elements of an acknowledgment,

but they are not required to verify an instrument's legal sufficiency or the authority of

the officer taking the acknowledgment.¹² (For a graphic representation of the old and new processes, see Figure 2.)

The 2005 legislation also simplified the process for mortgage lenders to make a record of satisfaction of a deed of trust or a mortgage. They can use simple instruments prepared and signed by the trustee or the secured creditor, and acknowledged, subject to the register's review only for basic acknowledgment requirements. The new law makes clear that registers are not to reject satisfaction documents on the basis of variances in form. It states that "no particular phrasing" is required for the document, meaning that substance prevails over form, and instructs the register to record it unless it has one of two problems: it is in a medium not authorized, such as an electronic record sent to a registry that is not accepting such submissions, or it is not signed and acknowledged.¹³ The law also provides that registers are not "required to verify or make inquiry concerning . . . the truth of the matters stated" in any satisfaction document or "the authority of the person executing" the document.¹⁴

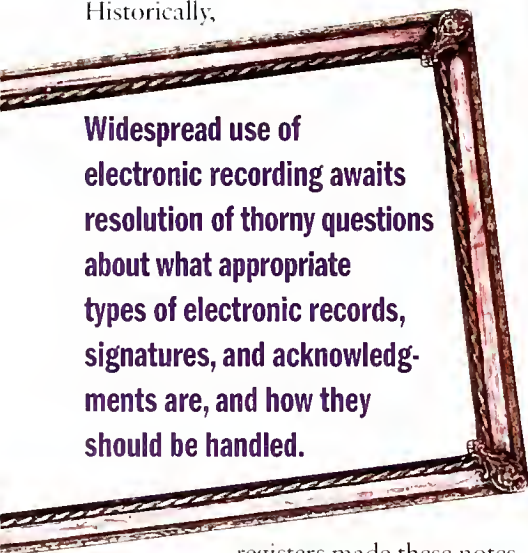
Maintaining the records has become a much greater challenge, and modern real estate transactions occur at a furious pace and often involve much complexity and many legal subtleties.

Table 1. **Summary of Legislation Empowering Registers to Record Electronic Records**

Legislation	Level and Year of Enactment	Purpose
ESIGN—Electronic Signatures in Global and National Commerce Act	U.S. 2000	Generally to validate electronic records and signatures in consumer transactions
UETA—Uniform Electronic Transactions Act	N.C. 2000	Generally to validate electronic records and signatures under state law
URPERA—Uniform Real Property Electronic Recording Act	N.C. 2005	To validate use of electronic records by registers of deeds
UMSA—Uniform Mortgage Satisfaction Act	N.C. 2005	To simplify recording of security instrument satisfactions and to narrow registers' review of documents

Sources: ESIGN, 15 U.S.C. §§ 7001–06, 7021, 7031 (2000); UETA, G.S. 66-311 through -330; URPERA, G.S. 47-16.1 through -16.7; UMSA, G.S. 45-36.2 through -36.21, 45-37 through -37.2, 45-38, 45-39, 45-42, 45-42.1, 47-14, 47-46.1 through -46.3, 161-14.1.

Registers' emergence from responsibility for the details of the mortgage satisfaction process extends to other changes, including elimination of marginal notes by registers. Historically,



Widespread use of electronic recording awaits resolution of thorny questions about what appropriate types of electronic records, signatures, and acknowledgments are, and how they should be handled.

registers made these notes for the convenience of title searchers, even though the satisfaction instrument could be matched to the deed of trust or mortgage by use of the register's index. When presented with a satisfaction, the registers noted the event on the page at which the original security instrument was recorded, making it easier for the title searcher to confirm the satisfaction in one step. But this added a burden to the registers' responsibilities and could be risky. The registers' offices, many of which handle a large volume of instruments in a wide variety of forms, might not easily be able to compare the information provided in the satisfaction with

previously recorded instruments. The burden of this comparison more appropriately rests with lenders and will be met with careful instrument preparation.

The changes shift some burdens away from the register and leave them to the parties involved in the transaction and their professional representatives. Ultimately, lenders and parties already have these burdens as a legal matter and are routinely expected to bear them in other jurisdictions. Modern real estate transactions can involve millions or billions of dollars, very complex instruments, and numerous interested parties. The parties' professional advisers do not want the product of their deliberation and careful document preparation to be overridden by a register's review of inconsequential formatting requirements. Nor should they realistically expect loss assurance from registers of deeds. The registers' resources are limited: the bonds they are required by statute to have for their offices may not exceed the modest sum of \$50,000.¹⁵ Counties typically provide additional insurance coverage, but such protection cannot fairly be expected to be a main source of indemnity against problems that could have been prevented with appropriate diligence by the parties with financial stakes in the transaction.

Assembly of the Electronic Recording Puzzle

Even more dramatic changes in land records management are about to occur with the widespread introduction of

electronic recording. Although such capabilities will make the real estate conveyance system potentially more efficient, they also will create new challenges, not only for effectively implementing the technology but also for maintaining the records' integrity.

Empowering Registers to Record Electronic Records

Many registers already employ electronic recording technology by making their records available for searching and viewing on the Internet. A few have made it possible for high-volume submitters to send documents to them electronically.¹⁶ But widespread use of electronic recording awaits resolution of thorny questions about what appropriate types of electronic records, signatures, and acknowledgments are, and how they should be handled.

In 2000, federal legislation called the Electronic Signatures in Global and National Commerce Act, or ESIGN, accelerated the movement toward legislative endorsement of electronic records.¹⁷ ESIGN was enacted to facilitate use of electronic records in matters subject to federal jurisdiction. Congress declared a "general rule of validity" for electronic records and signatures.¹⁸ The law used a broad definition of "electronic record," to include "a contract or other record created, generated, sent, communicated, received, or stored by electronic means."¹⁹ It also used a broad definition of "electronic signature," to include "an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record."²⁰ ESIGN set no standards for security or authentication, leaving the tough questions for others to answer.

Since the enactment of ESIGN, almost all states have adopted the Uniform Electronic Transactions Act (UETA), which was drafted by the National Conference of Commissioners on Uniform State Laws. North Carolina adopted it in 2000.²¹ UETA declares that any record or signature required by law may be satisfied with an electronic record or an electronic signature that complies with UETA.²² UETA uses broad definitions similar to those in ESIGN.



Charles Szypszak



This means that an electronic record may be any of a variety of common actions such as a facsimile transmission, a voice recording, a click on a web page, or an e-mail, as well as sophisticated technologies such as encrypted messages.

UETA did not resolve a basic question about the extent to which registers may accept and maintain official land records electronically. North Carolina law has been interpreted as requiring an “original signature” on real estate instruments submitted for recording unless a statute specifically authorizes a copy to be recorded. This conclusion is based on (1) the requirement that instruments of conveyance be in writing; (2) the express legal authority in certain situations to use copies, implying that they are not otherwise acceptable; and (3) the requirement before 2005 that registers be able to certify the acknowledgment or the proof.

The concern about authority for electronic land records is addressed in the Uniform Real Property Electronic Recording Act (URPERA), which was enacted in North Carolina in 2005.²³ The National Conference of Commissioners on Uniform State Laws drafted the act to respond to what it described as “uncertainty and confusion” about whether electronic documents may be recorded in the land records offices.²⁴ The drafters attribute the problem to legacy laws and regulations that allow only paper or “original” documents to be recorded.²⁵ URPERA is intended “to remove any

doubt about the authority of the recorder to receive and record documents and information in electronic form.”²⁶

URPERA overcomes the requirement that a document be a paper “original” by defining “document” to include “information that is . . . [i]nscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form,” and by stating that registers may accept electronic documents, broadly defined, provided that such records comply with standards to be established by the North Carolina secretary of state.²⁷ Registers also are authorized to convert paper documents for recording into electronic form.²⁸ The statute specifically provides that “[a] physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature” as long as the necessary information “is attached to or associated with the document or signature.”²⁹ These definitions are broad and leave unanswered the de-

tailed questions about what will constitute an acceptable electronic document, signature, and acknowledgment for recording purposes. Meanwhile, registers and others involved in real estate transactions await such standards before investing the resources necessary for electronic recording to begin in earnest.

(For a summary of the legislation empowering registers to record electronic records, see Table 1.)

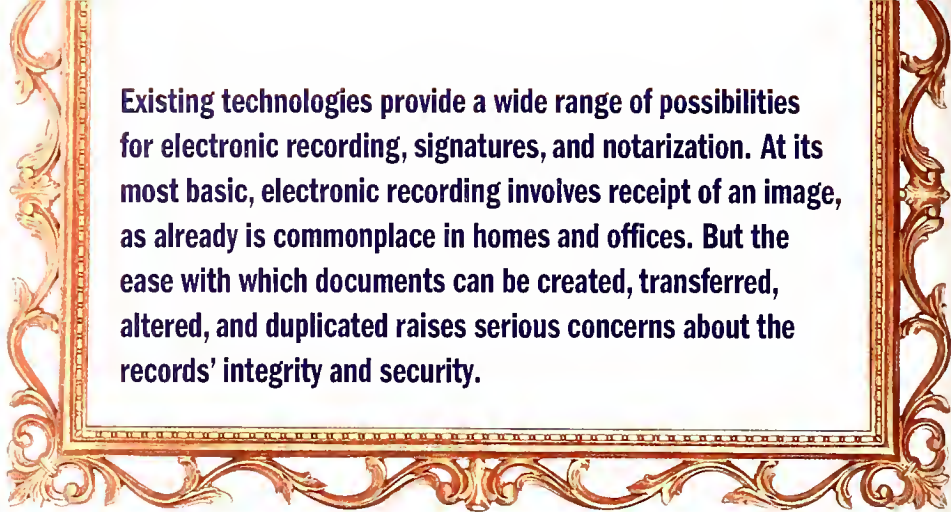
Setting Standards

URPERA defers the question of standards for electronic records and signatures to a state advisory body. It requires the secretary of state to develop “standards for recording electronic documents and implementing the other functions” of electronic recording, and creates an Electronic Recording Council to advise the secretary about the standards to be adopted. The council is to have a majority of registers of deeds but include representatives from North Carolina’s bar association, society of land surveyors, bankers association, land title association, association of assessing officers, and the office of the secretary of cultural resources.³⁰ This council and the secretary of state also must address standards for electronic notarization, not only in response to legislation allowing electronic recording but also as part of the secretary’s overall governance of notaries and the need to address their role in the new dimension of electronic recording.

Table 2. **Workload and Staff in Selected Counties**

	Instruments Recorded Annually (approx.)	Staff
Tyrrell County	1,000	2
Mecklenburg County	300,000	46

Sources: Hon. Judith Gibson, Mecklenburg County Register of Deeds; Hon. Melanie Armstrong, Tyrrell County Register of Deeds.



Existing technologies provide a wide range of possibilities for electronic recording, signatures, and notarization. At its most basic, electronic recording involves receipt of an image, as already is commonplace in homes and offices. But the ease with which documents can be created, transferred, altered, and duplicated raises serious concerns about the records' integrity and security.

The viability of electronic recording ultimately depends on the nature of the standards that are adopted. Those charged with developing them have a difficult task. North Carolina will be breaking ground; no ready-made model exists. Meanwhile the absence of standards leaves interested parties uncomfortable with making the kinds of investments required to implement electronic recording to a significant extent.

Electronic recording makes sense only if it provides efficiencies that outweigh the required substantial investment of money and other resources by registers of deeds, lenders, and others for whom electronic recording holds promise. At the same time, the standards must be sufficiently rigorous to protect the integrity of the recording process and the public records. They must be specific enough to provide comprehensive guidance to those charged with implementing them but not anchor the process to particular vendors or technologies that may become inaccessible, obsolete, or unsupportable.

Existing technologies provide a wide range of possibilities for electronic recording, signatures, and notarization. At its most basic, electronic recording involves receipt of an image, as already is commonplace in homes and offices. Documents can be created in electronic format, as with "pdf" (portable document format), or scanned from print. Receipt of records in such format eliminates the burden on the register to convert print to an electronic image, and makes it easier for the register to handle the records. But the ease with which such documents can be created, transferred, altered, and duplicated raises serious concerns about the records' integrity and security. Those who accept such records must rely on safeguards other than what appears on the document, such as the use of closed networks or other methods of verifying the source of submission. This effectively has limited a register's acceptance of such filings to particular trusted sources (such as financial institutions that regularly file numerous records executed by familiar officials) that operate across reliable connections.

At higher levels of sophistication, electronic records include data, such as

indexing information, as well as the document image. The signatures may take various forms. Signatures that are a graphical image of a handwritten signature are commonly referred to as "digitized." They can be created by use of a digital pen and pad, as has become common in retail credit and debit transactions. But a number of alternatives exist to add a measure of authentication. A signature device can be made to capture other data, including biometric elements such as the speed and the strength of a pen stroke, which can be compared with reference data. Products are available for notaries that record a signature, a thumbprint, and a photograph in an electronic journal of the notarization event. A notary's seal data also can be embedded in the electronic file.

The term "digital signature" generally refers to the technologically sophisticated encryption process of creating mathematically related keys, such as with a public key infrastructure, or PKI technology. An authority or enterprise administrator generates and distributes mathematical key pairs, one "public" and one "private." The public key is available to the recipient and can be linked by use of a "one-way" formula to a private key known only to the sender. For practical purposes the link cannot be used by the user or an interceptor to deduce the private key. The mechanism is very secure, provided that the private key remains confidential. Digital signature technology also can be used to reveal alterations made to the document after the digital signature was made, by use of a function that creates a digital representation of the entire record when it is sent.

A notary could employ keys in the acknowledgment process. A method

that dispenses with the need for the notary to be present at the acknowledgment involves the notary issuing an electronic signature certificate to a signer for use of keys. Recipients of such an electronically signed document rely on the pairing of the keys to verify that the document originated from the certificate's subscriber. Although this approach provides a high degree of authentication of the document's origin, it has not been well received (by the secretary of state, among others) because the notary's presence at the signing is considered to be an important part of the acknowledgment process.

Use of keys and digital signatures requires specialized knowledge and a significant investment in technology. One approach is to define electronic signatures in a way that virtually mandates such technology if electronic records are to be used. Such a definition requires that an electronic signature have four characteristics: be unique to the person using it; be capable of verification; be under the sole control of the person using it; and be linked to the data in such a manner that the signature is invalidated if the data are changed. This is the standard employed in statutes first authorizing electronic filings with government agencies.³¹ It is so restrictive that its use effectively limits electronic recording to a small group of very sophisticated users.

The challenge of setting standards for electronic records and signatures is made even greater by technology's ever-moving frontiers. For example, the technology already exists for use of a SMART (secure, manageable, archivable, retrievable, transferable) document that contains embedded, executable code. A SMART document can manipulate

relevant data from multiple sources and organize them. This technology may make it possible to integrate a recorded instrument and a notary acknowledgment with the indexing process in innovative ways.

Whatever level of technology is required or allowed, the transformation of practices for registering land records will just have begun. The purchase and the upkeep of the hardware and the programming for electronic recording will require substantial resources and new kinds of expertise. Recording fees can be used to cover much of this expense, but such fees add up faster in heavily populated counties with more real estate transactions than they do in rural counties (for a comparison of workloads and staff in two counties, see Table 2). Rural counties therefore will have resource obstacles to overcome in responding to demands for electronic recording. Part of this challenge may be addressed by the use of centralized electronic sites, or "portals." Rather than each county hosting its own electronic recording system, regardless of transaction volume or available resources, a portal could provide access to the records for all counties in the state. Such an approach would require statewide resources and cooperation, and its feasibility has just begun to be explored.

The submitters' resources also must be considered. The recording system must remain accessible and reliable for all who depend on it, including those with limited access to technology. The system's integrity will be jeopardized if those with access to sophisticated technology can gain a tactical advantage in recording or accessing the public records.

Registers also will face new kinds of threats to the integrity of their records. Documents still must be screened to ensure that they are appropriate for the purposes for which land records are maintained. That task will be of a different magnitude when documents can be submitted electronically. Spam and identity theft are but two examples of known challenges.

Registers will have to reconsider even the most basic internal rules and practices. For example, if it becomes possible for documents to be received at the register's office electronically at any

time of day or night, registers will need to develop protocols and safeguards to preserve the integrity of the critically important order of recording.

The electronic recording process may redefine the roles of those involved in it. For example, registers' verification of the integrity of digital signatures does not now seem feasible. How ironic it would be if registers were required to develop this capability and they assumed a highly complex electronic gatekeeper role just as the law narrowed their responsibility for reviewing acknowledgments on paper.

The future register's function is likely to be consistent with the basic notion of providing a means for others to record effectively if they exercise care and diligence, and enabling them to make informed decisions about the authenticity of the records with their own examination. Electronic recording, however, introduces a wholly new level of concern about the ability of the public to engage in it.

Conclusion

In North Carolina those involved in real estate transactions often have used registers as a tool to prepare their transactional instruments properly. But the registers' role is not meant to be validator of instruments. Rather, it is to be custodian of an accessible and secure public record for use by those involved in property transactions who take responsibility for documenting their intent and assessing the validity of previously recorded instruments. In the future, as registers transform their process to reflect modern transactional and technological realities, they still will play the vital role of maintaining public records while providing tools for others to protect themselves against fraud. A metamorphosis in how this is accomplished is under way.

Notes

I express my appreciation to Charles Moore, visiting lecturer at the School of Government, the Honorable Ann Shaw, Randolph County register of deeds, and the Honorable Judith Gibson, Mecklenburg County register of deeds, for their willingness to share their knowledge and expertise and their insights into the issues discussed in this article. The opinions in the

article, however, are mine and should not be attributed to these helpful contributors. I also thank the Honorable Elsie Weldon, Warren County register of deeds, for arranging for photographs.

1. Courts have made limited exceptions to the rule requiring written evidence to enforce a real estate transaction. These exceptions generally have arisen under circumstances involving obvious injustice, such as in a "constructive trust," when one party wrongfully attempts to keep property transferred in trust for someone else's benefit.

2. N.C. GEN. STAT. § 47-14(d) (hereinafter G.S.); New Hanover Shingle Mills v. Roper Lumber Co., 171 N.C. 410, 88 S.E. 633 (1916).

3. G.S. 47-18.

4. E.g., N.H. REV. STAT. ANN. § 478:4-a (2003).

5. E.g., VA. CODE ANN. § 55-106 (2003).

6. G.S. 161-14(a) (Supp. 2005).

7. G.S. 47-14(a).

8. N.C. CODE ch. 37, § 4 (1855).

9. 1967 N.C. Sess. Laws ch. 639, § 1 (codified as amended at G.S. 47-14(a)).

10. SL 2005-123 (codified at G.S. 45-36.2 through -36.21, 45-37 through -37.2, 45-38, 45-39, 45-42, 45-42.1, 47-14, 47-46.1 through -46.3, 161-14.1).

11. G.S. 47-14(a) (Supp. 2005).

12. G.S. 47-14(a).

13. G.S. 45-36.10(b), -36.11, -36.20(e), -36.21.

14. G.S. 45-36.10(b)(2), -36.20(e)(2).

15. G.S. 161-4(a).

16. SL 2002-115, §§ 1-4 (affecting G.S. 161-14), authorized Cabarrus and Mecklenburg counties to accept electronic records as broadly defined in G.S. 66-312(8), if the electronic signature of the official performing the notarial act is attached to or logically associated with the record. SL 2003-326, § 2.1 (affecting G.S. 161-14), extended the authorization to Durham, Harnett, Moore, New Hanover, and Randolph counties.

17. Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001-06, 7021, 7031 (2000).

18. 15 U.S.C. § 7001(a) (2000).

19. *Id.* at § 7006(4).

20. *Id.* at § 7006(5).

21. G.S. 66-311 through -330.

22. G.S. 66-317(a), (c), (d).

23. SL 2005-391, §§ 1-2 (codified at G.S. 47-16.1 through -16.7).

24. Uniform Real Property Electronic Recording Act, Prefatory Note, 7B U.L.A. (Supp. 2005).

25. *Id.*

26. *Id.*

27. G.S. 47-16.4, -16.5.

28. G.S. 47-16.4(b)(5).

29. G.S. 47-16.3(c).

30. G.S. 47-16.5.

31. G.S. 66-58.5(a).

Essential Responsibilities of Local Governing Boards

Vaughn Upshaw

What does it mean to say that North Carolina city council members and county commissioners “govern”? Local elected officials and their public managers give a lot of different answers to this question. A common one is “Local elected officials are responsible for policy, and public managers are responsible for administration.” Although this statement is true, it fails to capture the wide range of governing responsibilities that local elected officials carry out with the support of their top-level managers.

This article introduces the Local Government Governing Model (LGGM), which addresses the essential responsibilities of local elected governing boards. The LGGM differs from other governance models in focusing specifically on responsibilities of public-sector governing boards at the local level. It can be used to help board members understand, plan, organize, and review board work.

In their official capacity, members of local governing boards work with others in local government and the community to represent citizens’ views and needs and to solve public problems. A person serving as a member of a local governing board shares responsibility and authority for exercising a broad range of official activities. Acting as a governing body, boards of county commissioners, city councils, and other local government boards have the authority to enact local ordinances, promulgate rules, and set policies.¹ Governing boards consider and decide local issues, allocate resources for selected purposes, and oversee and evaluate how well the manager and the organization are addressing local priorities. They exercise all

these responsibilities under constraints that often make governing difficult.

The work of local governing boards occurs under a set of conditions that are unique to government.² Unlike members of corporate and not-for-profit boards, local elected officials are required by state law to operate in the public eye as local legislators, adjudicators, and policy makers. They act in a complex environment, full of competing demands from multiple groups and individuals. No individual board member may enact policy, and nobody is an expert in all the matters that the board must decide.

Functioning in this environment often leads to distraction, disinterest, and group division, resulting in less efficient, less responsive local government and heightened mistrust by citizens. As more local governing boards broadcast their meetings on local television, citizens are increasingly aware of how well or poorly board members interact with each other, with their employees, and with the public. Newly elected officials with limited experience or skill in managing public meetings, handling complicated community issues, or overseeing complex organizations can be quickly overwhelmed when they take office. It may

take more than one term in office for an elected official to understand what the board and the local government do and how they relate to local, state, and regional stakeholders.

One way to help local governing boards and their public administrators become familiar with their responsibilities is to use a process model such as the LGGM. Developed to describe essential responsibilities of public boards, the model suggests a sequence in which

North Carolina’s city councils, boards of county commissioners, and other local governing boards may best accomplish their work. The essential responsibilities described in the LGGM will be familiar to people who have served on or worked closely with governing boards. What the LGGM does differently is to illustrate how these individual local governing responsibilities link to, build on, and support one another.

How the LGGM is applied in any particular circumstance depends on the needs of the governing board and the manager. Boards and managers can use it as an educational tool, to assist members in understanding the nature of and the relationships among the many activities involved in carrying out their responsibilities. Boards and managers also can use the LGGM to plan and organize governing board work, mapping an issue through the sequence to determine an agenda and a time frame for activities to be accomplished. For work already under way, boards and managers can use the LGGM as a checklist, to evaluate issues on its agenda and determine where additional information or action

Governing boards consider and decide local issues, allocate resources for selected purposes, and oversee and evaluate how well the manager and the organization are addressing local priorities.

may be needed, to prompt questions about the strengths and the weaknesses of particular activities, to stay on track with planned work, and to evaluate progress. For sample questions constituting a checklist, see the sidebar on page 21.

As with any process model, the LGGM is most useful as a general guide for action. Local circumstances and individuals will influence to what degree the five essential responsibilities are carried out. In practice, the essential

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governing responsibilities must be grounded in a local context, in recognition of the importance of each community's particular history, politics, and culture. How well work is performed depends on the commitment of local government leaders to carrying out their governing responsibilities and on the ability of local board members and public managers to work together and with others successfully to solve public problems.

The Meaning of "Governing" at the Local Level

Drawing on the disciplines of political science, public administration, and international relations, a definition of

"governing" at the local government level might simply read,

Exercising leadership and applying democratic values within local government and the community to represent citizens' interests, set the course for public issues, oversee how public issues are addressed, and make sure that local government's actions positively contribute to the community's current and future quality of life.³

Such a definition may help a public board understand what governing at the local level means, but it does not guide a

public board in how to govern effectively. Governing occurs at many levels. The LGGM offers practical guidance on a board's essential governing responsibilities, acknowledging that these responsibilities take place within a political context. Local officials are elected to represent a particular geographic area in their community or a network of community coalitions and groups. As individuals, elected officials govern using leadership, values, ethics, and commitments. Across officials, these attributes will vary. A board member who is committed to reducing the size of local government, for instance, will vote differently from a board member who believes that government has an obligation to serve

Table 1. Distinguishing Features of Five Governing Models

Governing Model	What It Focuses On	What It Does	What It Does Not Do
Dichotomy/ Duality Model ¹	Distinguishes between council's and manager's responsibilities in four areas: <ul style="list-style-type: none"> • Mission • Policy • Administration • Management 	Demonstrates that board is primarily responsible for mission and policy development, while manager takes lead for administration and management Refers specifically to responsibilities of city councils, mayors, and their managers Provides useful way for local elected officials and managers to discuss and assess their respective roles and responsibilities for policy making and administration	Does not attend to other public board governing responsibilities, such as adjudication, community collaboration, and guaranteeing of accountability Does not specify exclusive set of governing board responsibilities
Policy Governance Model ²	Defines nonprofit boards' responsibilities in four areas: <ul style="list-style-type: none"> • Determining ends • Setting executive limitations • Managing board-executive relationship • Monitoring board processes 	Helps nonprofit boards understand their governing responsibilities Describes governing board's policy-making role in detail	Does not provide for legal authority that establishes, empowers, and constrains local governments Does not directly address public board's responsibilities dealing directly with citizens, key stakeholders, and other officials Does not give specific attention to public board's role in resource allocation and oversight Does not describe executive's shared role in governance
Health System Governance Model ³	Describes board's responsibilities in five areas: <ul style="list-style-type: none"> • Determining ends • Overseeing executive performance • Ensuring quality of care • Overseeing financial performance • Monitoring board performance 	Incorporates financial oversight and quality assurance as distinct board responsibilities Delineates board's roles in policy development, decision making, and oversight	Does not acknowledge legal authority that establishes, empowers, and constrains local governments Does not directly address public board's responsibilities dealing directly with citizens, key stakeholders, and other officials Does not describe executive's shared role in governance
Effective Board of Trustees Model ⁴	Identifies six governance competencies: <ul style="list-style-type: none"> • Understanding history and culture • Nurturing board leadership • Educating board members • Managing complexity • Working with multiple constituencies • Thinking strategically 	Augments and complements other governance models by defining core governing competencies Provides research base for factors that distinguish more effective from less effective boards in higher education Suggests practices that lead to more effective governing board performance	Does not recognize legal authority that establishes, empowers, and constrains local governments Does not describe executive's shared role in governance Does not address locally elected public board's role in accountability
Local Government Governing Model	Describes five essential governance responsibilities for local government boards: <ul style="list-style-type: none"> • Understanding legal authority • Working with others • Setting policy • Allocating resources • Being accountable 	Integrates responsibilities relevant to local government boards into new governing model Describes responsibilities of elected boards Provides tool that can be used to educate new members Helps board members plan and manage board work	Does not describe executive's shared role in governance

1 James H. Svara, *Council Roles, Performance, and Form of Government*, in *THE FUTURE OF LOCAL GOVERNMENT ADMINISTRATION* (H. George Frederickson & John Nalbandian eds., Washington, D.C.: Int'l City/County Mgmt. Ass'n, 2002).

2 JOHN CARVER, *BOARDS THAT MAKE A DIFFERENCE* (San Francisco: Jossey-Bass, 1990).

3 DENNIS D. POINTER & CHARLES M. EWELL, *REALLY GOVERNING: HOW HEALTH SYSTEM AND HOSPITAL BOARDS CAN MAKE MORE OF A DIFFERENCE* (Albany, N.Y.: Del Mar Publishers, 1994).

4 RICHARD P. CHAIT ET AL., *THE EFFECTIVE BOARD OF TRUSTEES* (Phoenix: Oryx Press, 1993).

all citizens, regardless of their ability to pay. The essential governing responsibilities for all members of the board, however, remain the same.

Development of a Local Government Governing Model

Moving from definition to practice requires examining essential governing responsibilities more closely, seeing how they fit together, and learning how to move from one responsibility to another. A model of governing for local government should focus on what public governing boards do and what actions lead to improved outcomes for local government, related organizations, communities, and regions. Few models focus on the responsibilities of elected governing boards at the local level. Attention to governing in the public sector has largely been focused on federal and state legislatures and executive branch activities.⁴ Therefore I found it necessary to develop a model exclusively for local governing boards. The LGGM is intended specifically to assist members of local governing boards such as city councils, boards of county commissioners, and school boards, though bodies at other levels of government, such as state legislatures and Congress, as well as other local boards, share many of these essential governing responsibilities.

Governing boards in nonprofit, health care, and education organizations share some responsibilities with local government boards, so governance models developed for such boards can be useful in helping people understand what local government boards are responsible for. For a brief description of four governing board models used in the local government, nonprofit, health care, and education sectors, see Table 1. Table 1 also includes an assessment of each model's utility for helping locally elected governing boards understand their essential governing responsibilities.

The first model, the Dichotomy/Duality Model, is the only one that focuses directly on the policy and administrative responsibilities of local

Figure 1. **Local Government Governing Model: Essential Responsibilities of Local Governing Boards**



elected officials and their managers. Based on Woodrow Wilson's distinction between policy and administration, this model is commonly used to distinguish between the local elected board's and the manager's responsibilities.⁵ The Dichotomy/Duality Model focuses on a public council's and manager's responsibilities in four areas: mission, policy, administration, and management.⁶ The Policy Governance Model describes a nonprofit board's responsibility in four areas: determining ends, setting executive limitations, managing the board-executive relationship, and monitoring board processes.⁷ The Health System Governance Model portrays a health system board's ultimate responsibilities as determining ends, overseeing executive performance, ensuring quality of care, overseeing financial performance, and monitoring board performance.⁸ The Effective Board of Trustees Model focuses on six competencies that are associated with more effective higher education governing boards: understanding history and culture; nurturing board leadership; educating board members; managing complexity; working with multiple constituencies; and thinking models contribute useful perspectives, none of them fully capture the unique activities and responsibilities of elected boards serving local government.

To describe the responsibilities of local government boards more completely, a fifth model, the LGGM, adapts components of other board governance models and applies them to the work of local government boards, adding elements relevant to local government boards that are missing in other models. The LGGM depicts the governing

responsibilities of local government boards, not the responsibilities of the public manager. In the LGGM, public managers have a duty to assist their boards in performing these essential governing responsibilities, but boards cannot delegate these responsibilities in whole to the manager, nor can the board hold the manager exclusively or ultimately accountable for making sure that the board has performed them.

A Local Government Governing Model

Five essential governance responsibilities of local governing boards emerged from my review of North Carolina's state statutes and the governance literature, and my own experience serving on and working with boards:¹⁰

1. To understand the legal authority granted to the local elected board
2. To work with others in local government and in the community
3. To develop policies and enact local ordinances that set the direction for local government and the community as a whole
4. To allocate resources for effective and efficient local government operation, programs, and services
5. To be accountable for and oversee local government using board, administrative, and program reports

The process through which these responsibilities ideally occur is shown in Figure 1. In practice, a local governing board may not follow the exact sequence presented in Figure 1, instead moving forward and backward through the process on particular issues. Although the responsibilities flow logically within the model, how specific activities will occur in practice depends on a variety of situational factors.

The five essential governing responsibilities are both distinct from and related to one another. For instance, a local governing board's legal structure (responsibility 1) directs how its members can interact with the public (responsibility 2)

and what policies it can adopt (responsibility 3). A governing board's ability to work with others (responsibility 2) affects its ability to develop policy (responsibility 3). Thinking of the model as a recirculating waterfall, where responsibilities flow into, are captured by, and spill over into lower pools, better reflects the realities of how these essential governing responsibilities influence and depend on one another.

Understanding Its Legal Authority

The elected official's first responsibility is to know, understand, and adhere to legal authority and procedures. Because local government boards are established by state statute, elected officials must understand their responsibilities and obligations as members of public entities.¹¹ "Legal responsibilities" refers to such authorities as the following:

- A governing board's statutory mandates, laws, and administrative rules
- A governing board's procedural requirements
- A governing board's law-making authority
- An elected official's avoidance of conflict of interest

Local governing boards are required by law to exercise some legal responsibilities directly. They have the legal authority to delegate other responsibilities to professional managers, their staff, appointed boards, or nongovernmental organizations. To govern effectively at the local level, elected officials need to know what they are statutorily responsible for, what options are available to them in fulfilling these responsibilities, and what laws, rules, and procedures they are required to follow.¹² Local governments typically hire attorneys to advise them on legal issues, but to fulfill their governance roles, elected board members should have a general understanding of their own and local government's legal responsibilities.¹³

Working with Others

No person or board governs alone. In the second part of the LGGM, local governing boards exercise their responsibility to work with others to understand issues that the board, the local government, and the community want

to address. Once a candidate is elected, he or she becomes a member of a local governing board and must work with others to identify issues and decide what priorities to address. At a minimum, mayors must work with city councils to enact local ordinances, and chairs of boards of county commissioners can move a policy forward only when it has the support of a majority of the group.

Typically, board members interact with a variety of people inside and outside government to understand issues and determine how best to address them. The public manager and the staff bring policy proposals before the board. Citizens and coalition groups have specific concerns that they want the board and their local government to address. Collaboration can occur with other local boards and external organizations that have their own governing authority. These multiple stakeholders raise important and competing local issues; offer different perspectives about how issues should be framed; and ask for endorsements, partnerships, and resources for their preferred causes. Local board members who know how to listen to, interact with, and work with others are better able to learn about local values, interests, and priorities and expand their options for responding to and solving public problems.

How effectively a local governing board works with others influences how well it carries out other essential responsibilities depicted in the LGGM. For instance, individual citizens expect to be engaged during policy making (responsibility 3), and governing boards need to be knowledgeable about how to include them in meaningful ways.¹⁴ Local governing boards also are building relationships as they contract with external individuals and organizations to accomplish public objectives (responsibility 4), or conduct the local manager's performance evaluation (responsibility 5).¹⁵ Working effectively with others in the public arena requires that governing

board members understand politics, people, and turf issues and be able to use interpersonal communication and conflict resolution skills effectively across a broad network of individuals and organizations.

Setting Policy

The third essential governing responsibility is to set the government's course through decision making and policy development. Policy development is the local governing board's most important job. In carrying out its policy development responsibilities, a city council or a board of county commissioners focuses on such tasks as defining the local government's mission, vision, and values; setting priorities; and deciding what services to offer to whom, and how to pay for them. Effectively exercising its policy-making responsibilities requires that a governing board understand how to select the issues that it will address, and determine how it will address them.

To carry out its policy-making responsibility, a governing board needs to know how to engage productively in discussions about mission and goals. The governing board must be able to analyze short- and long-term issues strategically

To govern effectively at the local level, elected officials need to know what they are statutorily responsible for, what options are available to them in fulfilling these responsibilities, and what laws, rules, and procedures they are required to follow.

and decide what the local government's responsibility for these issues is, if it has any. Once the governing board agrees that the local government has the responsibility to respond to a particular issue, it must frame the policy that guides how the local government will respond, deliberate on the policy, and decide how to move forward.

To carry out this policy-making role effectively, board members need access to appropriate and necessary information. Public managers are the primary source of information for the governing board. The quality of the information that managers provide contributes to the quality of the decisions that boards make. When managers and others pro-



Periodic elections are an integral part of a local governing board's being accountable.

vide material that is confusing and voluminous, board members are unable to determine the relevant questions and make critical decisions.

Allocating Resources

Once a board has adopted policies, it must find resources to support policy implementation. Allocating resources, the fourth component of the model, refers to the governing board's responsibility to create the capacity for local government to act. In carrying out this responsibility, the board decides what resources (finances, personnel, in-kind contributions, equipment, and capital) it needs, how it will generate them, and within what parameters it will use them. In this component of the model, the governing board is responsible for determining how use of resources will be monitored, but the monitoring function itself falls under the accountability role (responsibility 5).

City councils and boards of county commissioners in North Carolina have the authority to generate revenues through taxation and fees, and are responsible for budgeting and capital financing, oversight and control of expenditures, and contracting and purchasing.¹⁶ In the LGGM, responsibility for

allocating resources includes the governing board's decisions regarding resource acquisition and distribution to achieve local government policy objectives.

Allocating resources is distinct from developing policy in the LGGM because resource-related activities, such as advising on, reviewing, and adopting the budget, are separate from decision making about what is to be done with those resources. Resource allocation is an important responsibility of public governing boards, and it consumes a substantial part of a board's and a manager's time. The governing board's policy-making and resource-allocating responsibilities (responsibilities 3 and 4, respectively) are closely related, for governing boards routinely make policy decisions on the basis of how resources will be allocated, used, and accounted for. By separating the two responsibilities, the LGGM emphasizes that governing boards have an essential responsibility for deciding how resources are generated, used, and monitored to support major policy initiatives and benefit the community at large.

Being Accountable

Being accountable, the final component of the governance model, refers to a wide range of issues, including the board's

responsibility to document how effectively and efficiently it, the manager, and the local government's administrators and programs have addressed needs and served the community's interest. An effective governing board understands and monitors its success at fulfilling its own responsibilities, just as it clearly delineates expectations for the manager and key local government programs. Ideally the governing board establishes annual goals and does an annual self-assessment to evaluate how well it used its legal authority and how well it worked with others to establish policy, allocate resources, and provide the necessary oversight and leadership to ensure that local government accomplished its goals.¹⁷ Too often, governing boards evaluate local government by reviewing the actions and the success of the manager. But, as Professors Delmer Dunn and Jerome Legge point out, "Elected officials must, in a democracy, constitute a key component of the accountability-responsibility relationship with public administrators."¹⁸

"Accountability is the price citizens exact for conferring substantial administrative discretion and policy responsibility on both elected and appointed government personnel," Dunn and Legge maintain.¹⁹ Citizens hold individual elected officials accountable by deciding whether or not to vote for them. If local elected officials want to be reelected, it serves their own and the community's interest if they can demonstrate how they worked with other members of the board, local government, and the community to achieve important objectives during their time in office. Often, the issue on which a person campaigned ends up being difficult, if not impossible, for that person to address in a single term. For citizens, elected officials, and staff members to know what has been accomplished, a mechanism must be in place that documents what major initiatives were carried out and whether specific objectives were realized. Through a combination of annual performance evaluations of the manager, financial audits, program reviews, and board self-assessments, local government boards establish a track record of accomplishments and identify areas for improvement.

Another reason to include accountability in a governance model is that “what gets measured gets done.”²⁰ Public boards are in a position to determine what will be given priority and what will be noticed. How a board determines what will receive attention and how it holds itself and its manager accountable for organizational results are important parts of the board’s overall responsibility. Professor Donald Kettl writes, “Managers have little incentive to pay careful attention to performance measures if elected officials do not signal that they, too, are paying attention.”²¹ In sum, boards will be more effective in achieving specific local government goals if they have an explicit plan and evaluation system in place.

**Use of the LGGM:
Three Examples**

The following realistic examples offer a better understanding of how the LGGM might work in practice. They illustrate the model’s value at different levels of complexity: planning for internal issues, addressing community-based issues, and handling interjurisdictional issues. Using the model can assist board members in understanding and determining the board’s options for approaching governance matters. When a governing board follows this comprehensive approach to addressing its responsibilities, it can minimize common governance problems, such as failing to consult key stakeholders, cutting resources while expanding policy objectives, and failing to have a way to determine whether goals were achieved.

Example 1: Evaluation of the Manager’s Performance

It was time for Newburg’s city council to conduct the manager’s annual performance review. At a work session in which the seven council members and the manager began to plan the review, council member Adams asked whether the board was required to use the same process that was previously used. Immediately, council member Jackson suggested that the appraisal tool be changed because the current one was not focused on Newburg’s priorities. Council member Martin expressed con-

cern that the current process was handled exclusively by a subcommittee of the board. Council member Peterson suggested getting rid of the manager’s annual review altogether, noting that the current manager had been with the city for more than five years without incident.

The mayor asked the manager what he thought of the process. The manager acknowledged that the instrument was largely unrelated to his primary duties and that the review process had not provided him with feedback from the full board. But he said that having an opportunity to hear how he was doing from members of the council had been beneficial.

A motion was made and carried that an ad hoc committee of three council members be established to design a new process and tool for the manager’s annual review. Using the LGGM, the committee proceeded in the following manner.

Understanding its legal authority. The ad hoc committee first sought to understand the council’s legal responsibility for performance appraisal. The

city attorney told committee members that Section 160A-147 of the North Carolina General Statutes (hereinafter G.S.) gives cities the authority to appoint a manager and adopt rules, regulations, ordinances, and policies as needed to authorize management’s duties and activities.²² He noted that the council’s process, involving a majority of the board, must comply with the state’s open meetings laws and that personnel issues involving compensation fall under provisions governing closed sessions. Therefore the council’s discussion to develop an evaluation process would occur during an open meeting, but the evaluation itself would take place under the provision for closed sessions. The attorney added that, though the statutes did not require the council to conduct an annual performance review, doing so was considered good management practice.

Working with others. The question then became how to design a new performance review process and tool. Looking at the LGGM, the ad hoc committee

Table 2. **Sample Questions for the Manager’s Performance Review**

Excerpt from Old Evaluation Tool	Excerpt from New Evaluation Tool
Competencies:	Goal #2: Minimize cost and increase efficiency of city government.
<i>Reliability</i>	Performance Objectives and Measures
Responds to requests for service and assistance	Maintain high level of service
Follows instructions, responds to direction	Customer complaints
Takes responsibility for own actions	Customer satisfaction survey
<i>Initiative</i>	Determine and maintain appropriate staffing levels
Volunteers readily	Employee turnover rate
Undertakes self-development activities	Employee satisfaction survey
Seeks increased responsibilities	Expand electronic functions
<i>Judgment</i>	Update website
Makes decisions and accepts accountability	Upgrade hardware/software
Exhibits sound and accurate judgment	Prioritize capital projects
Supports and explains reasoning for decisions	Establish management system
<i>Problem Solving</i>	Promote economic development and redevelopment
Identifies problems in a timely manner	Create business and government forum
Gathers and analyzes information skillfully	Uphold fiscal integrity
Develops alternative solutions	Contract for annual audit

Sources: Old tool adapted from an actual North Carolina performance appraisal instrument. New tool adapted from the process described in a case study by John Szerlag (city manager of Troy, Michigan) and Jan Perkins, published in 87 PUBLIC MANAGEMENT 11 (2005).



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Using the Local Government Governing Model: A Checklist for Local Governing Boards

1. Understand Its Legal Authority

- Do we know what we are legally required to do or restricted from doing on this issue?
 - Are there constitutional issues?
 - Statutory issues?
 - Local policies that we must follow?
- Do we know what we are obligated to do by state or federal law?
- Do we know what we are prevented from doing by state or federal law?
- Do we know what we are given the option to do by state or federal law?
- Do we know if there are other laws or standards that need to be considered?

2. Work with Others

- Have we identified individuals and groups that need to be consulted or buy in before we can act?
- Are all members of the board informed and prepared to act on this issue?
- Have we engaged the manager and the organization on this issue?
- Have we consulted relevant external individuals and groups?
- Have we identified who will be helped and who will be harmed if we pursue this issue?
- Are the media informed on the issue and the board's proposed action?
- Are there other units of government that need to be involved (e.g., the state, municipalities, neighboring counties)?
- What agreements need to be negotiated internally or externally with key stakeholders to move the issue forward?

3. Set Policy

- What result do we hope to achieve?
- What policy do we want to enact?
- How is this issue tied to our strategic plan?
- Can we address this matter in our regular meetings, or do we need to hold a special meeting?
- What information do we need to make a good decision?
- What information will we need to monitor this issue over time?
- Do we need to hold a public hearing?
- Does the issue require a public referendum?

4. Allocate Resources

- What resources will be required, and how will we know how well they were used?
- Do we have the resources to pursue action on our own?
- What other groups are contributing or might contribute resources to this issue?
- Have we allocated resources to support our priorities?
- Do we have a process for monitoring resource use?

5. Be Accountable

- What will success look like, and how will we know if we achieve it?
- What will we hold ourselves (as a board), our manager, and our organization accountable for?
- How will we assess our own (board) work?
- How will we assess the manager's and the organization's performance?
- How will we address performance problems for the board, the manager, and the organization?
- How will we recognize performance achievements by the board, the manager, and the organization?

saw that collaboration was the second step. Council member Adams asked, "Can the three of us alone design a new tool and process, or should we collaborate with others?" After discussion about whom to involve, the committee decided to ask the manager to participate, along with an external consultant. The decision to use an external consultant was influenced by the manager's previous experience with performance reviews. He stated that the ad hoc committee's plan to change the previous tool and process could be facilitated by an experienced consultant who would have sample tools and experience with alternative approaches to performance reviews of managers. With the full council's support to fund a consultant, the process moved forward.

Setting policy. With the consultant's help, the ad hoc committee and the manager decided to propose that the annual review be carried out by the

full board and include input from senior managers. They recommended that the tool have a mix of standard items taken from the previous tool plus a series of questions related to the council's current priorities (see Table 2, page 20).

The ad hoc committee also decided to ask the council to do a self-assessment. The committee members realized during their discussions that they believed the city's success to depend on both the manager's and the council's performance. During this discussion, council member Martin raised the question of linking pay to performance. This prompted the committee to turn its attention to the question of resources related to the manager's performance evaluation.

Allocating resources. After selecting a tool and a process for the manager's and the council's annual performance review, the ad hoc committee considered what resources would be required. Financial resources included personnel and supply costs associated with revising and producing the appraisal tool, distributing it, and collecting and summarizing the results. The ad hoc committee

also wanted resources to extend the consultant's contract to guide the performance review for the manager and the council. Nonfinancial resources included the manager's, the council members', and senior managers' time and energy to prepare, implement, and evaluate the review process. As the ad hoc committee began to finalize its proposal to the full council, it decided to recommend that the council's budget include a bonus for the manager in the event that he received a positive performance review.

Being accountable. In conducting the manager's performance evaluation, the council recognized that it was, in part, performing its accountability function. The ad hoc committee members stepped back, looked at all they had done, and asked themselves some additional questions.

For example:

- How will we know what constitutes effective performance by the manager?
- How will we reward the manager for effective performance?
- What will we do in the event that we find the manager to have been ineffective?
- How will the council provide ongoing oversight of the manager's performance?
- How will we assess performance for the council?
- How will we address ineffective council performance?

As they put the finishing touches on the manager's and the council's performance appraisal process and tool, the members of the ad hoc committee felt prepared to recommend to the full council that it initiate a performance review for the manager and conduct a self-assessment.

Example 2: A Curfew for Teenagers

The small, historic town of Oldham became a favored spot for teenagers looking for something to do in the evenings. Residents and business owners living in the downtown area complained to the town council about the teenagers' rowdy behavior. In response, members of the town council proposed to enact an ordinance setting a 9:00 P.M. curfew for teenagers under the age of eighteen. Angry parents and teenagers challenged the proposed curfew, saying that it violated individual rights. The mayor suggested that the council take another look at the issue before adopting an ordinance. The LGGM guided the council's work.

Understanding its legal authority. First, the council sought to understand and act within its legal authority to establish curfews. The Oldham city attorney told the council that G.S. 160A-174 gives cities the authority to prohibit and regulate "acts, omissions, or conditions detrimental to the . . . safety, or welfare of its citizens and the peace and dignity of the city."²³ The attorney advised the council that an ordinance establishing

a curfew just for minors might raise constitutional issues by restricting minors' rights more than adults' rights. The attorney recommended that specific provisions be included in the proposed ordinance to address constitutional concerns and reduce the burden of the curfew on minors engaged in legitimate activities.

Working with others. Once the council was aware of its legal authority, it needed to work with others to understand different perspectives on curfews for minors. Council member Jones was ready for the attorney to draft an ordinance establishing a 9:00 P.M. curfew for minors. Council member Anderson had heard teenagers, parents, and religious and business leaders expressing concerns about a curfew. Council member Morris had concerns about how to enforce the curfew and wanted more data from law enforcement about actual complaints and arrests before the council voted on an ordinance. These different objectives prompted the mayor to recommend that the council gather more information and schedule a public hearing on the matter. The mayor



A governing board might use the LGGM in deciding whether or not to impose a curfew on teenagers.

volunteered to work with the manager in collecting the additional documentation and making arrangements for the public hearing.

At the public hearing, the council heard complaints from downtown residents that teenagers were making a lot of noise, hanging around the business district, leaving trash in people's yards, destroying property, drag racing through neighborhoods late into the evening, and making residents feel unsafe walking downtown after dark. The police chief reported that residents and businesses routinely complained about these problems. Two downtown businessmen, owners of a game room and an ice cream parlor, claimed that they benefited from the evening patrons. A petition signed by owners of six other downtown businesses detailed having routinely to clean up trash and repair outside fixtures and furniture broken by rowdy teenagers. Teenagers expressed their need for places to gather and said a curfew would violate their constitutional rights. Parents raised concerns that a 9:00 P.M. curfew would restrict teenagers from working evening shifts or participating in church, sports, and club activities. In sum, the council learned that, although a curfew for minors might provide some relief for downtown residents and businesses, it

would create difficulties for other community members and might not solve the downtown residents' problems.

Setting policy. Now the council had to decide what to do: take no action, adopt a curfew for minors, or address teenagers' need for a safe place to meet. The council proposed that the city attorney draft an ordinance that would establish a 10:00 P.M. curfew for minors for six months, noting that the curfew would not apply to minors participating in work-, church-, and school-related activities. Further, the council agreed that it would monitor the effects of the ordinance, then revisit the issue at the end of the six months to determine whether the curfew was working, before making it permanent. The council asked the manager and the police chief to propose a budget at its next meeting for enforcing the new ordinance.

Before moving on to other business, the mayor asked the council members what outcomes they would like to see from the new curfew ordinance. The council members agreed that in six months they should review whether or not the curfew for minors had accomplished the following:

1. Reduced the number of noise complaints in the downtown area by 50 percent

2. Reduced vandalism, loitering, and litter violations in the downtown area by 75 percent

Allocating resources. The manager, the police chief, and the mayor met to determine what resources would be needed to enforce the curfew. They decided that the best way to address the noise, loitering, and vandalism would be to have officers patrol the downtown area on foot or bicycle rather than in cars during the most active evening hours. In addition, the police chief recommended putting a patrol car in the vicinity to provide additional surveillance and backup for the officers on foot. The police chief estimated that his department would need an extra \$52,000 to increase the number of officers on patrol downtown from 9:00 P.M. until 1:00 A.M. for the six-month pilot program.

At the council's next meeting, the manager proposed that it support a pilot 10 P.M. curfew for minors, running from May 1 through October 31. During these six months, the city would increase its police surveillance downtown during the evening. The total cost for the pilot curfew program was estimated to be \$52,000, and the funds for the program would come from postponing two new hires in the city's finance and administrative offices for six months.

Being accountable. Once the pilot curfew ordinance was adopted, the mayor and the manager scheduled a report on the curfew following its six-month trial period. They agreed that the report should address the extent to which the curfew ordinance reduced the number of noise complaints, the vandalism, and the loitering and litter violations in the downtown area. The mayor asked the manager to keep the council informed of any problems arising during the six-month pilot period and also recommended that the manager think about how to continue the program at the end of the six-month trial, should it be deemed a success.

Example 3: Impacts of Growth

Thomas County and its neighbor, Harold County, grew rapidly in the last decade, resulting in sprawling housing developments, strip malls, overcrowded roads, and long traffic delays during peak driving hours. Harold County was considering the development of a large shopping complex on its northern border, not far from two towns located in southern Thomas County. Council members from these towns publicly denounced Harold County's plan, saying that a large shopping center would further congest traffic along their southern border and undermine their local businesses. They were angry that they had not been consulted by Harold County in advance. Both town councils asked to meet with the Harold County commissioners to discuss the planned shopping center. The LGGM guided Harold County's process.

Understanding its legal authority.

The attorney for Harold County advised the commissioners that they had the authority to decide what areas within their jurisdiction would be zoned for commercial development. A portion of the property being proposed for the shopping center had previously been zoned for commercial development and sat adjacent to other commercial properties. However, a larger tract of land also being considered for the shopping center was currently zoned for agricultural use. To rezone the land for commercial purposes before approving new construction, Harold County was required to provide public notices, hold public hearings, and publish plans.

Working with others. The Harold County commissioners worked with internal stakeholders (Harold County's manager, planning director, economic development director, and planning board) to attract and secure an appropriate site for the shopping center. Although the county was not legally required to seek input from neighboring jurisdictions, the commissioners recognized that there might be problems resulting from higher traffic volume in and out of the shopping center, impact on businesses outside the county, and lack of coordination of commercial areas with neighboring jurisdictions. The commissioners also recognized that they might want to contract with neighboring jurisdictions for water and sewer services. Using the LGGM prompted the Harold County commissioners to take a comprehensive look at stakeholders

affected by the shopping center and to consult with external groups, such as other local government leaders, neighborhood associations, and area business owners as a part of their overall process. Because traffic congestion was a major concern, Harold County also worked with the State Department of Transportation.

Setting policy. The Harold County commissioners might support a shopping center for several policy reasons. For instance, they might be committed to expanding the nonresidential tax base of the county, providing more convenient shopping options for county residents, or increasing job opportunities in their jurisdiction. They recognized that they could achieve these policy objectives independently of one another or in a coordinated fashion.

Other policy issues also might be at play in Harold County. For instance, Harold County might be interested in building the shopping center near neighboring towns to assert itself as a player in the region's economic system. Further, the commissioners might be concerned about the character of the county and interested in clustering commercial

development in areas that already were commercial. From a strategic perspective, Harold County needed to identify which policy objectives it wanted to address and consider the possible long-term consequences of its actions on achieving these objectives. Depending on the extent to which Harold County commissioners wanted to extend the county's regional influence, they might want to develop policies in a coordinated fashion with other jurisdictions in their region.

Allocating resources. Once the board articulated a clear policy objective, the Harold County commissioners had to decide what resources they required to achieve their goal. Added traffic

and commercial development would require extra law enforcement and fire protection capacity. If the county decided to provide water and sewer services, either on its own or through an arrangement with neighboring

jurisdictions, there would be expenses related to extending lines to serve the new site.

Being accountable. Once the Harold County commissioners determined the policy objectives they wanted to achieve, they needed to identify the results that they expected to see if these objectives were met. For instance, if they decided that a policy objective for the shopping complex was to help diversify the county's tax base, they might adopt the following measures of accountability:

1. By 2010, Harold County will have at least 30 percent of its taxes coming from commercial and industrial businesses.
2. By 2010, at least 60 percent of Harold County residents will report that they shop in the county.

Depending on the other objectives the county commissioners agreed on, they might adopt other measures of accountability as well. For instance, if the board was interested in the regional impact of its new commercial development, it also might want to measure the proportion of noncounty residents who shopped in Harold County.

How a governing board carries out its governance responsibilities also depends on individual ethics, values, leadership, and stewardship.

Conclusion

These three hypothetical examples show how a city council or a board of county commissioners might use the LGGM to anticipate and plan for its responsibilities. They also illustrate that each issue has its own complexity and that many equally acceptable options might be pursued by a governing board. Although the LGGM prompts a governing board to focus on and plan for its responsibilities, the model does not prescribe a particular way in which the board must act. Ultimately a city council or a board of county commissioners must determine what it wants to achieve.

The five responsibilities in the LGGM parallel the fundamental work that elected boards are charged to do by law, recommended to do in theory, and required to do in practice. The model emphasizes what a local governing board, such as a city council or a board of county commissioners, is ultimately responsible for, and suggests how a board should carry out its responsibilities. The LGGM does not explain everything about how a governing board's work should occur. How a governing board carries out its governance responsibilities also depends on individual ethics, values, leadership, and stewardship. Using this model as a general guide for practice, while taking into account local needs, constraints, history, and commitment, can help local governing boards and their managers carry out all their essential governing responsibilities.

Notes

1. A number of local government governing boards established and authorized by state statute also could use this model as a framework for understanding and planning their work. Boards of education, social services, and health, for example, all have responsibilities similar to those described by the model.

2. John Nalbandian, *The Council-Staff Partnership: A Team in Service to the Community*, WESTERN CITY MAGAZINE, Sept. 1999, at 5.

3. For definitions of governance in political science, see JAMES G. MARCH & JOHAN P. OLSEN, *DEMOCRATIC GOVERNANCE* 28 (New York: Free Press, 1995). For definitions in public administration, see Carolyn J. Hill & Lawrence E. Lynn Jr., *Governance and Public Management: An*

Introduction, 23 JOURNAL OF POLICY ANALYSIS AND MANAGEMENT 3, 4 (2004); WILLIAM R. DODGE, REGIONAL EXCELLENCE: GOVERNING TOGETHER TO COMPETE GLOBALLY AND FLOURISH LOCALLY 38 (Washington, D.C.: Nat'l League of Cities, 1996); Lawrence E. Lynn Jr. et al., *Studying Governance and Public Management: Challenges and Prospects*, 10 JOURNAL OF PUBLIC ADMINISTRATION RESEARCH AND THEORY 233, 236 (2000); LAWRENCE E. LYNN JR. ET AL., IMPROVING GOVERNANCE: A NEW LOGIC FOR EMPIRICAL RESEARCH 7 (Washington, D.C.: Georgetown Univ. Press, 2001). For definitions in international relations, see ANNE METTE KJAER, GOVERNANCE 4 (Malden, Mass.: Polity Press, 2004); ORGANIZATION FOR ECON. COOPERATION AND DEV., DEVELOPING PUBLIC SECTOR LEADERSHIP FOR THE 21ST CENTURY: EXECUTIVE SUMMARY 1 (Paris: OECD, 2001), available at www.oecd.org (last visited Sept. 27, 2004); Wolfgang Michalski et al., *Governance in the 21st Century: Power in the Global Knowledge Economy and Society*, in GOVERNANCE IN THE 21ST CENTURY 7, 9 (Paris: Organization for Econ. Cooperation and Dev., 2001); Gerry Stoker, *Governance as Theory: Five Propositions*, 50 INTERNATIONAL SCIENCE JOURNAL 17, 17 (1998).

4. James H. Svara, *Council Roles, Performance, and Form of Government*, in THE FUTURE OF LOCAL GOVERNMENT ADMINISTRATION 213 (H. George Frederickson & John Nalbandian eds., Washington, D.C.: Int'l City/County Mgmt. Ass'n, 2002).

5. DONALD F. KETTL, THE TRANSFORMATION OF GOVERNANCE: PUBLIC ADMINISTRATION FOR TWENTY-FIRST CENTURY AMERICA (Baltimore: Johns Hopkins Univ. Press, 2002); John Nalbandian, *Politics and Administration in Council-Manager Government: Differences between Newly Elected and Senior Council Members*, 64 PUBLIC ADMINISTRATION REVIEW 200 (2004), available at www.goodlocalgovernment.org (last visited Aug. 29, 2004).

6. Svara, *Council Roles*.

7. JOHN CARVER, BOARDS THAT MAKE A DIFFERENCE (San Francisco: Jossey-Bass, 1990).

8. DENNIS D. POINTER & CHARLES M. EWELL, REALLY GOVERNING: HOW HEALTH SYSTEM AND HOSPITAL BOARDS CAN MAKE MORE OF A DIFFERENCE (Albany, N.Y.: Del Mar Publishers, 1994).

9. RICHARD P. CHAIT ET AL., THE EFFECTIVE BOARD OF TRUSTEES (Phoenix: Oryx Press, 1993).

10. Continuously since 1986, I have served local, state, and national public and nonprofit organizations either as their executive director or as a member of their governing board. I also have chaired local and national boards and numerous board committees.

11. In North Carolina, cities and counties are given authority to act by the General Assembly. See MUNICIPAL GOVERNMENT IN NORTH CAROLINA 33 (David M. Lawrence &

Warren J. Wicker eds., 2d ed., Chapel Hill: Inst. of Gov't, Univ. of N.C. at Chapel Hill, 1995); COUNTY GOVERNMENT IN NORTH CAROLINA 8 (A. Fleming Bell, II, & Warren J. Wicker eds., 4th ed., Chapel Hill: Inst. of Gov't, Univ. of N.C. at Chapel Hill, 1998).

12. A. FLEMING BELL, II, SUGGESTED RULES OF PROCEDURE FOR SMALL LOCAL GOVERNMENT BOARDS (2d ed., Chapel Hill: Inst. of Gov't, Univ. of N.C. at Chapel Hill, 1998); JOSEPH S. FERRELL, SUGGESTED RULES OF PROCEDURE FOR THE BOARD OF COUNTY COMMISSIONERS (3d ed., Chapel Hill: Inst. of Gov't, Univ. of N.C. at Chapel Hill, 2002); JOSEPH S. FERRELL, HANDBOOK FOR NORTH CAROLINA COUNTY COMMISSIONERS (2d ed., Chapel Hill: Inst. of Gov't, Univ. of N.C. at Chapel Hill, 1998); DAVID M. LAWRENCE, OPEN MEETINGS AND LOCAL GOVERNMENTS IN NORTH CAROLINA: SOME QUESTIONS AND ANSWERS (6th ed., Chapel Hill: Inst. of Gov't, Univ. of N.C. at Chapel Hill, 2002).

13. COUNTY GOVERNMENT IN NORTH CAROLINA (Bell & Wicker eds.); Kurt Jenne, *Governance in Council-Manager Cities*, in MUNICIPAL GOVERNMENT IN NORTH CAROLINA 59 (Lawrence & Wicker eds.).

14. Carolyn Lukensmeyer & Ashley Boyd, *Putting the "Public" Back in Management: Seven Principles for Planning Meaningful Citizen Engagement*, 86 PUBLIC MANAGEMENT 10 (2004).

15. STEPHEN GOLDSMITH & WILLIAM D. EGGERS, GOVERNING BY NETWORK: THE NEW SHAPE OF THE PUBLIC SECTOR (Washington, D.C.: Brookings Inst., 2004).

16. COUNTY GOVERNMENT IN NORTH CAROLINA (Bell & Wicker eds.); MUNICIPAL GOVERNMENT IN NORTH CAROLINA (Lawrence & Wicker eds.).

17. For a discussion of establishing goals and conducting self-assessments, see *Enhancing the Governing Body's Effectiveness*, in THE EFFECTIVE LOCAL GOVERNMENT MANAGER 57 (Charldean Newel ed., Washington, D.C.: Int'l City/County Mgmt. Ass'n, 2004).

18. Delmer D. Dunn & Jerome S. Legge Jr., *Accountability and Responsibility of Local Government Administrators*, in THE FUTURE OF LOCAL GOVERNMENT ADMINISTRATION 131, 137 (Frederickson & Nalbandian eds.).

19. *Id.* at 131.

20. DAVID OSBORNE & TED GAEBLER, REINVENTING GOVERNMENT 146 (Reading, Mass.: Addison-Wesley, 1990).

21. DONALD F. KETTL, THE GLOBAL PUBLIC MANAGEMENT REVOLUTION: A REPORT ON THE TRANSFORMATION OF GOVERNANCE 67 (Washington, D.C.: Brookings Inst. Press, 2000).

22. Jenne, *Governance in Council-Manager Cities*.

23. Thomas H. Thornburg, *Curfews for Minors and Other Special Responses to Crime*, POPULAR GOVERNMENT, Fall 1995, at 2, 2.

Marriage in North Carolina

Janet Mason

Sue and Ned live in Michigan and want to get married in Chapel Hill, where they met. They are busy making a guest list, engaging a caterer, looking for a photographer, writing their vows, selecting music. At some point they also need to ask, (1) Are we eligible to marry in North Carolina, and (2) what are the state's requirements for creating a valid marriage?

All couples planning to marry, regardless of where they reside or plan to reside, need to know how the place where they plan to marry answers these questions. A marriage created in another state or country almost always will be recognized in North Carolina if it is valid under the law where it was created.¹ Further, a valid North Carolina marriage is not likely to be challenged elsewhere.² Each state establishes its own requirements with respect to marriages that take place within its boundaries. Those requirements vary widely.³

Given the personal and legal significance of the marital relationship, one would expect states' laws to provide clear guidance for people who are planning to marry, for people who are asked to officiate at marriages, and for public officials responsible for issuing marriage licenses and maintaining a state's official records of marriages. But not all states' laws do.

This article examines North Carolina's answers to the two basic questions that Sue and Ned and other couples planning to marry in the state need to ask. Answering

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the first question is generally not difficult and only rarely involves ambiguities. Exploring the second, however, reveals surprising answers that differ from most people's assumptions about marriage and that in some respects lack the certainty people expect.

Who Is Eligible to Marry?

The primary factors that determine whether a person may marry in North Carolina are age, competency, family relationship, marital status, and gender.⁴ Neither residency nor citizenship is a prerequisite, and no medical examination or blood test is required.⁵ If a couple marry while one or both of the parties are ineligible to marry, the marriage will be either void or voidable.⁶ A "void" marriage is an absolute nullity from the moment it takes place.

A "voidable" marriage is presumed to be valid unless a court declares it void in an annulment action.

Age

Eighteen is the age of majority in North Carolina and the age at and beyond which a person may marry without anyone else's consent.⁷ Someone younger than eighteen who has ob-

tained a court order of emancipation or has been married legally before, also may marry without consent.⁸

An unemancipated minor who is sixteen or seventeen years of age may marry with the written consent of (1) a parent who has "full or joint legal custody" of the minor; (2) a person, an agency, or an institution that has legal custody of the minor; or (3) a person, an agency, or an institution that is serving as the minor's guardian.⁹ An agency or a person other than a parent who has legal custody of a minor or is a minor's legal guardian should have a court order to that effect.¹⁰ A parent who is divorced, separated, or unmarried may have a court order or a separation agreement establishing that he or she has sole or joint legal custody of a couple's child. Most parents, however, are never involved in court actions or contractual agreements regarding custody of their children. These parents have equal rights to custody of their children, and thus each parent has a form of joint custody that is not reflected in any official document.



Some minors aged fourteen or fifteen may marry but only after obtaining a court order authorizing them to do so.¹¹ To obtain a court order, a minor must be either of the following:

- A fourteen- or fifteen-year-old female who is pregnant or has given birth and wants to marry the father of her child
- A fourteen- or fifteen-year-old male who is the father of a child, whether born or unborn, and wants to marry the child's mother

To seek a court order, a minor must file a civil action in district court. The minor must ensure that his or her parents (or guardian or custodian) are served with proper notice of the proceeding. The court will consider the parents' opinions and wishes. The parents' views—whether for or against the marriage—are not controlling, however. The court will authorize the minor to marry only if it finds that marrying will be in the minor's best interest. When the minor files the action, the court will appoint an attorney to act as the minor's "guardian ad litem," not to argue the minor's wishes but to conduct an investigation and make a recommendation to the court about the minor's best interest.¹²

It is unlawful for any person younger than fourteen years of age to marry in North Carolina.¹³

A marriage that takes place in violation of any of these age requirements is voidable.¹⁴ If a minor marries after obtaining a license by fraud or misrepresentation, an action to annul the marriage may be brought by the minor's parent, legal custodian, or legal guardian, or by the guardian ad litem who was appointed in the proceeding in which the minor obtained a court order authorizing him or her to marry.¹⁵

Ralph, who is seventeen, and Maria, who is fifteen, are the parents of a two-month-old infant. They decide to marry, and their mothers go with them to give consent when they apply for a marriage license. The register of deeds will not issue a license. Ralph, whose mother has sole legal custody of him, can marry with his mother's written consent. Maria, however, must have a court

order, for she is not yet sixteen. Because she has given birth, is at least fourteen years old, and wants to marry the father of her child, she is eligible to file a court action and ask the court to find that marrying Ralph is in her best interest.

If Maria gets the court order but Ralph's mother changes her mind and will not consent to his marrying, the couple may not marry. The court order applies only to Maria and does not affect the requirement that Ralph have parental consent. To marry in North

According to the 2000 Census, almost 60 percent of the people in North Carolina age fifteen or older are married. In 2004, more than 62,000 marriages took place in the state. The most popular date for marrying was February 14; the most popular month, June; and the least popular month, January.

Carolina, they must wait until Ralph is eighteen, unless he files a petition for emancipation and obtains a court order emancipating him.

Competency

A person who is "incapable of contracting from want of will or understanding" cannot enter into a valid marriage.¹⁶ Applicants for a marriage license are not required first to have a medical examination, and the registers of deeds who issue marriage licenses are

not required to conduct inquiries aimed at determining whether applicants are competent.¹⁷ Occasionally it might be obvious to a register of deeds that a party is extremely inebriated or incapable of contracting for some other reason. A register of deeds in that circumstance should refuse to issue a license. Even if a couple have a license, if a party's incapacity is obvious to the person who is asked to officiate at the wedding, that person should refuse to perform the ceremony.

The fact that a court has adjudicated a person incompetent and appointed a guardian to manage the person's affairs does not necessarily mean that the person lacks the capacity to consent to marry. Conversely, a person may lack that capacity even if no court has made a determination about the person's competence. An individual's mental capacity "at the precise time when the marriage is celebrated controls its validity or invalidity."¹⁸ Even if a person is competent and consents to marry, a marriage may be challenged and declared void if the person's consent was procured by undue influence.¹⁹

If a party to a marriage lacked the necessary capacity at the time of the marriage, the marriage is voidable.²⁰

Family Relationship

First cousins may lawfully marry in North Carolina, but double first cousins or others who are nearer of kin than first cousin may not.²¹ (When a pair of brothers marries a pair of sisters, their children are double first cousins: The children have both sets of grandparents in common. The same is true when a brother and a sister have spouses



who also are brother and sister.) In determining relationships, the law specifies that “the half-blood shall be counted as the whole-blood.”²² Unlike some other states’ laws, the North Carolina statute on prohibited degrees of kinship does not mention relationships that result from adoption or marriage, as in the case of step-siblings.²³ Although North Carolina appellate courts have not interpreted the statute with respect to people in those relationships, the prohibitions likely apply to them as well.²⁴ A marriage in violation of the prohibited kinship rule is voidable.²⁵

Marital Status

A fundamental criterion for marrying is that both of the parties be unmarried when the marriage takes place. A marriage in violation of this requirement is absolutely void, regardless of whether a court ever declares it so. In addition, marrying someone while one still is married to someone else (bigamy) is a Class I felony in North Carolina.²⁶

With surprising frequency, people apply for marriage licenses and marry before the dissolution of an earlier marriage, usually under the mistaken belief that a pending divorce is final or that the other party to the marriage obtained a divorce. For that reason most registers of deeds require applicants who indicate that they are divorced to produce copies of their divorce judgments. Occasionally, applicants are not certain whether a prior marriage was valid or whether they are divorced.

Sue and Ned arrive from Michigan and go to the office of the Orange County Register of Deeds to apply for a marriage license. Sue indicates on the application that this will be her first marriage. She tells the register of deeds, however, that she was “sort of” married in Iowa when she was fifteen but never lived with the boy and does not think the marriage was valid because she forged her mother’s signature on the consent form. It is clear from

her tone that she wants the register of deeds to confirm that she was not married.

The register of deeds is not in a position to know, and has no duty to find out, what Iowa law would say about the validity of Sue’s first marriage. In circumstances similar to this, registers of deeds frequently are asked for legal opinions or advice, and generally they are steadfast in refusing to give either. The register of deeds in this case should encourage Sue to seek legal advice

With surprising frequency, people apply for marriage licenses and marry before the dissolution of an earlier marriage, usually under the mistaken belief that a pending divorce is final or that the other party to the marriage obtained a divorce.

before proceeding with her application for a North Carolina marriage license. Every register of deeds should stress to applicants the importance of having accurate, truthful information on the application and should encourage people who have any question about their marital status to seek legal advice before applying for a license. Ultimately the register of deeds must rely on the infor-

mation that an applicant for a license gives under oath on the application.

Gender

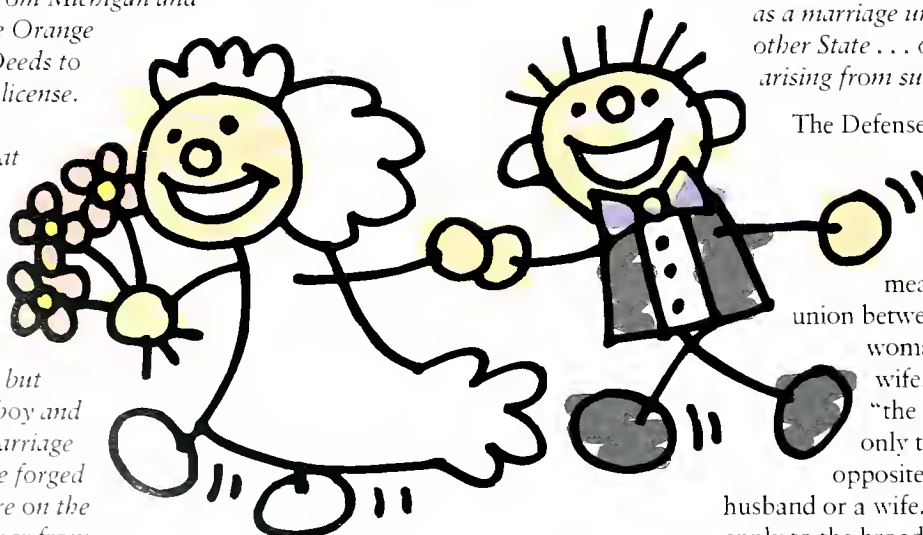
Whether two people of the same gender may marry each other has been the subject of headline news, legislation, and litigation all over the country in recent years.²⁷ In North Carolina the question has not come before the appellate courts. Nonetheless, it has been manifest.²⁸

As a matter of statutory law in this state, same-sex couples are not eligible to marry. North Carolina law does not define “marriage,” but it makes the opposite genders of the parties an essential element in the creation of a marriage. A valid marriage in this state is created “by the consent of a male and female person” to take each other as husband and wife.²⁹

Since 1996 a North Carolina statute also has provided that “[m]arriages . . . between individuals of the same gender are not valid in North Carolina,” regardless of where or how they are created.³⁰ North Carolina, like many other states, added this statement to its marriage law following the enactment by Congress of the federal Defense of Marriage Act in 1996.³¹ That law gives states permission to disregard a law of any other state that permits or recognizes same-sex marriages:

*No State . . . shall be required to give effect to any public act, record, or judicial proceeding of any other State . . . respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State . . . or a right or claim arising from such relationship.*³²

The Defense of Marriage Act also defines “marriage,” for purposes of any federal law, rule, or interpretation, as meaning “only a legal union between one man and one woman as husband and wife,” and it specifies that “the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.”³³ These definitions apply to the broad range of federal laws



in which marital status is a factor.³⁴

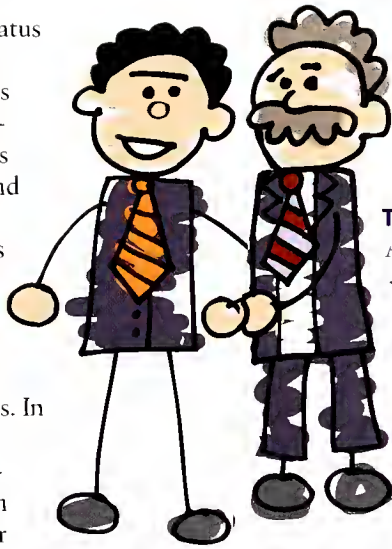
Same-sex couples often establish committed relationships that in their eyes and the eyes of their friends and families are marriages or the equivalent. Sometimes these are solemnized in religious ceremonies. In North Carolina, however, these couples may not obtain marriage licenses or create relationships that automatically result in the rights, duties, and privileges that attach as a matter of law to legally recognized marriages.

The debate about the law and public policy relating to same-sex marriage continues in legislatures and courts around the country. It includes constitutional challenges to the Defense of Marriage Act and to some states' versions of the act. Sometimes, as in Massachusetts, the issue arises under a state's constitution.³⁵ In North Carolina there have been proposals to amend the state's constitution to add a prohibition against same-sex marriage.³⁶ At the federal level, there have been proposals both to amend the constitution and to limit federal courts' jurisdiction to decide cases involving the Defense of Marriage Act.³⁷

Ron and Don have lived together in a committed relationship for ten years. They go to the office of the register of deeds and apply for a marriage license. The register of deeds is not authorized to issue them a marriage license.³⁸ Further, if Ron and Don marry in another state or country that does permit same-sex marriages, their marriage will not be recognized as valid in North Carolina.

What Are the Minimum Requirements for Creating a Valid Marriage?

In states that do not recognize common law marriages, a valid marriage generally must satisfy requirements pertaining to the solemnization, the officiant, and the



license. North Carolina law addresses each of those but does not directly tie the license requirements to the validity of a marriage.

The Solemnization

A “common law marriage”—one brought about by a couple’s agreement and cohabitation, without a ceremony—may not be created in North Carolina.³⁹ Further, state law does not permit “proxy marriages” (in which a person stands in for one party) or marriages in which one party participates through video or other remote means. A ceremony or another kind of solemnization is required, and both parties must be physically present.

In North Carolina, a valid marriage between two people who are eligible to marry is created when

- in the presence of each other, they freely, seriously, and plainly express their consent to take each other as husband and wife; and
- they do so either
 - in the presence of an ordained minister, a minister authorized by a church, or a magistrate, who then declares that they are husband and wife; or
 - in accordance with any mode of solemnization recognized by a religious

Whether someone is an ordained minister or a minister authorized by a church is not always easily answered, especially when ordination certificates are available via the Internet

denomination or a federally recognized or state-recognized Indian nation or tribe.⁴⁰

This wording dates from 2001, when the General Assembly rewrote the marriage laws, in part to broaden the ways in which marriages may be performed.⁴¹ Before the rewriting, the statute authorized the solemnization of marriages only by magistrates, by ordained or authorized ministers, in accordance with the custom of the Society of Friends, or by a local spiritual assembly of the Baha’is.⁴²

Although the current statutory language is much more inclusive and accommodating of different religions and cultures than the earlier wording was, it continues to leave unanswered some questions that go to the heart of requirements for creating a valid marriage. Arguably, current law results in more uncertainty by extending acceptable solemnization procedures to include “any mode of solemnization” recognized by a religious denomination or by a federally recognized or state-recognized Indian nation or tribe. Whether a ceremony satisfies that requirement seems particularly unsuited for resolution by

the courts that decide cases involving the validity of marriages.⁴³



The Officiant

Most marriages involve a minister, a magistrate, or another individual who officiates at a civil or religious ceremony. Magistrates, as appointed North Carolina public officers, are easy to identify, and once they are identified, their authority to officiate at weddings in the state is clear.⁴⁴ There are more than seven hundred magistrates in North Carolina.

Questions about whether someone is an ordained minister or a minister authorized by a church, or whether an

entity even is a church or a religious denomination, are not always answered so easily. Similarly, whether a particular mode of solemnization is recognized by a religious denomination or by a federally recognized or state-recognized Indian nation or tribe may be difficult to determine.

Churches, denominations, and religions do not depend on the state for their existence or their legitimacy. Rather, for purposes of creating the legally significant status of marriage, the state largely defers to them and other nongovernmental entities. The fact that marriage for many people is both religiously and legally significant makes this overlap of religious and governmental authority understandable. In some instances, though, the overlap generates uncertainties that the law is not well equipped to resolve.⁴⁵

*Sue and Ned, having resolved the issue of Sue's first marriage, were married in Chapel Hill by Ned's brother Larry. In anticipation of the wedding, Larry completed an application on the Internet and, a few days later, printed out a certificate stating that he was an ordained minister of the Universal Life Church.⁴⁶ Now a friend has told Sue that her marriage might not be valid. Is Larry an "ordained minister" or "a minister authorized by a church" to perform marriages? Is the Universal Life Church a church for purposes of the marriage statute, when the only doctrine the organization espouses is "freedom of religion"?*⁴⁷

Some states require people to register with or be authorized by a government agency before officiating at marriage ceremonies.⁴⁸ North Carolina has no such requirement and does not charge any



public official with responsibility for determining before or after a marriage ceremony whether an officiant is legally qualified to perform marriages. Similarly, it is not the role of any government official to determine, before or after a marriage, whether a particular mode of solemnization is recognized by a religious denomination or by an Indian nation or tribe. The parties who are marrying and the person who is performing the ceremony must assess whether the ceremony falls within one of the statutorily authorized modes of solemnization.

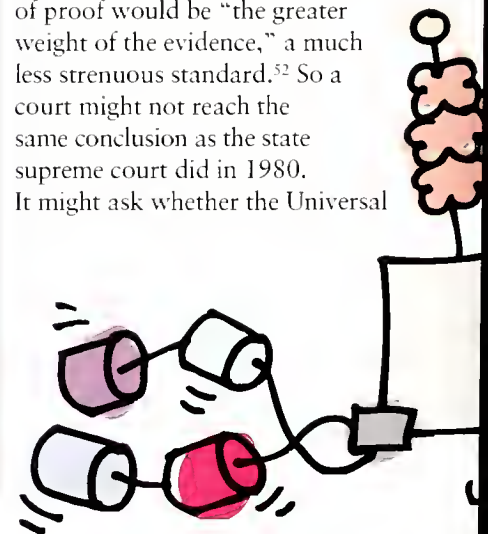
So, even if Sue and Ned had tried to find out before their wedding whether Larry could officiate lawfully based on his ordination certificate, they would not have gotten a definite answer. They might have learned that in 1980, the North Carolina Supreme Court held that a marriage performed by a minister of the Universal Life Church was not a valid marriage. The defendant in that case had been convicted of bigamy on the basis of evidence that he had married his second wife without divorcing his first wife. The trial court rejected his argument that the first marriage was not valid because the ceremony was performed by the bride's father,

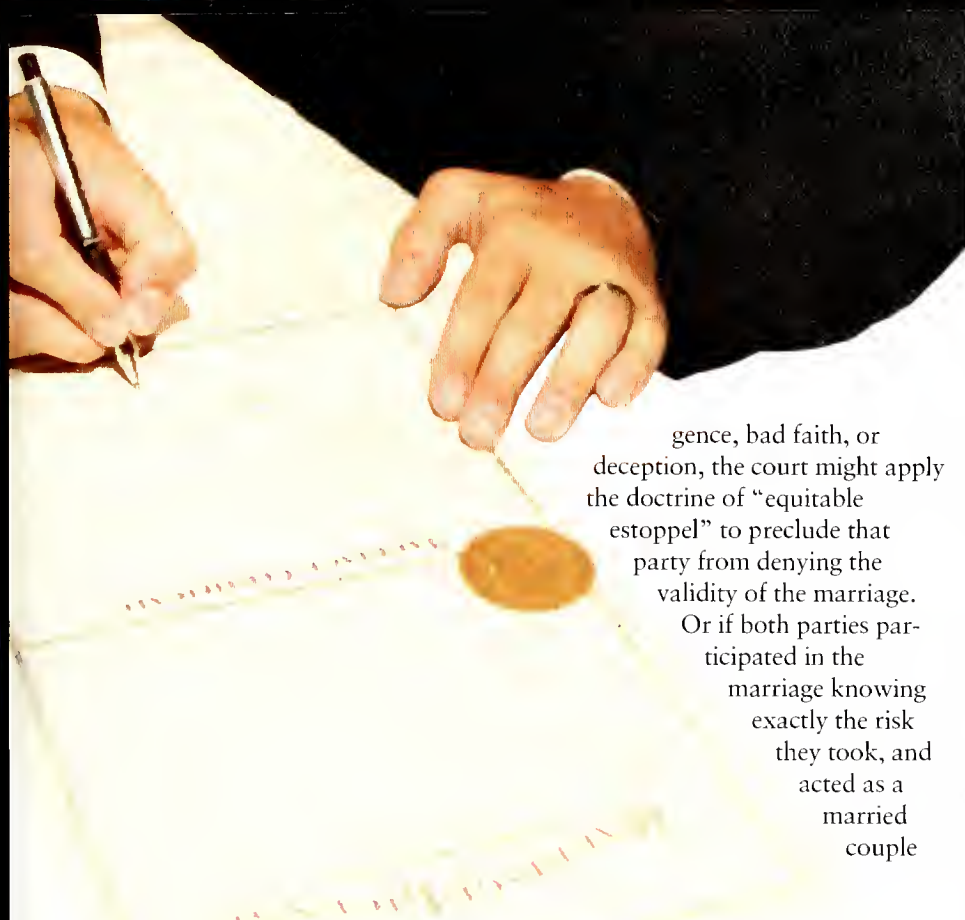
whose only relevant qualification was a mail-order certificate of ordination. In *State v. Lynch*, the supreme court reversed the conviction, saying,

A ceremony solemnized by a Roman Catholic layman in the mail order business who bought for \$10.00 a mail order certificate giving him "credentials of minister" in the Universal Life Church, Inc.—whatever that is—is not a ceremony of marriage to be recognized for purposes of a bigamy prosecution in the State of North Carolina.⁴⁹

The year after the *Lynch* case was decided, the legislature passed a law validating any North Carolina marriage ceremony performed by a minister of the Universal Life Church before July 3, 1981, if the marriage "would have been valid if performed by an official authorized by law to perform wedding ceremonies."⁵⁰ This statute says nothing about marriages performed by Universal Life Church ministers after July 3, 1981, but its language certainly implies that a minister of the Universal Life Church is not "an official authorized by law to perform wedding ceremonies" in North Carolina.⁵¹

In a bigamy case, as *Lynch* was, the state has the burden of proving each element of the offense "beyond a reasonable doubt." If the validity of the marriage was being challenged in a different context, however, such as a civil dispute between the parties over the equitable distribution of their property or a proceeding contesting the disposition of an estate, the burden of proof would be "the greater weight of the evidence," a much less strenuous standard.⁵² So a court might not reach the same conclusion as the state supreme court did in 1980. It might ask whether the Universal





gence, bad faith, or deception, the court might apply the doctrine of “equitable estoppel” to preclude that party from denying the validity of the marriage. Or if both parties participated in the marriage knowing exactly the risk they took, and acted as a married couple

thereafter, a court might conclude that both should be estopped from denying the validity of the marriage. The court’s reaching such a conclusion would not be the same as its declaring the marriage valid. Rather, application of the doctrine of equitable estoppel would prevent a culpable party from asserting the marriage’s invalidity, usually in an attempt to avoid obligations that arose from the marriage.⁵⁴

For Sue and Ned and other couples married by a minister ordained via the Internet or via mail order, the question of whether their marriage is void or voidable may never arise. When the license is returned to the register of deeds indicating that the ceremony was performed by “Larry Jones,” whose title is “minister,” the register of deeds has no way to know, and no duty

to determine, whether Larry Jones is authorized to perform marriages in North Carolina.

If the marriage is chal-

lenged later, it is impossible to predict with certainty what a North Carolina court would say about the validity of a marriage performed by someone whose only credential was a certificate printed off the Internet. The court likely would consider, among other factors, the context in which the issue arises, the characteristics of the particular officiant, and the conduct of the parties.⁵⁵

The License

North Carolina law describes the procedures for obtaining a marriage license, specifies that a license is valid for sixty days, and sets out the duties of registers of deeds to issue and record marriage licenses.⁵⁶ The marriage statutes also authorize both civil and criminal penalties against any person who performs a marriage ceremony without first receiving a license, who performs a ceremony after the license has expired, or who fails to complete the license and the certificate properly and return them within ten days to the register of deeds.⁵⁷ Nowhere, however, does the law make obtaining a license a prerequisite for the creation of a valid marriage, make it illegal for a couple to marry without a license, or invalidate marriages that take place without a license or after expiration of a license. What the law requires is what appears earlier in this article: that both parties be physically present, freely consent to marriage, and do so in one of two specified ways.⁵⁸

One might think that the legislature, by including in the marriage statutes detailed provisions about marriage licenses, intended to require a valid license in order to create a valid marriage. North Carolina courts, however, have consistently held otherwise.⁵⁹ Most of the cases addressing the issue were decided before 1930, but the language of the statute has not changed in ways that would appear to affect that result. As recently as 1980, the North Carolina Supreme Court said, “Though the marriage license is competent evidence tending to prove a marriage, . . . the absence or presence of a marriage license is of minimal consequence in establishing a valid marriage to support a bigamy prosecution.”⁶⁰

Even if a valid marriage exists without a license and can be proved in court

Life Church had changed in character since 1981 or whether the officiant had some qualifications in addition to a mail-order (or Internet-generated) certificate, or whether he or she actually functioned as a minister in ways other than by performing marriages.⁵³

In a dispute between the parties, a court also would look at the conduct of the parties. If an invalid marriage was created because of one party’s negli-



by the testimony of the parties, witnesses, an officiant, or others, the practical difficulties for couples who marry without a license can be huge.

Sue and Ned completely forgot to apply for and obtain a marriage license before their wedding. As a result, although the qualifications of the officiant and the method of solemnization were in complete compliance with statutory requirements for creating a valid marriage, there was no license or certificate for the officiant to complete and return to the register of deeds. When Sue tried to have her name changed on her driver's license, she was asked for a copy of her marriage certificate.⁶¹ She did not have one that was acceptable for obtaining a new driver's license. (Certificates generated by a church or another nongovernmental entity are not acceptable for this purpose.) She was equally stymied when she tried to change her Social Security card and her official college records.⁶²

Sue and Ned decided that they must have a certificate. They applied for and obtained a marriage license and a certificate from the register of deeds, making no mention of their marriage ceremony. (Had they stated that they already were married, the register of deeds would not have issued the license.) Larry (who may be assumed for the moment to have qualified to perform the ceremony) completed the forms, giving the date of the actual wedding, and mailed both copies to the register of deeds after he and the two witnesses signed them.



State law appears to say that the marriage is valid, but the license is not because it was issued after the marriage took place.⁶³ When the register of deeds notices that the marriage predates the issuance of the license, it is not clear what he or she should do with the returned license and certificate. Neither statutes nor state administrative rules address that question.⁶⁴ In some counties, technology answers the question in part, because the computer systems used to record marriage information will not accept data about a marriage that occurred before the date on which the license was issued.

Some couples facing the dilemma that Sue and Ned confronted not only apply for and obtain a license and a certificate but also have another marriage ceremony. When the license and the certificate are completed reflecting the date of this second ceremony and then returned to the register of deeds, nothing irregular appears on the face of the certificate. When the two ceremonies are only a few days apart, this practice may be harmless, and it is easy to understand why couples engage

in it and why some registers of deeds advise couples to do so. Sometimes, however, the need to document a marriage arises long after the ceremony, such as when one spouse dies.

Margaret and Paul created a different dilemma for the register of deeds. They properly applied for and obtained a marriage license from a North Carolina register of deeds. They were married within sixty days of the license's issue, and within ten days of the wedding, the minister who performed the ceremony returned both completed copies to the register of deeds who issued the license. The returned license, however, indicated that the marriage took place in Bristol, Tennessee.⁶⁵ Whether Margaret and Paul are legally married is a question that now depends on Tennessee law, for the marriage took place in Tennessee. The North Carolina license is irrelevant with respect to whether they are married. The register of deeds probably should neither file the returned license and certificate nor send a copy to the state Vital Records Unit in Raleigh, for they do not document a marriage that took place in North Carolina.

So some people who are legally married in North Carolina have great difficulty proving so because they married without a license. Others who appear as a matter of public record to be legally married may not be.



Q & A

on Marriage in North Carolina

Q: May I apply for a marriage license in North Carolina, which is where I will be living, but have my wedding in another state?

A: No.

Q: May a pregnant fifteen-year-old marry?

A: Yes, but only with a court order—and only the father of her child.

Q: May a nonpregnant fifteen-year-old marry?

A: No, with one exception: if she has given birth to a child who is still living and she has a court order authorizing her to marry, she may marry the child's father.

Q: A seventeen-year-old male whose parents are divorced and have joint custody wants to get married. Must he get approval from both parents?

A: No. The consent of one parent who has joint custody is sufficient.

Q: Do I have to prove mental competence to marry?

A: No.



Q: What if a drunken person applies for a marriage license?

A: The register of deeds can refuse to issue the license.

Q: May persons of the same sex marry in North Carolina?

A: No.

Q: Does North Carolina recognize same-sex marriages in other states as valid?

A: No.

Q: Do religious officiants at weddings need to be registered with the county or state government?

A: No.

Conclusion

People who want to know whether they are eligible to marry in North Carolina should not have much difficulty arriving at definite answers. Eligible couples who want to marry or have married in the state, however, face some possible pitfalls with regard to creating and proving valid marriages.

Few events in people's lives have more significance than entering into a marital relationship. A basic premise of any state's marriage laws should be that people know whether they are legally married and that when they are, they can readily establish that fact. The state has a strong interest in facilitating legal marriages and preventing marriages that appear proper but are fatally flawed.⁶⁶ That interest encompasses not only the need to meet citizens' expectations but also the need to implement properly the

A "common law marriage"—one brought about by a couple's agreement and cohabitation, without a ceremony—may not be created in North Carolina.

many benefits, laws, and policies for which marital status is a relevant consideration.

Although North Carolina's marriage laws were revised and improved substantially as recently as 2001, they still do not provide the clarity and the certainty required to satisfy the governmental and personal interests just identified. A further examination of these laws might address the following questions:

- Should North Carolina have a procedure for establishing that particular persons are qualified to perform marriages or that particular customs or rituals suffice to create a valid marriage?
- What is the function of the marriage license, and what if any relationship should it have to the validity of a marriage?

- Should the state have a procedure whereby a couple who marry or have married without a license, on proper proof, could obtain a license documenting the marriage?
- To what extent should the validity of marriages for civil purposes depend on religious and cultural traditions and practices?
- What are the responsibilities of registers of deeds with respect to returned licenses and certificates that are incomplete or irregular?
- Should North Carolina have a curative statute, like the one enacted in 1981, to validate marriages performed since 1981 by ministers of the Universal Life Church or similar organizations?
- Is there a need for a simple judicial procedure whereby couples may obtain legal determinations of whether they are legally married under North Carolina law?

Notes

1. Exceptions to this general rule include polygamous marriages, marriages of very young children, or other marriages that violate strong public policies. A statute provides specifically that same-sex marriages, regardless of where they were created, are not valid in North Carolina. N.C. GEN. STAT. § 51-1.2 (hereinafter G.S.). See the discussion of gender, later in the text.

2. A somewhat different issue may arise if a person is not able to show documentation or proof that a valid marriage took place here.

3. See the table, *Marriage Laws of the Fifty States, District of Columbia and Puerto Rico*, available at http://straylight.law.cornell.edu/topics/Table_Marriage.htm, a site of the Legal Information Institute at Cornell University Law School. The National Conference of Commissioners on Uniform State Laws approved a Uniform Marriage and Divorce Act in 1970 and amended it in 1971 and 1973. During the 1970s several states adopted portions of the act. Since then, however, the act has received little attention. Information about it can be found at www.law.cornell.edu/uniform/vol9.html. Information about the National Conference of Commissioners on Uniform State Laws can be found at www.nccusl.org/Update/.

4. Additional factors are inherent in the provision that a marriage may be declared invalid if either party is physically impotent at the time of the marriage or if the parties married under a representation and belief that

the female was pregnant, the parties then separated within forty-five days of marrying and remained separated for a year, and no child was born within ten lunar months of the parties' separating. G.S. 51-3.

5. Almost half of the states have some requirement relating to medical examinations or tests. See the table, *Marriage Laws of the Fifty States, District of Columbia and Puerto Rico*, described in note 3.

6. G.S. 51-3. Usually, however, the parties may ratify a voidable marriage if it is not annulled by a court and the couple live together as husband and wife. If the parties to a voidable marriage have a child, the court may be precluded from declaring the marriage void.

7. G.S. 48A-2.

8. G.S. 51-2(a1) states that an emancipated minor is not required to have written consent to marry if a court order or a certificate of emancipation is filed with the register of deeds. In North Carolina, only minors who are at least sixteen years of age may petition for emancipation. G.S. 7B-3500. Because a minor's marriage automatically emancipates the minor and relieves his or her parents of all parental duties and responsibilities, proof of a minor's prior marriage also should preclude the need for consent. See G.S. 7B-3507, -3509.

9. G.S. 51-2. As originally enacted in 2001 by SL 2001-62, G.S. 51-2 required that the consent be acknowledged before a notary public or signed in the presence of the register of deeds. Later that year, in SL 2001-487, § 60, the General Assembly amended G.S. 51-2 to delete that requirement.

10. The district court may appoint a guardian for a minor in a juvenile proceeding in which the minor is alleged or found by the court to be abused, neglected, dependent, undisciplined, or delinquent. G.S. 7B-600, -2001. The clerk of superior court may appoint a "guardian of the person" for a minor who does not have a living parent. See G.S. 35A-1220 through -1228.

11. See G.S. 51-2.1. This law, enacted in 2001, almost certainly supersedes a portion of G.S. 51-3, last amended in 1977, which says that "[a]ll marriages . . . between a male person under 16 years of age and any female, or between a female person under 16 years of age and any male . . . shall be void." This older section also says that the marriage of someone younger than sixteen, if that person otherwise was competent to marry, may not be declared void if the female is pregnant or a child has been born to the parties, unless the child is deceased at the time of the annulment action.

12. G.S. 51-2.1.

13. G.S. 51-2(b1).

14. See the text accompanying note 6. A court may not declare the marriage void after one of the parties dies if the parties cohabited and a child was born of the marriage. G.S. 51-3.

15. G.S. 51-2(c).

16. G.S. 51-3.

17. Before the 2001 rewriting of the marriage laws, G.S. 51-8 directed registers of deeds to issue marriage licenses to applicants "if it appears" that they are authorized to marry. As amended in 2001, G.S. 51-8 directs registers of deeds to issue licenses if they determine, on the basis of the applicants' responses to questions about age, marital status, and intention to marry, that the applicants are authorized to marry.

18. *Geitner By and Through First Nat'l Bank of Catawba County v. Townsend*, 67 N.C. App. 159, 162, 312 S.E.2d 236, 238 (1984) (holding that prior adjudication of incompetency is not conclusive on issue of later capacity to marry and does not bar party from entering contract to marry).

19. See, e.g., *Clark v. Foust-Graham*, ___ N.C. App. ___, 615 S.E.2d 398 (2005). In this case a jury declined to find incompetence or lack of consent but did find "undue influence" by the much younger wife. The court of appeals affirmed the trial court's order of annulment, holding that when a person's consent to marry is procured by undue influence, that person is "incapable of contracting from want of will," and the marriage is voidable.

20. See the text accompanying note 6. A court may not declare the marriage void after one of the parties dies if the parties cohabited and a child was born of the marriage. G.S. 51-3.

21. G.S. 51-3.

22. G.S. 51-4.

23. In 2001, in SL 2001-62, §4, the legislature amended the article in which these provisions appear, to add G.S. 51-2.2. It provides that as used in the article, the terms "parent," "father," and "mother" include people who have that status as a result of adoption. The change was made in connection with revision of the laws relating to marriage by minors, and was not aimed at the kinship provisions, which do not use the terms "parent," "father," and "mother."

24. For a discussion of kinship issues in marriage, see SUZANNE REYNOLDS, 1 LEE'S NORTH CAROLINA FAMILY LAW § 2.9 (5th ed. Charlottesville, Va.: Michie Co., 1998 & Supp. 2004).

25. See the text accompanying note 6. A court may not declare the marriage void after one of the parties dies if the parties cohabited and a child was born of the marriage. G.S. 51-3.

26. G.S. 14-183. From 1997 through 2004, there were thirty-five convictions for bigamy in North Carolina. Telephone Interview with Patrick Tamer, Statistician, N.C. Admin. Office of the Courts (Oct. 11, 2005).

27. For a discussion and a timeline of legal developments relating to same-sex marriages, see Kavan Peterson, *Washington Gay Marriage Ruling Looms* (Mar. 29, 2005, updated Nov. 23, 2005), available at www.stateline.org/live/ViewPage.action?siteNodeId=136&languageId=1&contentId=2069. For an article

discussing the debate about same-sex marriage in the context of the historical and anthropological evolution of marriage, see Mike Anton, *Marriage: The State of the Union*, LOS ANGELES TIMES, Mar. 31, 2004, at E1. See also, e.g., Linda D. Elrod & Robert G. Spector, *A Review of the Year in Family Law: "Same-Sex" Marriage Issue Dominates Headlines*, 38 FAMILY LAW QUARTERLY 777, 799-801 (2005); Note, *Litigating the Defense of Marriage Act: The Next Battleground for Same-Sex Marriage*, 117 HARVARD LAW REVIEW 2684 (2004).

28. See, e.g., Cristina Breen Bolling, *Gay Men Told Polite No on License*, CHARLOTTE OBSERVER, May 6, 2004, at 2B; Benjamin Niolet & Michael Biesecker, *Gay Couple's License Suit Rebuffed*, NEWS & OBSERVER (Raleigh), May 11, 2004, at B1; Yonat Shimron & Jim Nesbitt, *Rally Seeks Marriage Law Amendment*, NEWS & OBSERVER (Raleigh), May 11, 2005, at B1.

29. G.S. 51-1. This wording has been in the statute since at least 1871. See 1871-72 N.C. Sess. Laws ch. 193, § 3.

30. G.S. 51-1.2.

31. 1 U.S.C. § 7, 28 U.S.C. § 1738C (1996). The acronym for the act is DOMA. The state statutes sometimes are referred to as "mini-DOMAs."

32. 28 U.S.C. § 1738C (1996). This provision represents a divergence from both the federal government's usual practice of treating domestic relations laws as matters for individual states to decide, and the general rule that states recognize the laws of sister states. The law applies with respect to territories, possessions of the United States, and Indian tribes, as well as states.

33. 1 U.S.C. § 7 (1996).

34. A 1997 report by the General Accounting Office identified more than one thousand such laws. Letter from Barry R. Bedrick, Associate General Counsel, General Accounting Office, to Hon. Henry J. Hyde, Chairman, Committee on the Judiciary, House of Representatives (B-275860, GAO/OGC-97-16 Defense of Marriage Act (Jan. 31, 1997)), available at www.gao.gov/archive/1997/og97016.pdf.

35. See *Goodridge v. Dep't of Pub. Health*, 798 N.E. 2d 941 (Mass. 2003), in which the Massachusetts Supreme Judicial Court held that state action limiting marriage to couples of the opposite sex violated the state constitution. Massachusetts is the only state that issues marriage licenses to same-sex couples. Two states' legislatures have adopted laws providing for civil unions: Vermont's in 1999 and Connecticut's in 2005. A few states—California, Hawaii, Maine, and New Jersey—have domestic partnership

laws that provide some rights associated with marriage to same-gender couples. Peterson, *Washington Gay Marriage Ruling Looms*.

36. Early in the 2005 session of the North Carolina General Assembly, two such bills were introduced: Senate Bill 8 (filed January 27, 2005) and House Bill 55 (filed February 2, 2005). No action was taken on either bill.

37. For proposals to amend the constitution, see, e.g., H.R. Res. 39, 109th Cong. (2005); S.J. Res. 1, 109th Cong. (2005); S.J. Res. 13, 109th Cong. (2005). For proposals to limit federal courts' jurisdiction, see, e.g., H.R. 3313, 108th Cong. (2d Sess. 2003); H.R. 1100, 109th Cong. (1st Sess. 2005). See also Carl Hulse, *House Backs Bill to Limit Power of Judges*, NEW YORK TIMES, July 23, 2004, available at www.theocracywatch.org/marriage_act_protection_times_july23_04.htm.

38. Responding to an inquiry from a register of deeds, the North Carolina Attorney General's Office issued an advisory opinion, dated March 29, 2004, stating that "a register of deeds would violate North Carolina law in issuing a marriage license to persons of the same gender. If, in issuing such a license, the register of deeds operates in bad faith he may subject himself to the penalties provided in N.C. Gen. Stat. § 161-27." 2004 WL 871437 (N.C.A.).

39. A common law marriage that is valid under the law of the state in which it was created will be recognized in North Carolina. See, e.g., *State v. Alford*, 298 N.C. 465, 259 S.E.2d 242 (1979); *Bowlin v. Bowlin*, 55 N.C. App. 100, 285 S.E.2d 273 (1981); *Harris v. Harris*, 257 N.C. 416, 126 S.E.2d 83 (1962).

40. G.S. 51-1. The General Assembly periodically enacts laws, of very short duration, authorizing district court judges or other specified categories of people to perform marriages. See, e.g., An Act Allowing a District Court Judge to Perform Marriage Ceremonies, SL 2005-56, which became effective June 23, 2005, and expired June 27, 2005.

In the 2005 session of the General Assembly, a "technical corrections" bill was amended in the Senate to authorize all district and superior court judges permanently to perform marriages. The House of Representatives rejected that and other changes made by the Senate, abandoned the bill, and turned another pending bill, S 602,

into a technical corrections bill that did not include the marriage law change. Neither bill was enacted, although both remain eligible for consideration in the 2006 session.

41. SL 2001-62, § 1 (codified at scattered sections of G.S. Chap. 51).

42. See William A. Camp-

bell, *North Carolina Marriage Laws: Some Questions*, POPULAR GOVERNMENT, Winter 1998, at 2, discussing that statute's vulnerability to constitutional challenge.

43. From 2000 through 2004, annulment issues were raised in 220 civil court actions in North Carolina per year, on average. Telephone Interview with Patrick Tamer, Statistician, N.C. Admin. Office of the Courts (Nov. 8, 2005).

44. Because the term "magistrate" refers to a specific public official with prescribed responsibilities under North Carolina law, the term probably does not encompass people who are designated as magistrates pursuant to federal law or the laws of other states. A magistrate's authority to perform marriage ceremonies is not restricted to the county in which the magistrate serves. Because a magistrate who performs a marriage ceremony is doing so in his or her capacity as a public official, the magistrate may assess only the fee required by statute—currently \$20—for performing a marriage. G.S. 7A-309.

45. In a bigamy case, the North Carolina Supreme Court said, "Whether defendant is married in the eyes of God, of himself or of any ecclesiastical body is not our concern. Our concern is whether the marriage is one the State recognizes." *State v. Lynch*, 301 N.C. 479, 488, 272 S.E.2d 349, 354 (1980).

46. From the number of inquiries I have received, I conclude that this scenario is not unusual. A newspaper account of such a scenario reported that in June 2004, two sisters in North Carolina created a wedding chapel offering packages ranging from \$50 to \$325. The article stated that they "obtained online ordination to conduct weddings through the Universal Life Church based in Modesto, Calif." Melissa Turner, *Chapel Offers Quick Weddings*, NEWS & RECORD (Greensboro), published in the NEWS & OBSERVER (Raleigh), Aug. 8, 2004, at 7B, 7B.

47. The website for the Universal Life Church (at <http://ulc.net/>, last visited Jan. 13, 2006) includes the following statements:

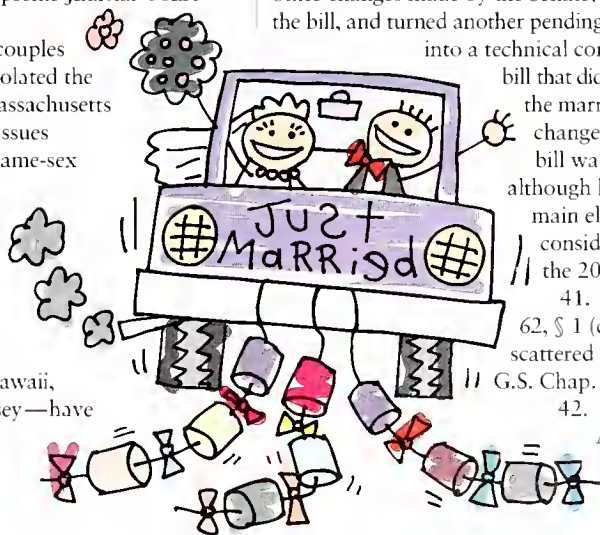
ULC ministers come from all walks of life and spiritual traditions. Our common thread is our adherence to the universal doctrine of religious freedom: "Do only that which is right."

Every person has the natural right (and the responsibility) to peacefully determine what is right. We are advocates of religious freedom.

The Universal Life Church wants you to pursue your spiritual beliefs without interference from any outside agency, including government or church authority.

You may become a legally ordained minister for life, without cost, and without question of faith.

48. For example, Virginia requires ministers to establish their qualifications and obtain a court order authorizing them to perform



marriages. A court may authorize others to perform marriages, and those people or people acting for a religious society that does not have a minister must post a \$500 bond before performing marriages. CODE OF VIRGINIA, §§ 20-23, -25, -26 (1981, 2004).

49. *Lynch*, 301 N.C. at 488, 272 S.E.2d at 354.

50. G.S. 51-1.1.

51. *Id.* The statute has been characterized as "curative," meaning that the legislature intended only to validate otherwise invalid marriages that occurred before the statute was enacted (when people might innocently have assumed that such marriages were valid), not to change the law prospectively to authorize the performance of marriages by people whose only qualification was a mail-order ordination certificate. *See, e.g.,* *Fulton v. Vickory*, 73 N.C. App. 382, 385, 326 S.E.2d 354, 357 (1985).

52. *See, e.g.,* *Dodrill v. Dodrill*, 2004 WL 938476 (Ohio Ct. App. Apr. 28, 2004) (unpublished), *appeal denied*, 103 Ohio St. 3d 1463, 815 N.E.2d 678 (2004), in which the executor of an estate filed an action to determine whether the defendant was the surviving spouse of the decedent, because the minister who officiated at the defendant's marriage to the decedent had not obtained the required license from the secretary of state. The court held that the marriage was voidable, not void, and that the defendant did qualify as the surviving spouse.

The issue arises in contexts other than marriage disputes. *See, e.g.,* *Tex. Att'y Gen. Op. JC-0535*, 2002 WL 1804633 (Tex. A.G.) (Aug. 5, 2002) (addressing who is a "recognized member of the clergy" for purposes of exemption under state's Psychologists Licensing Act); Anthony L. Scialabba et al., *Mail-Order Ministries under the Section 170 Charitable Contribution Deduction: The First Amendment Restrictions, the Minister's Burden of Proof, and the Effect of TRA '86*, 11 CAMPBELL LAW REVIEW 1 (1988).

53. A federal court struck down a Utah statute providing that ordinations, certifications, or licenses received through application over the Internet or through the mail were invalid for purposes of qualifying a person to perform marriages. The court held that distinguishing that group of ministers, rabbis, and priests from those who received the same documentations by telephone, by fax, or in person lacked a rational relationship to a legitimate state interest and violated the Equal Protection Clause. *Universal Life Church v. Utah*, 189 F. Supp. 2d 1302 (2002).

54. *Chance v. Henderson*, 134 N.C. App. 657, 667, 518 S.E.2d 780, 786 (1999). *See also, e.g.,* *McIntyre v. McIntyre*, 211 N.C. 698, 191 S.E. 507 (1937) (estopping husband from denying validity of marriage, in circumstances in which he obtained invalid divorce from his first wife); *Mayer v. Mayer*, 66 N.C. App. 522, 311 S.E.2d 659, *review denied*, 311 N.C. 760, 321 S.E.2d 140 (1984)

(estopping husband who helped wife obtain invalid divorce from her first husband from denying validity of divorce in action with wife); *Redfern v. Redfern*, 49 N.C. App. 94, 270 S.E.2d 606 (1980) (estopping husband from asserting invalidity of marriage, in circumstances in which he was negligent in not obtaining signed divorce judgment from his first wife).

55. The North Carolina Court of Appeals recently upheld a trial court's determination that a couple's marriage in 1991 had not been properly solemnized. It had been performed by a Cherokee Indian who lectured at the UNC Medical School as a shaman or "medicine man," who "performed healings and conducted ceremonies in accordance with Cherokee traditions," and who also possessed a certificate of ordination as a minister in the Universal Life Church. *Pickard v. Pickard*, ___ N.C. App. ___, ___ S.E.2d ___ (2006). The court of appeals also upheld the trial court's denial of the husband's claim for annulment, however. In doing so, it relied on the doctrine of judicial estoppel to prevent him from taking a position contrary to the one he had presented to the court when he adopted his wife's daughter—that is, that he and the child's mother were married. One judge on the three-judge panel dissented, concluding that the husband had not presented evidence sufficient to prove that the marriage was not properly solemnized or to overcome the presumption that the marriage was valid. *Id.* *See also* Anita Badrock, *What's a Marriage in North Carolina?* NEWS & OBSERVER (Raleigh), May 24, 2004, at A11.

56. G.S. 51-6 through -21. In North Carolina a three-part form serves as the application, the license, and the certificate of marriage.

57. G.S. 51-6, -7. A person who violates these provisions may be liable in a civil action for \$200, prosecuted for a Class 1 misdemeanor, or both.

58. G.S. 51-1.

59. *See, e.g.,* *Sawyer v. Slack*, 196 N.C. 697, 146 S.E. 864 (1929) (holding that marriage of minor without required special license was valid); *Wooley v. Bruton*, 184 N.C. 438, 114 S.E. 628 (1922) (holding that marriage was not invalid because solemnized without marriage license or under illegal license); *Magget v. Roberts*, 112 N.C. 71, 16 S.E. 919 (1893) (holding that marriage under invalid license, or with no license, is good if valid in other respects); *State v. Parker*, 106 N.C. 711, 11 S.E. 517 (1890) (holding that in prosecution for bigamy, first marriage was valid despite failure to comply with license requirements); *State v. Robbins*, 28 N.C. 23 (1845) (holding that proof of marriage without license was sufficient for bigamy prosecution).

60. *State v. Lynch*, 301 N.C. 479, 487, 272 S.E.2d 349, 354 (1980).

61. Chapter 1 (*Your License: Renewal and Duplicate Licenses*) of the DRIVER'S HAND-

BOOK of the North Carolina Division of Motor Vehicles, available at www.ncdot.org/dmv/driver_services/drivershandbook/, says the following about name changes:

A person whose name changes from the name stated on a driver license must notify the Division of the change within 60 days after the change occurs and obtain a duplicate driver license stating the new name. Name changes can be completed with:

- A marriage certificate issued by a governmental agency.
- Documented proof from the courts or the Register of Deeds establishing that the name change was officially accomplished.
- Divorce decrees which include the name change.

Id. at 23.

62. For Social Security Administration policy, Preferred Proof of Ceremonial Marriage, GN 00305.020, *see* <http://policy.ssa.gov/poms.nsf/lnx/0200305020>. Although the Social Security Administration does accept original or certified copies of religious as well as civil marriage records, the policy states that preferred proof of marriage does not include "a souvenir certificate (SC), also known as a keepsake, ornate, ceremonial, complimentary, goodwill, memento, or heirloom certificate." *Id.*

63. A similar issue arises when a license is issued properly but, on return, indicates that the marriage occurred after the license expired. In this situation the license is not valid, but the marriage probably is.

64. G.S. 51-18 requires registers of deeds to maintain an index for marriage licenses and returns, and states, "The original license and return shall be filed and preserved." G.S. 51-19 subjects a register of deeds who fails to record a return within ten days to a \$200 penalty. Interpreting that statute in 1893, the North Carolina Supreme Court held that the penalty did not apply when the license was invalid because the register of deeds who signed it had left office before the license was issued to the applicants. *Magget*, 112 N.C. at 71, 16 S.E. at 919. State administrative rules adopted by the state registrar of vital statistics pursuant to G.S. 130A-92(7) are found at 10A NCAC 41H. Information about the Vital Records Unit in the state Department of Health and Human Services can be found at <http://vitalrecords.dhhs.state.nc.us/vr/index.html>.

65. One register of deeds sent me a copy of a returned North Carolina license showing that the marriage had taken place in Denmark.

66. *See* *Utah v. Green*, 99 P.3d 820 (2004) (Durrant, J., concurring), discussing the state's compelling interest in and control over the institution of marriage and quoting from numerous other cases that have characterized the state's interest as compelling.



Brown-Graham Awarded Two Fellowships

In the last eighteen months, Anita Brown-Graham has garnered two prestigious awards that have involved significant international travel. In October and November 2005, Brown-Graham traveled to South Africa as an Eisenhower Fellow with Mary Mountcastle of the Durham Center for Community Self-Help to examine racial reconciliation in South Africa. In October 2004, she visited northern, southern, and central Europe as a Marshall Memorial Fellow to examine ways that transatlantic cooperation might address global policy challenges.

A professor of public law and government, Brown-Graham has been on the School of Government faculty since 1994. She specializes in affordable housing, economic and community development, and public liability. Most recently she has focused on developing the economic base of distressed communities.

As Eisenhower Fellows, Brown-Graham and Mountcastle were unique in two respects: they were the first fellows selected as a pair, rather than as individuals, and the biracial pair were the first Eisenhower Fellows to spend their five-week fellowship in South Africa. Both serve as trustees of the Z. Smith Reynolds Foundation, a Winston-Salem organization whose mission is to improve the lives of the people of North Carolina by addressing issues of social justice and equity, among others.

On their trip Brown-Graham and Mountcastle examined race relations, assessed the outcomes of South Africa's Truth and Reconciliation Commission, and compared models of antiracism work in the United States and South Africa. They explored these topics through a series of meetings with individuals from the public, private, nongovernmental, and religious sectors.

Some of their most valuable experiences came from talking with people whom they met in a wide variety of informal settings and on the visits they made to townships and cultural and historical sites, Brown-Graham reported. From these collective experiences, they concluded that South Africa has the vision, as articulated in its impressive constitution, and the commitment to deal with racial transformation and lingering economic inequities among races. The country's challenge is a dearth of capacity at the local level to deliver on the innovative national programs to realize the vision.

During her October 2004 stay in Europe, Brown-Graham met with leaders from the public, private, and not-for-profit sectors in Belgium, Denmark, Germany, Greece, and Slovakia.

Of the many insights she gained, Brown-Graham observed that two common themes arose in almost every meeting. "Many Europeans believe that the relationship between the United States and Europe has been weakened by a series of disputes culminating in the war in Iraq," Brown-Graham said.

"Also," Brown-Graham continued, "in every country I visited, political leaders emphasized the emerging role of the European Union as a vehicle for consolidating the continent's economic power and creating a counterbalance to the United States' superpower status." The European Union is creating "borderless nations" among its members by providing for largely unrestricted movement of goods, people, and capital. In 2004 the European Union almost doubled in size, embracing ten new members, many from the former eastern communist bloc. Now encompassing twenty-five nations, the organization includes 450 million relatively prosperous citizens and accounts for more than one-fifth of global economic activity.

"Overall, I found Europe to be in the midst of a crucial course of redefinition," Brown-Graham said.

The Marshall Memorial Fellowship supports emerging leaders in politics, government, business, media, and the nonprofit sector to strengthen the transatlantic relationship between the United



States and Europe. The fellowship is sponsored by the German Marshall Fund of the United States, which was founded in 1972 through a gift from Germany as a permanent memorial to the post-World War II Marshall Plan for European Recovery.

Founded in 1953, the Eisenhower Fellowship seeks to enhance the development of U.S. mid-career leaders in fields important to the future of their region and the United States. The fellowship provides an opportunity for people from a variety of countries and professional fields to exchange ideas and experiences, to build relationships with each other, and to foster mutual understanding. About 1,600 fellows from the United States and 105 other countries have participated in Eisenhower Fellowships.

2006 Essentials of Municipal Government Course Held, with Major Support from Food Lion

In January, newly elected officials and veteran ones, city managers, clerks, and town attorneys began gathering for the Essentials of Municipal Government, a three-day course on municipal government in North Caro-

lina. The course is offered by the School's Institute of Government and the North Carolina League of Municipalities after every municipal-election cycle. A companion course, the Essentials of County Government, is offered in years after county commission elections.

The 2006 Essentials course is being held at six sites across the state between January and March to reduce travel costs and make it easier for local



officials to attend. Sites this year are Wilmington, Rocky Mount, Asheville, Greensboro, Nags Head, and Charlotte. Nearly 900 elected officials and other municipal leaders are expected to attend.

Major financial support of \$20,000 for the course, including up to ten scholarships for small-town participants, came from Food Lion LLC of Salisbury.

According to Michael R. Smith, dean of the School, "Food Lion's financial leadership in helping underwrite this course was essential to our being able to offer a first-class program at a reasonable cost. Two long-time partners of the School, the N.C. League of Municipalities and the N.C. City and County Management Association, also contributed generously, as did the Local Government Federal Credit Union, and—a landmark achievement—the state's three major power companies, Duke Power, Progress Energy, and Dominion Power. Such aid underscores the importance of this course in enhancing the effectiveness of local government across the state.

"For many newly elected officials, this is their introduction to the breadth of responsibility held at the local level. Also, more experienced officials and managers learn valuable information on legislative changes and management techniques, among other topics."

Essentials sessions are taught by expert instructors, including faculty and staff of the School, staff of the N.C. League

of Municipalities, and experienced municipal government officials from across North Carolina. Among the course topics are the role of elected officials in a democratic society; municipal revenue, budgeting, and finance; municipal responsibilities for water, sewer, and utilities; land use and development; budget preparation, capital planning, and financial reporting; and engaging the public.

For more information on the Essentials of Municipal Government 2006, visit the website, www.emg.unc.edu, or call the School of Government at (919) 966-5381.

Former President Broad to Join School Faculty

Molly Corbett Broad, who retired from the presidency of the sixteen-campus UNC system on December 31, 2005, will join the faculty of the School of Government after a one-year research sabbatical.

Michael R. Smith, dean of the School, said, "We look forward to welcoming President Broad as a colleague on the School's faculty. She possesses excellent knowledge, talent, and experience, and she is excited about this opportunity to continue serving North Carolina."

Broad brings to the School a wealth of experience in higher education ad-

ministration and public service. While she was president (1997–2005), she increased enrollment in the university system, doubling minority student enrollment in the process. Legislative appropriations to UNC grew by 50 percent, research grants grew from \$500 million to more than \$1 billion, and the state's residents passed the \$3.1 billion higher education bond, providing crucial capital funding for both the university system and the community colleges. Necessary tuition increases were tempered under her direction by significant expansions in need-based aid.

Throughout her tenure Broad focused attention on the role of the University in economic development and the transformation of North Carolina's economy. This commitment was most recently exemplified by her work to bring a new N.C. Research Campus to Kannapolis.

Stenberg to Lead MPA Program

Dean Michael R. Smith recently announced that faculty member Carl W. Stenberg will become director of the School's Master of Public Administration (MPA) Program beginning in September 2006. Stenberg will succeed David Ammons, who is completing a five-year term.



In making the announcement, Smith said, "Carl has extensive experience as a successful administrator in higher education and is recognized as a national leader in the field of public administration. In addition to working with North Carolina public officials in the leadership field, he has become an active and effective member of the MPA faculty since his arrival at the School.

"David Ammons, who will continue serving until September, has set a high standard to follow. I am grateful to him for his hard work, commitment, and creativity in leading the program."

Stenberg joined the School in 2003 as a professor of public administration and government, specializing in public leadership. Earlier, he was dean and professor of government and public administration at the Yale Gordon College of Liberal Arts, University of Baltimore. He also has served as distinguished professor and director of the Weldon Cooper Center for Public Service, University of Virginia; executive director of the Council of State Governments, located in Lexington, Kentucky; and assistant director of the U.S. Advisory Commission on Intergovernmental Relations.

Stenberg holds a B.A. from Allegheny College and an M.P.A. and a Ph.D. from the State University of New York at Albany. He is a fellow of the National Academy of Public Administration, a former chair of its board of directors, and a past president of the American Society for Public Administration. He has extensive research and publishing experience. His teaching and research interests include intergovernmental administration, leadership, public management, regionalism, bureaucratic politics, and strategic planning.

O'Brien Named Director of N.C. Civic Education Consortium

Kelley O'Brien has been named director of the North Carolina Civic Education Consortium at the School of Government. O'Brien



joined the staff of the consortium in 2002 as project director for the 2003 Civic Index, the first-ever statewide study of youth and adult civic engagement. In 2004 she was promoted to assistant director. In that role she managed a variety of statewide activities and events that grew out of a series of Civic Index Community Forums held after publication of the index.

O'Brien holds a B.A. with honors in interdisciplinary studies from the University of Georgia and an M.P.A. from the School of Government at UNC at Chapel Hill. Her research has been published in *Nonprofit and Voluntary Sector Quarterly*, *Popular Government*, and the *Kappa Delta Pi Record*. Currently she serves on the Board of Directors of Kids Voting North Carolina.

The Civic Education Consortium works with schools, governments, and community organizations to prepare North Carolina's young people to be active, responsible citizens. Formed in 1997, it includes more than 200 organizational and individual partners who support the use of collaborative, experiential teaching methods to engage students in active learning.

For more information about the consortium and for descriptions of best practices in K-12 civics education, visit www.civics.unc.edu.



Volk Becomes Head of Finance and Information Technology

Bradley "Brad" G. Volk recently became the School's associate dean for finance and information technology. He is responsible for business management, financial operations, and information technology within the School.

Before his appointment, Volk was assistant dean for administrative services at the UNC at Chapel Hill School of Nursing for ten years. He also served as assistant treasurer for the School of Nursing Foundation. Previously he spent five years in a similar role at the University of Virginia School of Nursing and almost ten years in accounting and budget analysis roles at the University of Virginia.

"We are fortunate to have found in Brad a person with great professional skills and experience as well as thorough knowledge of the University's business operations," said Michael R. Smith, dean of the School.

Volk holds a master's degree in business administration from James Madison University and a bachelor's degree in commerce from the University of Virginia.

The Founding of the Institute

The visionary founder of the Institute of Government was Albert Coates, a native North Carolinian hailing from Johnston County. Coates graduated from UNC at Chapel Hill and Harvard Law School and immediately joined the faculty of the UNC School of Law, in 1923. From this vantage point, he says in his history of the Institute, he began to recognize “a gap between the law and government as it was taught in my Law School classroom and as it was practiced in the city halls, county courthouses, and the state capitol.”

In the late 1920s, Coates began to organize “schools” for groups of local officials, primarily police officers and sheriffs, to help fill the educational gap he perceived. His experience with these schools revealed a second gap, “between outgoing and incoming officials.” “[E]very two or four years,” he says in his history, they “were coming into the administration of public affairs in the cities, the counties and the State of North Carolina, knowing all too little about their powers and duties at the start; learning as they went along.”

The Institute grew out of those experiences. It marks its birth as 1931, also the first year that *Popular Government* was published.

Coates’s chief collaborator in the creation of the Institute was his wife, Gladys Hall Coates. Together they sacrificed their personal funds and devoted a lifetime to moving their vision of the Institute from a dream to a thriving reality. With the help of generous donors and dues from cities and counties, the Institute operated as a private enterprise for ten years until it became part of the University of North Carolina in 1942. Albert Coates retired from his distinguished service with the Institute and the University in 1962.

—Ann Cary Simpson



Popular Government

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 ALBERT COATES, Editor

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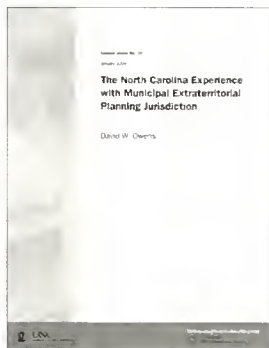
Albert and Gladys Coates in the 1940s; Table of Contents for the first issue of *Popular Government*, 1931; original home of the Institute, at 223 East Franklin Street, still owned by the University and currently housing its Center for International Studies.

Off the Press

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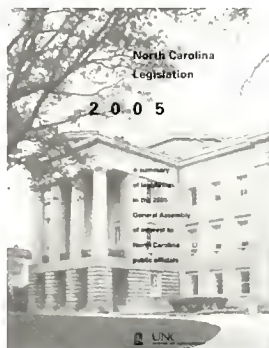
David W. Owens



North Carolina statutes allow cities to conduct planning and apply zoning, subdivision, and other development regulations regarding an adjacent area outside the city limits. This report examines the law related to this extension of municipal jurisdiction. It reviews the authority for the power and the process that must be followed in order to exercise it, and also reports on a comprehensive survey of North Carolina cities and counties regarding how this power has been exercised.

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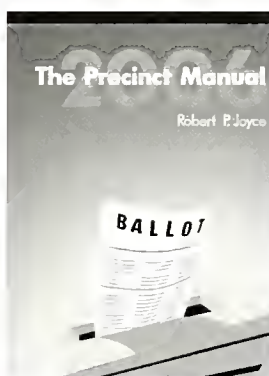


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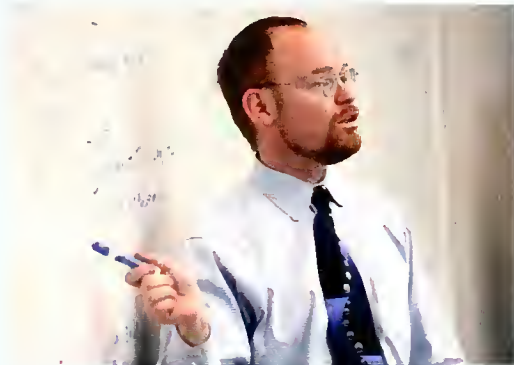
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