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Avoiding Municipal Liability Blind Spots

Building a Culture of Risk Awareness in Pennsylvania Boroughs

What if someone told you today that sending a letter to a local property owner to make a \$500-\$1,000 sidewalk repair could prevent your borough from having to pay out a jury-awarded \$400,000 judgment? Would you send the letter?

One Pennsylvania borough faced exactly that scenario, except they learned about it too late. The borough's ordinance assigned maintenance responsibility to the property owner, but it didn't clearly state that repairs were also the owner's obligation. Prior complaints weren't logged. The property owner was never formally notified. The issue wasn't negligence. It was the absence of a consistent process for documenting hazards and communicating next steps.

During the Fall Legal Conference for the Pennsylvania State Association of Boroughs, I presented a workshop on how real municipal liability claims, such as this one, caught communities off guard. The stories varied, from

employment practices to cyber fraud, but they shared one theme: each exposed a blind spot that could have been prevented with clearer policies and stronger communication.

The challenge for borough leaders is not predicting every problem, but identifying the areas where risks are least visible. These blind spots often arise from missing procedures, outdated policies, or assumptions about coverage that turn out to be wrong. By addressing these issues proactively, boroughs not only prevent costly claims and disruptions, but they also make themselves more attractive to insurance companies and gain greater control over future premium costs.

The Leadership Imperative in Risk Management

Benjamin Franklin's reminder that "Failure to plan is planning to fail" applies as much to borough governance as it

does to business. Councils and managers don't need to become insurance experts, but they do need to establish the framework that keeps risk visible and controlled.

Research by Wharton professors Howard Kunreuther, who has a doctorate in economy, and Robert Meyer, co-director Wharton Human - AI Research, identifies six behavioral risk biases that cause organizations to underestimate threats:

- Myopia focuses on today's crises rather than long-term planning.
- Amnesia forgets past close calls once they are resolved.
- Optimism assumes "it won't happen here."
- Inertia delays updates to outdated procedures.
- Simplification overlooks complex interactions between risks.
- Herding waits for neighboring communities to act first.

These same patterns often appear in municipal decision-making. Recognizing them helps boroughs build systems that look beyond habit and plan for the unexpected.

The key is not blame, but awareness. Leadership creates the environment where risk management systems function. By fostering a culture of documentation, transparency, and follow-through, boroughs position themselves to prevent small problems from becoming costly claims.

Risk Management as a Governance Function

Risk management isn't just an insurance task. It's a governance responsibility. A well-structured process ensures that risks are consistently identified, analyzed, and controlled across all departments. One proven framework uses five stages:

1. Risk Identification: Recognize exposures such as cyber threats, social media activity, employment practices, or property maintenance.

2. Risk Analysis and Evaluation: Assess the likelihood and potential impact of each exposure to help set priorities.

3. Risk Control: Establish procedures, inspections, and training to minimize risks before they escalate.

4. Risk Transfer and Implementation: Use insurance or contract language to manage what cannot be fully controlled.

5. Risk Review and Refinement: Revisit the plan annually to evaluate effectiveness and adjust for new developments.

Each step represents a leadership opportunity. Councils that require written rental agreements with hold-harmless clauses help protect their community from unintended liability. Boroughs that track development bonds with evergreen clauses ensure infrastructure accountability. When governance includes a defined risk management process, both the borough and its insurers see greater consistency, stability, and confidence.

Learning from Real-World Cases

The most valuable lessons often come from situations where good intentions met unclear procedures. Across Pennsylvania, boroughs have encountered:

Employment Decisions Without Documentation: One borough faced costly litigation after terminating a manager without conducting a required Loudermill hearing. Although the Pennsylvania Political Subdivision Tort Claims Act limits municipal liability to \$500,000, that protection doesn't apply if the case proceeds in Federal Court under civil rights claims. Written personnel policies and solicitor-reviewed procedures ensure due process and help prevent disputes.

Social Media and the First Amendment: Several municipalities faced lawsuits after deleting or blocking posts on official Facebook pages. A council-approved social media policy with clear documentation for managing public content is essential.

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Facility Rentals and Alcohol Liability: A pavilion rental for a graduation party led to a serious accident because the permit didn't require proof of event or liquor liability insurance. Adding that requirement is a simple risk transfer step that protects both the borough and residents.

Cyber and Financial Controls: An \$87,000 electronic funds loss occurred after hackers spoofed a vendor's email. A dual-authorization process and broader social-engineering insurance coverage could have prevented or mitigated the loss.

Development Bond Cancellations: One borough discovered too late that a developer's "irrevocable" bond had been cancelled by the insurance company, leaving more than \$1 million in potential infrastructure repairs

unfunded. A routine tracking system for bond renewals eliminates that exposure.

Each example shows that risk management is most effective when policies and procedures are clearly documented, periodically reviewed, and consistently followed.

Integrating Risk into Strategic Planning

Forward-looking boroughs are incorporating risk management directly into their strategic and financial planning. Rather than viewing insurance as a fixed cost, they use it as a barometer for operational health.

An annual Risk Review Session, like a budget workshop, can help councils evaluate:

- Claims trends and near-misses from the prior year.
- Updates to insurance coverages and limits.
- New or emerging risks such as cyber threats or infrastructure aging.
- The status of risk mitigation projects and grant opportunities.



When risk awareness becomes part of routine planning, it fosters both financial discipline and public trust. Insurers respond favorably to this proactive approach, often providing more competitive terms and stronger coverage. A well-documented risk culture signals stability and accountability, qualities every underwriter values.

Creating a Culture of Shared Responsibility

Risk management works best when everyone sees it as part of their job. Public works employees documenting inspections, clerks verifying certificates of insurance, or council members reviewing policy renewals all contribute to a safer, more insurable borough.

The goal is to create a culture where asking "Are we covered?" or "Do we have a policy for that?" becomes second nature. Leaders don't have to know every answer, but they should ensure the system exists to find it. When risk awareness becomes routine, costly surprises decline dramatically.

Building Confidence Through Preparedness

Every borough faces risks, but not every borough manages them with the same foresight. The difference is focus - creating clear policies, consistent procedures, and a culture that values prevention.

Boroughs that strengthen documentation, enforce policy reviews, and align insurance with strategy build long-term resilience and public confidence. By addressing risk proactively, they also present a stronger profile to insurance companies, which can result in more stable coverage and better control over premiums.

In risk management, perception is reality. A well-organized borough, one that anticipates issues, documents decisions, and manages exposures, projects credibility to its residents, employees, and insurers alike.

When was the last time your council asked, "What are we missing?" **B**



ABOUT THE AUTHOR



David R. Leng, CPCU, CIC, CBWA, CRM, MWCA, is the author of the Amazon #1 Best Seller Business Books *The 10 Laws of Insurance Attraction*, *Insured to Fail*, as well as *Stop Being Frustrated & Overcharged* (by your workers' compensation program.) David is

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