

Know your Client  
and  
Your Client's Business

**2017 MMAA Annual Conference**  
Christine Treat Bushyhead - Bushyhead, LLC

---

---

---


---

---

---

---

---



\_\_\_\_\_

We can't solve problems by using  
the same kind of thinking we used  
when we created them.

Albert Einstein  
1879-1955

---

---

---


---

---

---

---

---



\_\_\_\_\_

The more things change, the more  
they remain the same.

Alphonse Karr  
1808-1890

---

---

---

---

---

---

---

---

## Municipal Corporations

Cities, Towns and Villages are municipal corporations formed by property owners who petition the applicable county commission or circuit court to create the community.

Why was your community formed?  
Professional management?  
Services Provided?

---

---

---

---

---

---

---

---

## Types of Cities Mo. Const. Art. VI, Section 15

- Statutory Cities
  - Cities which derive their power from the specific authority given to a class of cities by the state legislature in state law
- Charter Cities
  - Cities which derive their power from a special charter written and adopted by the citizens of the municipality
  - (Mo. Const. Art. VI, Sections 19, 19a, 20)

---

---

---

---

---

---

---

---

## Statutes

- Chapter 71 Provisions for all
- Chapter 72 Consolidation
- Chapter 77 3<sup>rd</sup> Class
- Chapter 78 Alternative 3<sup>rd</sup> Class
- Chapter 79 4<sup>th</sup> Class
- Chapter 80 Towns & Villages
- Chapter 81 Special Charter
- Chapter 82 Constitutional Charter

---

---

---

---

---

---

---

---

## Other Statutes

- Chapter 67 Political Subdiv, Misc Powers
- Chapter 94 Taxation
- Chapter 100 Industrial Bonds / TIF/ LCRA
- Chapter 137 Assessment & Levy Property
- Chapter 476 Courts
- Chapter 353 Tax Abatement
- Chapter 536 Administrative Procedures
- Chapter 610 Open Meetings and Records

---

---

---

---

---

---

---

---

## Authority

- Acts of Municipal Officials Beyond the Scope of Their Authority Do Not Bind a City
- Governing Body of Municipality Can Only Act at an Official Meeting



---

---

---

---

---

---

---

---

## Conflict of Interest Chapter 105 RSMo.

- Generally, Official is Prohibited From Participating **Directly** or **Indirectly** in an Action That Would Result in a Financial Gain to Self, Spouse or Dependent Children. Unless ...



- Nepotism  
Mo. Const. Art. VI, Section 6



---

---

---

---

---

---

---

---

## What type of Decisions Do Officials Make

- Legislative
  - When City MAKES the Rules
    - Presumed to be Correct
    - Judicial Review for Arbitrary & Unreasonable
- Administrative
  - When City APPLIES the Rules
    - No Presumption of Validity
    - Judicial Review on the Record Made of the Proceedings
    - Upheld Only if Supported by Competent and Substantial Evidence Included in the Record

---

---

---

---

---

---

---

---

## BUDGET

Annual Adoption (RSMo 67.010)

Expenditure Limitation: Restrictions on Indebtedness (Mo. Const. Art. VI, Sec. 26(a))

Revenue Limitation: Hancock Amendment (Mo. Const. Art. X, Section 22)

Fix the Tax Rate (RSMo. 67.110)

---

---

---

---

---

---

---

---

## PURCHASES

- Competitive Bidding
  - Health Insurance
  - Special Assessments
  - City Official Selling to City
  - Grants
- Lowest and Best
- State and Local Procedures



---

---

---

---

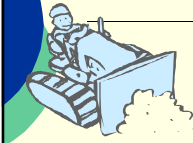
---

---

---

---

## CONSTRUCTION CONTRACTS



- Competitive Bidding
- Engineers and Architects (RSMo. Sec. 8.285-.291)
- Prevailing Wage (Chapter 290 RSMo.)
- Performance/Payment Bonds (RSMo. 107.170)

---

---

---

---

---

---

---

---

## LAND USE

- Land Use Regulations (Chapter 89 RSMo)
  - Reasonable Regulation to Protect the Public Health, Safety and Welfare
  - Balancing of Interests of Property Owner with Community at Large
- Special Use or Conditional Use
- Rezoning
- Plats (RSMo. 445.010)



---

---

---

---

---

---

---

---

## PERSONNEL

- At-Will Doctrine
- Personnel Policies
- Fair Labor Standards Act (FLSA)
- Unauthorized Workers Law (MO)
- Collective Bargaining



---

---

---

---

---

---

---

---

## ORDINANCES

- Content
  - Subject Within Authorized Scope of Powers
  - Public Purpose Required
  - Must Conform to State Law
  - Must Be Clear and Concise
- Enactment
  - Introduction in Form of Bill
  - Read Twice (Generally)
  - Majority of Council Votes (2/3 Exception)
  - Votes Recorded for enactment – Roll Call

---

---

---

---

---

---

---

---

## Criminal Liability Laws

Chapter 576 RSMo

- Bribing a Public Servant
- Public Servant Acceding to Corruption
- Obstructing Government Operations
- Official Misconduct
- Misuse of Official Information



---

---

---

---

---

---

---

---

## Immunity From Civil Liability

- Sovereign Immunity
- Official Immunity (Discretionary Act)
- Public Duty Doctrine

*Southers v. City of Farmington*, 263 S.W. 3<sup>rd</sup> 603 (Mo 2008)

---

---

---

---

---

---

---

---

## Punitive Damages

- A City is Immune From Punitive Damages Under Any Circumstances
- However, an Official May Be Liable for Punitive Damages When Actions Are Intentional, Malicious or With Willful and Conscious Disregard to the Rights of the Plaintiff.

---

---

---

---

---

---

---

---

## Hotspots

- Abstention Voting
- Adult Entertainment
- Annexation
- Special Tax Bills
- Storm water Management

---

---

---

---

---

---

---

---

GOOD LUCK !!!



---

---

---

---

---

---

---

---