• Social Media Pros and Cons
• Cybersecurity
• O'Fallon Preserves History
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MML wrapped up a very successful Legislative Conference last month. Nearly 300 municipal officials came to Jefferson City to hear from Missouri’s Senate Minority Floor Leader Sen. Joseph Kaveny, Missouri Speaker of the House John Diehl, as well as other legislators and experts. Attendees had the opportunity to meet one-on-one with their local legislator, network with fellow local government peers and learn more about the most pressing legislative topics facing municipalities in 2015.

At the annual legislative breakfast, Gov. Jay Nixon visited with attendees and recognized the impact Missouri’s local elected leaders make across the state in the day-to-day lives of Missouri citizens.

Gov. Nixon also noted the recent organization of the Missouri Local Leaders Partnership (MoLLP). MML is proud to be a part of this newly formed organization that includes the Missouri School Boards Association and the Missouri Association of Counties.

With a combined membership of more than 9,000 local elected officials, these three organizations are working together to serve as a united voice for local government at the Missouri State Capitol.

MoLLP is built on support of common priorities and principles that each group of members share, such as local decision-making authority and accountability, sound economic policies at all levels of government and preserving a strong quality of life for citizens.

Gov. Nixon commended the MoLLP for this combined advocacy force, saying the partnership will help address “a trend in which there has been more push to take decisions from you all at the local level.”

“Local Leaders Partnership has the possibility of being a real and true force multiplier for the local issues that are so important in providing services across our state,” said Nixon.

The first legislative issue the Missouri Local Leaders Partnership supports is Senate Bill 15, introduced by Sen. Bob Dixon, R-Springfield, and co-sponsored by Sen. Paul LeVota, D-Independence. The bill would create a study commission on state tax policy.

At the annual legislative breakfast, Gov. Jay Nixon visited with attendees and recognized the impact Missouri’s local elected leaders make across the state in the day-to-day lives of Missouri citizens.

You’ll find a toolkit on MML’s website with ideas for how you can celebrate the value of local government. Look for the banner on the homepage of www.mocities.com.

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I am writing you today to make sure you are aware of how your Missouri Municipal League advocates for you. Over the past few years there have been numerous changes the League has made that have improved the way in which we advocate. Why have we changed the way we advocate? In the last decade, state legislatures have become increasingly hostile toward municipal governments, both in rhetoric and in actions taken to reduce revenues and limit local decision making. These are well-funded campaigns that reduce local tax bases and diminish local authority. In response to these ever increasing threats, MML has reallocated resources to provide an increased and targeted approach to its advocacy program.

**THE TEAM**

In 2012, MML Deputy Director Richard Sheets, who has been with the League for more than 30 years, became the lead lobbyist bringing knowledge, skills, and talents as they relate to municipal operations and laws to the effort. I also lobby legislators and testify in House and Senate hearings on bills impacting Missouri cities.

In addition, former MML employee Katie Bradley rejoined this team and is assisting Richard at the capitol with legislator meeting scheduling, bill analysis, reporting, and alerts. We also access the services of well-known municipal attorneys Allen Garner and Carl Lumley to provide advice and quick analysis of the impact of proposed legislation and for strategies opposing or modifying it. Another effective addition to our program is the retention of a media and marketing specialist. This is a seasoned media expert who helps MML gain access to Missouri’s media markets, provides effective messaging, and assists MML’s communications specialist with press relations and media campaigns. The League continues to retain the services of a legislative consultant who has been advocating for municipalities for more than 13 years.

**A UNITED VOICE**

Just this year a new partnership was formed called the Missouri Local Leaders Partnership or MoLLP. This group is comprised of MML, the Missouri School Board’s Association, and the Missouri Association of Counties. Under our agreement, we can support or oppose common priorities with the combined strength of the 9,000 local elected officials that we represent. That is a very powerful voice in Jefferson City and back home in legislators’ districts!

**STRATEGY PLANNING**

MML holds weekly meetings with municipalities’ staff lobbyists and contract legislative consultants to compare notes and plan effective strategies to support or oppose legislation. These extra eyes and ears are essential components of our network of municipal influence. The League also makes sure that it is on top of issues by keeping up constant contact with members by answering questions; attending regional meetings; and in general keeping, the lines of communication open. One of the biggest steps the League took towards strategic planning was the creation of an advocacy fund.

**THE ADVOCACY FUND**

Let me turn your attention to other challenges and the money it takes to combat other opponents in the courts at every level, including in Washington, DC. Before 2007, the Missouri Municipal League had no dedicated funds to assist with legal issues that came up. The former League’s executive director would solicit pro bono legal services or ask member cities to contribute funds to pay for a portion of these services.

In 2007, after years of litigation, including a successful Missouri Supreme Court challenge to 2005 legislation that mandated immediate dismissal of all pending municipal lawsuits to enforce business license taxes on the gross receipts of telecommunications companies, Missouri municipalities began reaching class settlements with the companies. Wireless companies (AT&T Mobility, Alltel, Cricket, Sprint, T-Mobile, U.S. Cellular, and Verizon) agreed to start paying taxes for the first time and a landline company (AT&T) agreed to pay taxes on various revenue streams that it did not report in tax returns. Class counsel John F. Mulligan, Jr. reported that the companies paid approximately $300 million in back taxes and have paid an estimated $500 million in prospective taxes as a result of the settlements.

MML assisted the municipalities by scheduling numerous presentations at MML conferences to inform members of the issues in litigation, by lobbying against bills sponsored by the companies, and by posting information and lawsuit documents on its website.

The settlement terms expressly authorized municipalities to assign up to 5 percent of their settlement to MML or to the St. Louis County Municipal League (if in St. Louis County). Municipalities answered the call, enabling MML to create
a law firm dedicated to the practice of municipal law.

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an advocacy fund to advocate, intervene in cases, and oppose legal or legislative actions of broad impact to Missouri municipalities.

Since 2008, the MML advocacy fund has been used 68 times to pay for amicus briefs, legal analysis, attorney fees, case-filing costs, and for expert services to oppose or support issues. In 2014 alone, the fund was accessed more than 20 times totaling more than $160,000 as MML was actively involved in cases including: red-light cameras; sheriff’s retirement fund court fees; wireless telecommunications; the Kimble case; FOP vs. Grandview, sustaining the Governor’s vetoes of “Friday Favors” harmful special tax exemption bills; drafting of a vehicle sales tax amendment; HB 103 “Macks Creek;” Campbell vs. Franklin County; Ameren Ash Pond System; and participation in FCC proceedings. (To find out more about these cases, please refer to www.mocities.com.)

Due to the foresight to create the advocacy fund, we have been able to increase our presence and effectiveness in the capitol, in the courts, and before the FCC. The League is using the class action suit settlement funds that are managed under the MML Board’s prudent investment policy to get this work done. This has all been accomplished without coming to you year after year asking for contributions to mount opposition to legislation or fund legal actions.

Having said that, the number of threats municipalities are facing is increasing each year. In 2015, we are already combatting targeted special “Friday Favor” tax exemptions; a St. Charles County Charter Amendment attempting to take away municipal authority; so-called Fair Tax legislation; misinformation attacks on municipal court operations; collective bargaining challenges; and a plethora of other proposed legislation potentially harmful to local decision-making or revenues.

Your Role

On our recent membership survey, members indicated that advocacy and legislative updates were the primary reason municipalities belonged to MML. Advocacy is a partnership between your MML staff fighting for municipal interests in Jefferson City and you communicating with your elected representatives. It takes money to maintain the level of presence and participation MML needs to be an effective force in the state capitol, the courts, and in Washington DC. The advocacy fund has permitted MML to fight for your interests for nearly eight years, but at this rate it will not last.

This brings me to the “ask.” Recently, nearly 280 Missouri municipalities received funds resulting from a class action suit brought against CenturyLink. Like the previous settlements that permitted creation of the advocacy fund, the CenturyLink agreement gave municipalities the option to allocate 5 percent to MML for advocacy. Only 1 in 5 municipalities in the settlement class chose to contribute, which means 4 out of 5 made a conscious decision to not contribute to the advocacy fund. If your city “opted out,” maybe it is because you were not aware of the volume, complexity, and cost to maintain advocacy provided by MML. If your municipality received settlement funds and did not opt to allocate the 5 percent, please reconsider and take action to make that contribution to the MML Advocacy Fund. This request also holds true for any future funds member cities receive from class action settlements, as lawsuits are still pending against a couple of telecommunications companies and an electric company over municipal taxes on their gross receipts.

Where We Are Now

I hope these examples of MML advocacy efforts increase your understanding of the level of effort it takes to be effective in the state legislative process. It is no real secret that our opponents seem to have an inexhaustible supply of lobbyists and money to fund candidates and issues in support of personal or political interests. Add to that, the challenge of tracking more than 175 bills that have been filed this year, that may impact Missouri municipalities and you begin to see the scope of our work. Again, I ask you to look at the settlement your municipality received and consider allocating 5 percent to MML.

It is truly an honor to serve as your Missouri Municipal League executive director and to lead a small (seven employee) staff in providing conferences, education, training, publications, certification opportunities, and inquiry services. Most importantly we strive to have a proactive advocacy program in support of you, our members. Advocacy is a critical function of this organization and funding is essential to its success. Help us continue to maintain advocacy at the current level by contributing from your CenturyLink settlement. I hope this article increases your understanding of this facet of services provided by your MML. Contact me at 573-635-9134 if you have any questions. ☐
TWEETS, SNAPS AND POSTS

10 QUESTIONS ADDRESSING THE PROS AND CONS OF SOCIAL MEDIA USAGE FOR PUBLIC OFFICIALS

by Dan Wichmer and Cora Scott

One of the most intriguing aspects of modern public service is the instant access an official has to his or her citizenry, as well as people all over the world. This access is offered in seemingly benign packages such as Facebook, Twitter, Instagram, Vine, Snapchat, and “old-fashioned” mass-email messages. These social media tools, when used appropriately, allow an official to receive and solicit input from a much larger audience than the traditional business meeting or town hall meeting, and allow the official to broadcast information much faster and with less filtering than through traditional press releases, newspapers, or TV reports. However, inappropriate or careless use can lead to embarrassment, censure, fines, and lawsuits. This article will offer some general guidance on how to properly navigate the social media minefield, from a legal standpoint.

While it seems as though social media has been in use for a long time, well-established sites like Facebook and LinkedIn are all less than 12 years old, launching in 2003-2004. YouTube launched in 2005, and Twitter is a relative “new kid in town,” not launched until 2009. New social media sites like Instagram, Vine, and Snapchat are growing in popularity, especially among younger users, as the “traditional” social media venues like Facebook and Twitter become populated by their parents and grandparents. By 2014, 85 percent of the world’s population had access to the Internet, there were 200 million social media users in the U.S., and millions of people have “liked” a brand on Facebook. Major retailers have begun to use traditional media to drive customers to their Facebook and Twitter streams to take advantage of the easy access to potential customers. It is not surprising that a public official would be interested in utilizing the low-cost and immediate access to constituents that social media provides.

Research shows that social media users are more engaged citizens. Sixty-nine percent (69 percent) of social media users will volunteer for a community organization versus 49 percent for non-social media users. Similarly, 57 percent of social media users participated in a community issue versus 43 percent of non-users. Finally, 60 percent of all Americans believe the Internet has made it easier for them to be well-informed consumers, while 47 percent of all Americans believe that the Internet and social media has made them more active in the political sphere.

Since social media is such a ubiquitous presence in many people’s lives, anyone who wishes to communicate effectively with his or her constituents must be ready to use such tools. The fact that using them requires very little training is both a blessing and a curse. The closest analogy this writer can convey is that using social media without a guide is like watching one’s child start to drive immediately after passing their driving test. Yes, the person has the right to drive, but do they have the ability to safely do so without additional instruction? Let me climb into the passenger’s seat of your social media-mobile and attempt to provide some further instruction to keep you headed in the right direction in this new territory.

Question: Is everything I write on social media governed by the Sunshine Law?

Answer: No. The matters that are controlled by the Sunshine Law are any writings or videos that an official posts about their office (i.e., a councilmember commenting on proposed legislation or actions that the member wants the public body to take, such as terminating or disciplining staff.) The test of determining “public” versus “private” documents involves comparing the nature and purpose of a document with a government official’s or agency’s activities to determine whether the documents constitute a record of the “performance of official functions that are or should be carried out by a public official or employee,” thereby making them public records. To the extent that the post or message in question does not meet the test stated above, the message would be private and not subject to the Sunshine Law.

The above standard is the majority view of courts and agencies that have addressed the question. There are a minority of courts that still hold that if a public computer or cell-phone is used, or if public funds are paying for the computer or phone, then it is the public’s property and the elected official has no ability to claim that he or she is entitled to claim privacy for the post or message in question.

Question: If I post information about city
Business on my personal Facebook account, is that post subject to a Sunshine Request?

Answer:
Yes. Any post that concerns a person’s status as an elected official is subject to a Sunshine request regardless of whether the person tries to keep such post “private”. It is irrelevant whether you post as “Alderman X” or “private citizen X”. The content of the message controls. For example, a councilperson posts under his personal Facebook account: “I am appalled by the city manager’s conduct and I think she needs to be fired.” Even if this post does not identify the councilperson as such or state that it is written in an official capacity, courts have held that since the content involved that person’s office, the post was subject to a Sunshine request.

Question:
I have Facebook and Twitter accounts that show that at least a majority of my fellow elected officials have “friended,” or follow me. Are there any Sunshine concerns having my fellow elected officials as friends or followers?

Answer:
Possibly. If an elected official posts about issues that the elected body may consider, or is considering, AND the other elected officials comment on the post, an un-posted “public meeting” probably has just occurred. Remember that 610.020 RSMo requires that any meeting of the public body requires a notice, given at least 24 hours in advance, of the time date and place of such meeting. A tentative agenda is also required. Once an elected body (or a majority thereof) engages in a discussion of public business without giving the requisite notice and agenda, a violation has occurred subjecting those involved to penalties under 610.027, RSMo.

Question:
If I do post information that I realize will create a “public record” under the Sunshine Law, what are my obligations?

Answer:
You must be able to produce the information if a request is made. You are also responsible for the cost of producing the information. Finally, you are obligated to keep the information for as long as is required under the Missouri Secretary of State’s archiving schedule. This is a requirement imposed under Chapter 109, RSMo. NOTE: You cannot rely on the actual social media site to be your “archive.” You are the person that must take the steps to keep and preserve the post(s). If you fail to do so, you face penalties under both the Sunshine Law and Chapter 109. This can be a very costly proposition for you.

Question:
During council or board meetings, I tweet and post my thoughts about the discussion taking place during the actual meeting. Sometimes, I answer questions that citizens pose back after I post, or other members of the council or board post replies to my comments while the meeting is occurring. Are these exchanges subject to the Sunshine Law?

Answer:
Yes. What is really taking place by your actions is public comment and debate among the elected body. This is no different than having an oral discussion at the meeting. The posts are subject to disclosure. More importantly, you are engaging in an unposted meeting in violation of 610.020, RSMo.

Question:
Are there any guidelines that I can review to help me in dealing with social media use as a public official?

Answer:
Yes. The Secretary of State has published guidelines that can be found at http://www.sos.mo.gov/archives/pubs/SocialMedia.pdf. Highlights of Policy:

1. Designate who is responsible for content;
2. Policy should outline ramifications for those who fail to follow policy;
3. Identify who owns the account and content;
4. Limit access;
5. Have a policy about forwarding 3rd party broadcasts;
6. Make sure confidentiality is addressed;
7. Understand copyright issues;
8. Have a disclaimer on opinions posted on the site;
9. Do not rely on third-party vendors to keep messages or archive. This is the responsibility of the agency with the account;
10. Have a plan in place to be able to archive and retrieve information in the event of a system crash, change in user terms by the provider or discontinuance of the media.

Question:
Are there guidelines for e-mail and electronic document management published by the Secretary of State?

Answer:
Yes. See http://sos.mo.gov/records/recmgmt/E-MailGuidelines.pdf. This document provides tremendous information on types of electronic documents and their treatment under the applicable state law. This should be required reading.
**Question:**
I have been informed that I, in my capacity as an elected official, have been sued for voting in favor of an ordinance that a citizen’s group claims violates their civil rights. I have also been told that I need to produce all documents that reference the subject of the lawsuit. I think I may have posted information on my Facebook and Twitter accounts about the issue. What do I need to do?

**Answer:**
First, take immediate action to preserve the documents. Once a party reasonably anticipates litigation, it has duty to suspend, as to documents that may be relevant to anticipated litigation, any routine document purging system that might be in effect, and the failure to do so constitutes spoliation. Such a party has a duty to put in place a litigation hold to ensure the preservation of relevant documents; the failure to do this constitutes spoliation. A document retention policy adopted or utilized to justify the destruction of relevant evidence is not a valid document retention policy and implementing such a policy in advance of reasonably foreseeable litigation would not be proper and could constitute spoliation.

It is critical that you plan, in advance, to have a document retention system in place for your social media. While this issue has not been heavily litigated, those courts that have addressed the matter have imposed serious sanctions, ranging from monetary penalties to default judgment against the party that failed to retain the required electronic communications. Please consult with your attorney for a more in-depth discussion of this aspect of the law.

**Question:**
What is “spoliation”?

**Answer:**
Spoliation is the destruction of evidence. Destruction of electronic documents can occur in two general ways: 1) actively deleting or altering records and 2) allowing electronic information to be deleted through lapse of time via a records retention policy.

Counsel is advised that the key elements in avoiding spoliation issues are making sure that clients have a clearly established record retention policy and to make sure to institute a litigation hold with the client or issue preservation notices to parties with relevant information as soon as litigation appears likely. Instigating a litigation hold as soon as litigation appears likely is especially important today where one study of sanctions for e-discovery noted, “In the 230 cases in which sanctions were awarded, the most common misconduct was failure to preserve electronic information, which was the sole basis for sanctions in 90 cases.”

**Question:**
Is using social media to conduct public business worth the risk?

**Answer:**
That is a question each person should address with their city attorney and city clerk as these two individuals will be the ones who are tasked with making sure their bosses do not violate the law. As demonstrated above, only the particular elected official will be able to determine if the benefits outweigh the risks. Just keep in mind the old adage, “caveat emptor,” or “let the buyer beware,” when taking the social media plunge.

Dan Wichmer is the city attorney for the city of Springfield, Missouri. Cora Scott is the director of public information for the City. Contact the city of Springfield at www.springfieldmo.gov or (417) 864-1000.

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**Endnotes**

1. See, Dr. Anthony Curtis—The Brief History of Social Media, 2013. http://www2.uncp.edu/home/acurtis/NewMedia/SocialMedia/SocialMediaHistory.html
2. Id.
3. Id.
4. Id.
6. Id.
7. Id.
Cyberattacks and security breaches equal bad publicity and worse. As a municipality, you need to know the questions to ask your executive team to avoid hitting the headlines. Better yet, help identify the risks facing your organization and propose action steps to minimize those risks. Security and privacy is a continuous process, not just a product. Good compliance does not mean you are secure. It is crucial for all levels and departments within a municipality to be actively and continuously involved in awareness, prevention and responses to cyber security issues.

Vulnerability

With the number of large local, national and international companies that experienced data breaches in 2014 – Staples, Sony, Target, P.F. Chang’s and The Home Depot – it’s become harder to think any given company or municipality, for that matter, is immune. State and local government is not. Recently, John Byers, chief information security officer for the Kansas Department of Administration’s Office of Information Technology Systems stated “the threats,” sometimes include “socially engineered Trojans, phishing attacks, advanced persistent threats, network-traveling worms, just to name a few.”

In 2013, 5.7 million current and former South Carolina taxpayers and their dependents had their personal information hacked from the department of revenue. Last month, after getting hacked by cyber activist group, Anonymous, for its homeless laws, the city of Fort Lauderdale updated its cyber security network with $430,000 worth of improvements. Closer to home, in December 2014, the Missouri State Employees Retirement System sent approximately 81,000 emails and 20,000 letters to members explaining that someone gained “unauthorized access” to four members’ accounts and filled out online forms that required the use of the members’ Social Security numbers, retirement ID numbers and passwords, and had shut the site down.

A study from Enigma Software found that in 2014, St. Louis experienced computer infections on a per capita rate that was almost 370 percent higher than the national average. Forbes Magazine recently reported that Patrick Morganelli, senior vice president of Technology at EnigmaSoftware.com, says that there isn’t a particular reason for St. Louis and the other ranked cities to be experiencing higher rates of infection. Some factors have less to do with user behavior and more to do with network intrusions or malware piggybacking on legitimate applications, he says.

THE COST OF CYBERCRIME

This comes on the heels of the Ponemon Institute’s “2014 Cost of Cyber Crime Study” that found the average annual cost of cyber crimes is up 9.3 percent since last year, at $12.7 million per organization. Information theft amounts to 40 percent of total annual external costs for organizations, making it the highest external cost. An external cost is any cost created by external factors such as fines, litigation, marketability of stolen intellectual properties and others. Costs associated with business disruption or lost productivity are the second-highest external cost, accounting for 38 percent of external costs.

There is a positive association between the time it takes an organization to contain an attack and the organizational cost. The Ponemon study found that it takes an average of 45 days to resolve a cyber attack with an average cost of $35,647 per day. The total cost over the 45-day period, $1,593,627, represents a 33 percent increase from last year’s cost estimate.
that was based on a 32-day resolution period.

Organizations that deployed security intelligence systems enjoyed an average cost savings of $5.3 million and a return on investment (ROI) of 30 percent. To help reduce the risk of a cyberattack, organizations should first develop an information security policy, document it and disseminate it throughout the organization. Another protective measure is to develop an incident response plan to react to a breach and quarantine activity before it spreads throughout the organization’s computer network.

**THE EXPANDING THREAT**

We traditionally consider the primary targets for cybercrime to be financial service institutions, but that is changing. If you analyze repeated incidents, the top five targets are universities, financial services, federal agencies, technology providers and hospitals, in that order. It is not just financial transactions that are being compromised; personal data, health information, and intellectual property are now sought.

The nature of the attackers is changing too. It is no longer just the techno geek in the wee hours; organized crime, nation states, and activist groups are moving in. The number of insider driven incidents is now more than 30 percent of reported incidents.

Information systems departments are aware of these disturbing trends, but continue to struggle with a lack of skilled information security resources. Even when they get management’s support, there is a shortage of affordable qualified candidates.

**PREVENTIVE MEASURES**

The attack vectors are changing all the time, such as website hacking, spear-phishing, and skimming. Concentrating on perimeter defenses alone is insufficient. Security risk assessment, addressing internal vulnerabilities, security event information management (SEIM), and data leak prevention management are needed.

A comprehensive incident management plan that addresses mitigation, notification, and remediation is a must. An incident management plan is not just an IT department need, but a company need. Risk management, legal, and public relations all have roles. Executive management must be involved. A well-constructed plan helps you manage unexpected and disruptive events, minimize the impact and assist in maintaining or restoring normal operations within a defined time period. This is not an IT-only plan.

A key starting point for IT departments that want to seriously address these issues is to select an IT framework. A framework gives you an understanding of a comprehensive and integrated set of policies, procedures and controls, and helps minimize the risk that key areas are overlooked. There are many good frameworks available to consider:

- **COBIT 5** – This is the leading framework for the governance and management of enterprise IT.
- **ISO 27001** – The ISO 27000 family of standards helps organizations keep information assets secure.
- **ITIL** – The Information Technology Infrastructure Library (ITIL) defines the organizational structure and skill requirements of an information technology organization and a set of standard operational management procedures and practices to allow the organization to manage an IT operation and associated infrastructure.
- **NIST Cybersecurity Framework** – The National Institute of Standards and Technology framework has been recently announced and is under development. NIST released the first version of the Framework for Improving Critical Infrastructure Cybersecurity in February 2014.

To review frameworks in a side-by-side comparison, review the Cloud Security Alliance Cloud Controls Matrix Version 3.0.1. A quick online search will lead you to this service, available free of charge.

**FINDING ANSWERS**

What questions should you be asking your executive team? The following seven questions will help you develop your strategy to help your organization avoid being compromised:

- Do you perform an annual security risk assessment? Do you have a program to mitigate risks identified as they change?
- Do you have a security awareness program? Do you educate employees on how to handle confidential information, and what to do if they think there has been an incident?
- Do you harden, update and patch systems? Does this include all systems, programs and utilities?
Do you use intrusion detection and data leak prevention? Do you monitor sensitive data and control it from leaving the organization?

Do you utilize encryption? – Consider data at rest (hard drives, laptops, USB sticks, etc.); data in motion, such as sending files, email, texting; websites; peripherals, such as copy and fax machines, backup systems, etc.; and, all other places data may exist.

Do you have a vendor management program? Have you determined if they are “fit for the purpose”?

Do you have an incident response plan? Does it include all key partners: IT, forensics, legal, public relations, and management?

With increasingly complex environments – Internet, mobile, bring your own device (BYOD), cloud – going it alone is not an option for many organizations. For municipalities, the challenge of hiring experienced talent at an affordable cost is a challenge. Choosing an accredited, affordable cybersecurity partner wisely is a must.

Information security impacts all our lives on a daily basis. Due diligence and caution should be taken when divulging personal information via public networks and social media outlets. Security and privacy is a continuous process, not just a product. Having good compliance does not mean you are secure. Vulnerability assessment and penetration testing are two of the tools that can help an organization gain a better understanding of their security strengths and weaknesses.

Controls need to be defined, documented, and implemented to reduce the risk of information being viewed, accessed, or compromised. The proper mixture of people, processes, and technology needs to exist. Also, be sure your management and employees are educated on the risks and the necessary security precautions.

Cyber Insurance – Find The Right Coverage

Because cyberattacks can be just as damaging to an organization as a fire or other natural disaster, organizations should review their insurance options for cyber protection. Insurance policies cover things like the cost of fines, notification that personally identifiable information (PII) has been compromised, liability, and business interruption. Cyber policies vary, so organizations must be careful to buy the right coverage.

Stay On Top Of Developments

The need for information security will continue to increase as technology continues to evolve, becomes integrated into the mainstream of business processes, and once-defined perimeters continue to erode. It is important to keep up with this exploding crisis and the rapidly changing environment.

Information security impacts all our lives and we all have a role to understand and manage the risk. There are good tools out there to facilitate a comprehensive approach. Be a part of your organization’s approach to manage and reduce that risk.

Tony Munns, FBCS, CITP, CISA, CIRM is the founding partner and leader of the IT Audit & Security practice at Brown Smith Wallace LLC. He speaks and writes extensively on IT audit, security, HIPAA and HITECH security matters, and helps many organizations from small to large manage the risks associated with the use of technology. Contact Brown Smith Wallace at (314) 983-1200 or info@bswllc.com.
PRESERVING HISTORY DURING GROWTH
O’Fallon’s Restored Historic Buildings Offer Historic Beauty And Economic Opportunity

By Thomas Drabelle

It wasn’t very long ago that the city of O’Fallon, Missouri, was such a small town that police officers on night patrol sometimes simply parked and listened for trouble, mostly from restless teenagers. The surrounding community was so rural that officers were occasionally called to shoo cows off the road.

Now, with city limits encompassing more than 27 square miles, O’Fallon is essentially a new city with 83,000 residents and border-to-border new homes, retail businesses, and globally-connected corporations. Officially, it is Missouri’s seventh largest municipality and the second-largest city in the St. Louis metropolitan region.

Despite the City’s exponential growth and new construction, O’Fallon retains original structures that tell the story of the town’s beginnings. One such structure is a rare War of 1812 fort site from the days when the area was recognized as the leading edge of the American frontier and teeming with bear, elk, and contentious Native Americans. The other is a nucleus of 19th-century buildings from O’Fallon’s “modern” foundation as a town jump-started by a railroad.

To preserve its legacy of historic buildings with an eye to fostering heritage tourism and economic development, the City formed its newest board, the O’Fallon Preservation Commission, in 2013. Under the board’s guidance, the City is moving ahead on inventorying historic sites and structures, designing an attractive streetscape for O’Fallon’s historic Main Street, and highlighting local history through interpretive park signs, brochures and videos. In these endeavors, the City will be assisted by O’Fallon’s recent designation as a Certified Local Government (CLG) that makes the City eligible for grants and programs through Missouri’s State Historic Preservation Office.

Although O’Fallon is one of Missouri’s newest CLGs, the City is not new to preservation. Thanks in large part to the O’Fallon Community Foundation and steadfast citizen and business support for preserving local heritage, O’Fallon will cut the ribbon this spring on its reconstruction of Zumwalt’s Fort, a War of 1812 settler fort. One of at least 35 “family fort” sites in Missouri (as opposed to military forts of the day, of which only one, Fort Howard, existed west of the Missouri River), it is the only site of its kind that has been rebuilt.

“Our City’s history is tied to larger-than-life heroes like Daniel Boone and real-life heroes like Jacob Zumwalt and his family, who sheltered other families from Native American raids during the War of 1812,” said O’Fallon Mayor Bill Hennessy. “To see this fort rebuilt from the ground up is truly a proud moment for our City. The depth of research, including three archaeological surveys before the work began, and the professionalism and craftsmanship that went into reconstruction have created one of the most interesting, attractive interpretive sites in the state. It is an excellent example of what can happen through dedicated public-private partnerships.”

The grand opening ceremony for Zumwalt’s Fort will roughly coincide with the 200th anniversary of the war’s end in the Midwest in 1815, when, at the invitation of General William Clark (of Lewis and Clark Expedition fame), thousands of Native Americans gathered at nearby Portage des Sioux to sign treaties to end the fighting.

The end of this war in the Midwest opened the country to westward immigration. Not all traces of those days have vanished from O’Fallon’s landscape. Sections of O’Fallon’s interstates and highways, especially Highway P and Highway N, are rooted in Indian trails and Boone-family frontier trails leading from St. Louis and St. Charles to points west.

“That history resonates today, and we need to tell it,” said Hennessy. “It’s exciting to realize that, for over
a generation, thousands of people heading west to new lives passed through present-day O’Fallon on roads that we still use. Even Route 364, newly-constructed through the heart of O’Fallon, overlaps paths blazed two centuries ago.”

O’Fallon also has railroading and Civil War history to tell. In the mid-1850s, Judge Arnold Krekel brought the railroad to the area, and along with it, progress – by investing in land, plotting a town, and deeding the North Missouri Railroad a right of way. He named the new town O’Fallon in honor of prominent St. Louis businessman John O’Fallon, the railroad’s president.

Judge Krekel’s younger brother Nicholas erected the first house in 1856. As was the custom in those days, Nicholas located his business, a general store, on the first floor. In short order, Nicholas Krekel became not only O’Fallon’s first citizen, but its first business owner, postmaster, and railroad.

Three years after the railroad was completed through O’Fallon, the Civil War began and the town found itself fending off Confederate troops bent on destroying the trestle bridge at the west end of town. Thanks to vigorous military patrols of the area, including downtown, and a newly-constructed Union blockhouse overlooking the bridge, the railroad at O’Fallon remained intact throughout the war.

With no paved roads, the town was particularly protective of its railroad, as it was the only reliable way in and out of O’Fallon. It was at the hub of the town’s commerce, with farmers and merchants shipping and receiving goods, and townsmen regularly commuting to St. Charles and St. Louis. On Oct. 11, 1904, O’Fallon’s citizenry rode the train to St. Louis in celebration of “O’Fallon Day” at the World’s Fair. Although the depot no longer serves the railroad, the line continues to operate through the City as it did more than 150 years ago.

Today, O’Fallon looks to make the most of its historic downtown landscape. The original Nicholas Krekel’s house remains a cornerstone of the downtown area. The building is now owned by the City and city leaders are exploring options for the building’s preservation and future use. It is one of the latest of several 19th and early 20th century buildings the City has taken under its wing.

Salvaging vintage structures, regardless of how historic they may be, is one step, and perhaps the least expensive step, in the preservation process. Once acquired, the renovation and maintenance needs of these structures can turn historic treasures into serious budget strains.

O’Fallon’s solution has been to find ways that the buildings help pay their way, mainly through public-private partnerships. The City has been successful. Among its Main Street acquisitions, the Westhoff Mercantile...
building, erected in 1875, is now the home of McGurk’s Public House and Restaurant. The City also restored the Light and Power building that now serves as the local offices for Edward Jones.

In 1997, while searching for a larger City Hall with extra room for the police department, the City purchased the St. Mary’s Institute school buildings from the Sisters of the Most Precious Blood. With marble flooring and original woodwork inside and a brick façade fronted by a three-story rotunda as an entrance, the O’Fallon Municipal Centre is one of Missouri’s most distinguished-looking government buildings. The Sisters remain on the convent campus next door that includes the motherhouse built in 1875.

Across the street from the depot in Civic Park, the City maintains a log cabin rescued from demolition and rebuilt as O’Fallon’s Bicentennial project in 1976. It is now the home of O’Fallon’s Historical Society’s Log Cabin Museum.

Nearby, in Fort Zumwalt Park, the Darius Heald Home, built circa 1886, and Zumwalt’s Fort serve as interpretive sites for the City’s first 100 years. The City acquired Fort Zumwalt Park from the state for $1 in 1978.

Looking to expand on these successes, the City is pursuing a long-term, public-private partnership for the Nicholas Krekel House. The two-story building exists on its original site; a prime location that is directly across Main Street from the Municipal Centre, with popular restaurants within walking distance and I-70 a few blocks away. Furthermore, the City is exploring a new streetscape plan through the historic downtown district. When complete, this plan will help tie O’Fallon’s modern economy to its rich history and help sustain this vital area of the City.

Looking to O’Fallon’s future, as the Historical Preservation Commission helps link the City’s story to the nation’s westward expansion, the heyday of railroading and O’Fallon’s small-town beginnings, O’Fallon is poised to attract both heritage tourists and people who simply enjoy the ambiance of an historic setting. By fostering economic opportunities such as themed restaurants, shops and offices, the Commission hopes to cement O’Fallon’s preservation efforts for generations to come.♦

Thomas Drabelle is the communications director for the city of O’Fallon. For more information on the City, visit www.ofallon.mo.us or call (636) 240-2000.

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“WHADDAYA THINK?”
DIGITAL TOOLS FOR ENGAGING PUBLIC INPUT
by Stu Nicholson

Public meetings have their place — and they have their drawbacks. More governments are relying on useful apps to harvest ideas and feedback.

“But enough about me. What do you think about me?” once joked Alan Alda’s Hawkeye Pierce character, fishing for compliments from an Army nurse on the classic TV show “M*A*S*H.”

The remark speaks to how hard it is for government and other entities to seek and get useful public input on important issues. How do you harvest what the broader public really thinks?

“Let’s hold a public meeting!” is the traditional approach, and a well facilitated gathering is effective ... up to a point. Low turnouts or meetings hijacked by organized naysayers can skew the range and depth of public feedback.

The good news: The use of online engagement tools is increasing among those trying to involve more people in shaping public policy, service delivery and infrastructure projects. While it can be tempting to rely too heavily on them — “There’s still no substitute for good, face-to-face meetings to really read and understand the mood and opinions of the public,” says Jamie Greene of the consulting firm Planning NEXT. These apps have an important place in the toolbox. A few examples include:

• MetroQuest responds to a couple of developing trends in gathering public input, according to company co-founder Dave Biggs. “Attendance at public meetings is declining, and those who show up aren’t always representative of the broader community,” says Biggs. “People who aren’t motivated to show up may still care strongly about an issue, but they want faster, easier, less intimidating ways to participate.”

MetroQuest engages the community with websites, kiosks, iPads and/or smartphones. Typically MetroQuest is used at least two times during a public-engagement process:

early on to seek input on the goals and vision for the initiative, then later to seek input on draft alternatives or recommendations.

“We tapped MetroQuest to engage a larger audience to provide feedback on the Oasis Rail Corridor project in Cincinnati,” says Richard Dial, senior transportation planner for one of the project’s consultants, HDR. “We were able to hold virtual public meetings in addition to the physical meetings.”

Dial says MetroQuest’s extensive data collection provided the project team with demographics and preferences that helped advance the discussion.

• MindMixer was created by planners Nick Bowden and Nathan Preheim in 2010 after driving home from a poorly attended public meeting. “It struck us hard that the traditional process for engaging the public in important civic discussions was broken,” says Bowden. Even so, he adds, they didn’t buy the popular wisdom that low turnout necessarily meant that people were apathetic.

“We don’t think of ourselves as the online equivalent to a town meeting,” says Preheim. “The line between online and offline is harder to see than ever. Most people carry smartphones in their pockets. MindMixer is available 24/7, so they can visit it and contribute easily.”

“MindMixer’s great for brainstorming with the public on the direction of the community as well as on specific projects where we need to know how the public thinks it should look and function,” says Kimberly Sharp, deputy planning and development director for the city of Westerville, Ohio.

• PlaceSpeak taps into the organizational and civic need to gather accurate and meaningful public input on any public-policy issue.

Company founder Colleen Hardwick was dismayed at the level of public discourse on Internet forums or when well-intentioned project websites were “hijacked” by organized opponents. She cited one client who was pleased with more than 2,000 Web responses, only to discover that more than 1,200 of them came from the same IP address.

“We created a more secure process that encourages thoughtful discussion and provides valuable geographical information,” says Hardwick. “It’s a geo-social model that requires users to create a profile with their location and take ownership of what they post. It’s one person and one vote.”

Xenia, Ohio, Planner Brian Forschner chose PlaceSpeak because it gives community conversations a good start. “It really amounts to a conversation between citizens,” says Forschner. “Democracy works when citizens get together to pool ideas.”

Stu Nicholson, a public-relations professional and former television journalist, is a former public information officer for the Ohio Rail Development Commission and communications director for the Central Ohio Transit Authority. He is a graduate of the University of Central Missouri in Warrensburg.


Neither the author nor his company has a relationship with any of the companies mentioned in this column.
For many years the Carthage Police Department has enjoyed a reputation for strong involvement with its citizens. This is due, in part, to the city leaders, mayors, councilmen and police chiefs who have been devoted to the true service of its citizens and community needs. Out of this ideal, Team Policing was born in 2011. Police commanders noticed that most calls for service were coming from an area in town that consisted of about 500 houses. Within this area, most calls came from approximately 200 of these homes. The Department began to wonder, what would happen if we put a police officer in and around those 200 houses all day every day?

Team policing is an enforcement concept that involves finding community stakeholders and making them a part of a “team” in fighting crime. The police department imagined an officer one day identifying a house where drugs are dealt and partnering with the detective division, the drug task force, and the patrol division to eliminate crime. This same officer might call a church the next day, asking for help to replace a roof on an elderly citizen’s house; the next day the officer might be talking to a resident about getting the lawn mowed since the tall grass had become a neighborhood problem. The concept of Carthage team policing was born.

The team policing officer was assigned to go to each residence and introduce himself, handing out a business card with his cell phone number on it. The Carthage Police Department created a survey asking for very general information about the resident: How long have they lived in the home? How many times would they have considered themselves to be the victim of a crime? Are they scared they might soon be a victim? The survey ends with a scale asking them to rate their fear of crime from 1-10 and includes a section for them to make narrative comments. These surveys were filled out by the resident or with the help of the officer.

On the back end, the Department created a spreadsheet with a line-entry for each house within the target area, the survey results and the history of calls for service that were recorded for the last year. Most projects involved approximately 200 residences. The vast majority of citizens were happy to participate in the survey and to talk with the officer. Those who did not want to answer the door were put on a list and the Department continued to try to contact them.

As the surveys were compiled and the community concerns started to become clear, the Department held a block party for the residents, announcing the beginning of the problem-solving phase. Local business and churches participated. The event included food for all, games for the kids and plenty of positive, informal interaction with the team policing officers and other members of the police department.

After the block party, the real work began for the team policing officer. The team policing officer responded to any call for service in the assigned area and made personal follow ups with anyone who called the Department while the officer was off duty. In addition, the officer was asked to create a plan to address citizen concerns described on the survey. Most of the problems listed were quality of life problems. The Department learned that a house on the list (for example, one with a high-
call history or one that was suspect in selling drugs) wasn’t often a concern of the community. Citizens were far more concerned about abandoned cars, high weeds, parking and speeding issues. Residents were worried more about graffiti or stolen yard ornaments than they were about the drug dealer next door, unless the dealer was actually interfering with their quality of life by parking in front of their house or doing something that affected them directly.

The Department partnered with the city’s public works department and helped them contact the homeowners in violation. They were given flyers about programs that might help them if they were unable financially to take care of their own issues, and were given a timeframe in which to fix these problems, usually several months. The officer made notes identifying those residents who were not physically or financially able to fix their properties. As the project progressed, the officer continued to focus on homes where criminal activity was occurring and simultaneously coordinated partnerships with other organizations, like churches and community groups, to make sure there was continuous improvement in the target area. The Department found that as problems were fixed that were normally considered insignificant, the neighborhood started to improve dramatically, both in appearance and lowered crime rates.

Seven town policing projects have been completed so far. Each has been in a different geographic location and has been completed in a six-month timeframe.

Toward the end of each project, the Department organizes a community work day to help those residents who still have code enforcement issues - usually those citizens who were physically or financially unable to make repairs. Churches and community groups, along with the Department help haul off debris and repair homes. There is usually one abandoned house torn down during the work day. The day becomes a big media event and many citizens who live in the targeted community help. As the project is wrapped up, the officer delivers the survey again. The Department also conducts an internal audit of calls for service and crime reports to be sure that an impact was made. At the end of the project, officers ticket or arrest anyone that is not in compliance.

Typically, calls for service in the area are reduced by approximately 30 percent compared to the same six-month period the year before. Reductions have been as high as 46 percent. Fear of crime scores are typically reduced by around three points on the scale. For example, in one area the fear of crime was surveyed at a 3.85 (1-10 scale) and was reduced to a 1.89 in the 6-months’ project time frame. The last two projects have been at apartment complexes, combining what was learned about team policing with the “crime free housing” program.

The numbers are impressive, but the lasting impact this program has made on Carthage’s community is immeasurable. Roofs have been put on houses, doors and windows have been replaced, and huge trash piles eliminated. A church group built an entire house for an elderly lady in one targeted area. Drug dealers and felons have been arrested. The hallmark of this project is that it creates ownership by the community. When citizens take care of their homes, they take care of their community. They find unsafe neighborhoods unacceptable. They understand that the police and the community are a team, dependent upon one another for success.

Note: The City of Carthage has a population of about 15,000. There are 45 employees in the police department, 29 are commissioned officers. The Team Policing Officer is a full-time position.

Greg Dagnan is the chief of police for the city of Carthage, Missouri. Contact Dagnan at g.dagnan@carthagemo.gov.

Churches and community groups help haul off debris and repair several homes.
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A condemned house (top) was rebuilt. Police found that as problems were fixed, the neighborhood started to improve dramatically, both in appearance and lowered crime rates.
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- Economic Development sales tax – Section 67.1305 RSMo
- Fire Protection sales tax – Section 321.242 RSMo
- General Revenue sales tax – Sections 94.500-94.550 RSMo
- Storm Water/Parks sales tax – Sections 644.032-644.033 RSMo
- Transportation sales tax – Sections 94.700-94.755 RSMo

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**Municipal Property Taxes**

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- Villages Section 90.460 RSMo
- Fourth class cities Section 94.250 RSMo
- Third class cities Section 94.060 RSMo
- Special charter cities Section 94.340
- Constitutional charter cities Section 94.400 RSMo

**Health / Solid Waste / Museums Levy**
- Villages Section 90.460 RSMo
- Fourth class cities Section 94.260 RSMo
- Third class cities Section 94.070 RSMo
- Special charter cities Section 94.350 RSMo
- Constitutional charter cities Section 94.400 RSMo

**Parks / Recreation Levy**
- Sections 67.750-67.780 RSMo

**Library Levy**
- Sections 182.140-182.301 RSMo

**Miscellaneous**

**Municipal Court Fees, Business License, Cigarette Taxes, Hotel/Motel Taxes**

**Voter Approved**

**Business License Tax**
- Third class cities Section 94.110 RSMo; Fourth class cities Section 94.270 RSMo

**Voter Approved**

**Hotel/Motel Tax**
- Sections 67.1000 - 67.1003 RSMo

**Motor Vehicle Fuel Tax**
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CITIES REMAIN FREE TO SET FRAMEWORK FOR COLLECTIVE BARGAINING

Article I, Section 29 of the Missouri Constitution provides that “employees shall have the right to organize and to bargain collectively through representatives of their own choosing.”

In 2007, the Missouri Supreme Court held in Independence-National Education Association v. Independence School District, 223 S.W.3d 131, 139 (2007), that the right to collectively bargain guaranteed by the Missouri Constitution applies to public employees as well as to private-sector employees. The Court also held that a city is free to establish a framework for public employees to bargain collectively through representatives of their own choosing. The Missouri Supreme Court provided further clarification in Eastern Missouri Coalition of Police, Fraternal Order of Police, Lodge 15 v. City of Chesterfield, 386 S.W.3d 755 (Mo. banc 2012). The Court declared, “If it is unnecessary for the cities to pass an ordinance to carry out their constitutional duty to bargain collectively, then there is no reason to order the cities to do so.” Id. at 763. The Court concluded that the trial court erred “in requiring the cities to establish a procedure for a meet and confer process rather than simply ordering them to meet and confer with the union, allowing the cities, on their own, to make whatever arrangements are necessary to carry out that order.” Id. at 763-64.

Requirement For Agreement

A city is not required to reach an agreement with employees as to any aspect of employment or working conditions. A city is not required to have in place a written agreement with employees and may choose not to have a written agreement with employees.

A city may reject all employee proposals, as long as a city’s representative has first met and conferred with employees and/or their representatives. As it may reject all employee proposals, the city may choose to use its own governing authority to prescribe wages and working conditions.

Selection Of Bargaining Representative

Each individual employee has a free choice as to whether or not he or she is represented by a labor union or organization and has a free choice as to their particular representative. Under Article I, Section 29 of the Missouri Constitution – the free choice of each individual employee is paramount and the rights of some employees do not outweigh the right of choice of other employees.

No employee can be forced into accepting representation by one particular representative or labor organization. Moreover, an employee may elect to represent himself or herself. Therefore, different bargaining representatives may represent different employees within the same department. Any employee may file with the city a notification of that employee’s chosen representative.

A “bargaining unit” shall consist of all employees within a particular department, regardless of the number of bargaining representatives or self-represented employees.

Coercion of employees to join a Union or organization at all, join a specific union or organization, or pick a specific bargaining representative is violative of Article I, Section 29 of the Missouri Constitution. No person or group of persons may, directly or indirectly, by intimidation or coercion, compel or attempt to compel any employee to join or refrain from joining a labor organization or union. No person or group of persons may, directly or indirectly, by intimidation or coercion, compel or attempt to compel any employee to designate a particular representative or refrain from representing himself or herself.

Cities cannot discharge or discriminate against an employee because of his or her exercise of these rights.

No Right To Strike

The employees of a city are essential to the public services necessary for the public’s health, safety and welfare. Public employees do not have a right to strike.
RECENT CITY OF GRANDVIEW DECISION

The city of Grandview established a collective bargaining framework that: (1) required a secret ballot election as the designated method for employees to select a collective bargaining representative, (2) did not allow supervisory and non-supervisory employees to be members of the same bargaining unit, (3) did not establish a specialized procedural framework for the resolution of conflicts regarding the composition of collective bargaining units, (4) required, for the collective bargaining representative to be elected, it had to receive the votes of a majority of all eligible voters rather than the majority of the votes cast, (5) provided that the City would not pay any union representative for time spent preparing for or engaging in collective bargaining and would not enter into wage commitments that exceeded one year, (6) retained the right of the City to require the modification of the economic terms of any labor agreement in the event of a budget shortfall, and (7) gave the City the ability to modify the terms and conditions of employment for employees in the bargaining unit in the event a collective bargaining representative was decertified.

On Jan. 27, 2015, an appellate court upheld the City’s framework, except that it made no determination about the constitutionality of the provision requiring that a collective bargaining representative receive more than 50 percent of votes of all eligible voters. West Central Missouri Region Lodge 50 of the F.O.P. v. City of Grandview, W.D. 77250. This is not a final decision, as the parties may seek transfer to the Missouri Supreme Court.

The court held that the enactment of a reasonable limitation by the City does not prevent the supervisory employees from selecting a “representative of their own choosing” within the meaning of Article I, Section 29 of the Missouri Constitution.

The court also pointed out that just because some issue is initially addressed in an ordinance providing a framework for negotiations does not mean that the City would be unwilling to negotiate about a change to that ordinance. The collective bargaining had not even begun between the City and the Fraternal Order of Police (F.O.P.). The City enacted its framework but it had not refused to meet and confer with the F.O.P. on any of the issues. The City may have been “showing its hand” regarding its stance on certain issues, but nothing within the ordinance itself takes the issues off of the table during the bargaining process.

Thus, the establishment of a collective bargaining framework is for local legislative bodies and not the courts. To the extent that the City may in the future refuse to negotiate concerning any of the terms addressed in the ordinance, the F.O.P. may challenge the City’s refusal at that time, if it believes that the refusal violates the duty of a public employer to negotiate in good faith as recognized in American Federal of Teachers v. Ledbetter, 387 S.W.3d 360, 367 (Mo. banc 2012). Enactment of the ordinance itself, however, does not necessarily presage a future refusal to negotiate in good faith.

MML ADVOCACY

Through use of the Advocacy Fund and at the request of the City of Grandview, the MML was able to participate in the appeal of the trial court’s decision in West Central Missouri Regional Lodge #50 of the Fraternal Order of Police, et al., vs. The City of Grandview, WD77250. The MML retained the services of Ivan Schraeder with the Lowenbaum Partnership, LLC, to file an amicus brief with the Western District Court of Appeals. The amicus brief highlighted issues of statewide concern in this important arena. The MML continues to monitor this case as the FOP’s Motion for Rehearing or Transfer to the Supreme Court filed on Feb. 10, 2015 was addressed by the Court on March 3, 2015, when it overruled the Motion for Rehearing and denied the Motion for Transfer to the Supreme Court. A direct appeal to the Supreme Court remains an option for the FOP.

Article I, Section 29 of the Missouri Constitution serves only to guarantee the right of employees to organize and to bargain collectively through representatives of their own choosing. The Missouri Supreme Court declared in Quinn v. Buchanan, 298 S.W.2d 413, 417 (Mo. banc 1957), that the purpose of Article 1, Section 29 of the Missouri Constitution “was to declare that such rights of collective bargaining were established in this state. It means that employees have the right to organize and function for a special purpose: namely, for the purpose of collective bargaining.” “Section 29, Article I is not a labor relations act, specifying rights, duties, practices and obligations of employers and labor organizations[].” Id, at 418.
NOT A PUBLIC HEARING, PART II

In the September 2014 issue of the MML Review, the Franklin County/Union Electric Company case was discussed in some detail. In that case, a majority of the Court of Appeals held that Franklin County had not held a proper public hearing on a zoning amendment because the chairman limited the public’s right to speak on the Union Electric Coal Ash landfill proposal and interrupted several speakers.

The case was transferred to the Missouri Supreme Court, which held that the allegations regarding limiting public participation in public hearings did state a valid claim. The Supreme Court reversed and remanded the case back to the Franklin County Circuit Court. The Supreme Court stated that “the public hearing should be conducted so that the public can address the subject matter of the proposed zoning amendments.” The Supreme Court further stated that the requirement of a public hearing requires, at a minimum, that the public be given the opportunity to present its views.

This is an important case for all boards and commissions to review. One would believe that a great deal of time and effort and financial resources had gone into the public hearings and the litigation that followed. Now it appears that the County may have to start back at square one if it wishes to consider the zoning amendments.

For a copy of the opinion, see Supreme Court No. 94339, issued Feb. 3, 2015.

Kenneth J. Heinz is a Principal with Curtis, Heinz, Garrett & O’Keefe, P.C. He serves as general counsel for several communities. Heinz has been active as special counsel to many municipalities in Missouri and Illinois on municipal issues. He has delivered seminars to many public and private groups at the local and state level on municipal issues, such as municipal contracts, zoning and sunshine law. Contact the firm at 314-725-8788 or www.chgolaw.net.
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The Missouri Municipal League Board of Directors appointed Independence Mayor Eileen Weir and Kansas City Councilman Scott Wagner to the Board, filling two vacancies.

Weir was elected as Mayor in April 2014 for a four-year term. Prior to being elected as the City’s 50th mayor, and second female mayor, she served as Independence councilwoman for the 4th District from 2012-2014. She is a member of the United States Conference of Mayors, the National League of Cities, the Eastern Jackson County Betterment Council, Kansas City Metro Mayors Caucus, Independence Chamber of Commerce, and the Greater Kansas City Chamber of Commerce.

Kansas City Councilman Scott Wagner represents the 1st District At-Large. The 1st District includes most of the Clay County portion of Kansas City. Wagner currently serves as a board member of the Greater Kansas City Convention & Visitors Association. He is also a member of the Northland Regional Chamber of Commerce. Prior to serving as councilman, Wagner worked for a Kansas City-area marketing and advertising agency, and previously founded Wagner Marketing, a small marketing and public relations firm.

The Missouri Municipal League is an independent, statewide, not-for-profit association governed by a Board of Directors consisting of a president, vice president, active past presidents, 12 elected municipal officials and five appointed municipal officials; with at least one Board member from each Congressional District.
**Member News**

**Palmer Earns ICMA Credentials**
Lauren Palmer, city administrator of Parkville, recently earned the Credentialed Manager designation from the International City/County Management Association (ICMA). Palmer is one of only 1,368 local government management professionals nationwide currently credentialed through this voluntary program.

**Wilson Named Outstanding Clerk**
City of Pleasant Hill City Clerk Nici Wilson was named Outstanding City Clerk of the Year by the Missouri City Clerks and Finance Officers Association at the organization’s annual meeting this month. This award recognizes a city clerk or finance officer who has demonstrated outstanding service and commitment to their municipality, community and professional organization.

**MML Calendar of Events**

**2015**

**March**
- 21-29 Missouri Legislative Recess
- 23 Partners In Governance Conference, Columbia, Missouri
- 31 - April 1 Missouri Concrete Conference, Rolla, Missouri

**April**
- 7 Municipal Election Day

**May**
- 4-8 Missouri Local Government Week
- 6-8 2015 MCMA Annual Spring Conference, Lake Ozark, Missouri
- 15 Missouri General Assembly Adjourns
- 31 - June 3 79th Annual IPMA-HR Central Region Training Conference
  - Kansas City, Missouri

**June**
- 11-12 MML Elected Officials Training Conference, Columbia, Missouri

**July**
- 10-12 2015 MMAA Summer Seminar, Lake Ozark, Missouri

**September**
- 20-23 MML Annual Conference, Kansas City, Missouri

For more events, visit the events calendar at [www.mocities.com](http://www.mocities.com).

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