

“There she stands, proud in all her glory.”

# *Missouri* County Record

Winter 2021



## Scotland County Courthouse Memphis, Missouri

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*On the cover*

# Scotland County

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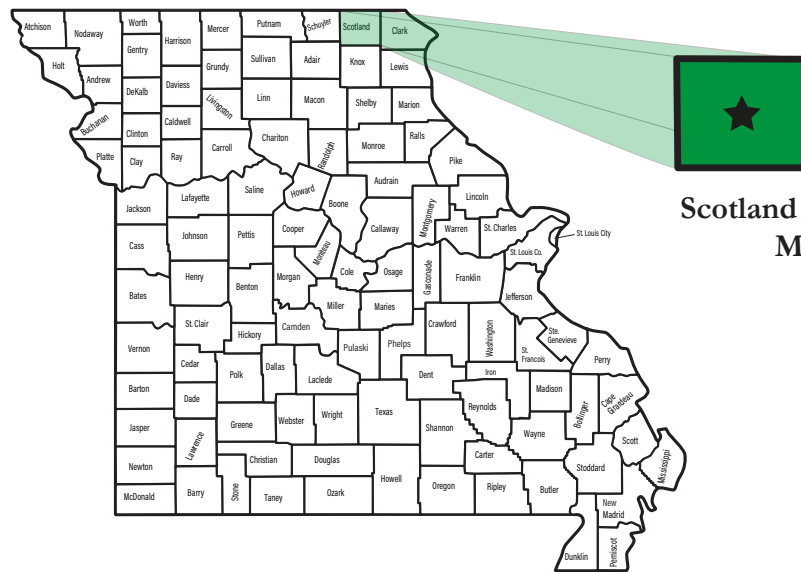
*Missouri Courthouses: Building Memories on the Square*

The first American settlers to Scotland County's rolling prairie land came in the 1830s mainly from other Missouri counties and Kentucky and Tennessee. The open rolling prairie appealed to farmers who were tired of clearing forest land and plowing small acreage farms. The Iowa, Sac and Fox tribes ceded the land in 1824.

In 1841, Scotland County included the land that is now Knox County. In 1843, the legislature divided the territory in half and shifted the county seat from Sand Hill to Memphis, the geographic center of the newly abbreviated county.

In 1844, the community constructed the first courthouse in Memphis. The building was razed in 1857 to make way for the replacement building. The county's second courthouse served until 1905.

Voters authorized construction of the present courthouse the first time the issue was placed on the ballot. This was a rare occurrence and the point of pride in an era when it was common for courthouse bond issues to go before voters numerous times before one was accepted. A cornerstone ceremony was held in October 1907, and the county accepted the building in July 1908.



Scotland County  
Memphis



## Missouri County Record

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Democratic Director of Elections for St. Louis County Eric Fey speaks to the MAC membership about his county's program "Vote Anywhere," which was one of five county programs/initiatives that received a County Achievement Award during the association's annual business meeting in November at Margaritaville Lake Resort in Osage Beach, Mo.

# Five counties earn honors for innovative programs and initiatives

The Missouri Association of Counties presented the five counties with a County Achievement Award for finding new and effective ways of providing programs and services to its citizens and communities.

## **St. Louis County – Vote Anywhere**

During the start of the COVID-19 pandemic in 2020, the St. Louis County Board of Elections wanted to protect poll workers and minimize the movement of individual voters who showed up at an incorrect polling place by leveraging its voting equipment to its fullest potential.

"Vote Anywhere" became the full deployment of on-demand paper ballot equipment, combined with the electronic-poll book check-in system, that allowed voters to receive and cast their correct ballot at any polling place in St. Louis County. In July 2020, the board formally adopted the policy, transforming voting in St. Louis County.

The new "Vote Anywhere" policy allowed the board to

adopt new tools to support voters, such as applications that allowed voters to look up a sample ballot, locate the nearest polling place, and make voters aware of lines at polling places.

In the November presidential election, nearly one-third of in-person voters in St. Louis County voted at a polling place of their choice. Voters continue to exercise this choice and it has proved convenient and well received.

## **Boone County – Electronic Signature of Contracts**

This program enabled Boone County to process all their contracts more effectively and efficiently, while maintaining a higher level of transparency and accountability.

It has also cut the time required for county internal signatures by 75 percent, as the county now receives most vendor signatures within 24 hours. It also reduces the number of errors that occur when processing contracts and

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At left, Boone County Associate Commissioner Justin Aldred talks to the MAC membership about his county's Achievement Award. At right, Camden County Collector Teresa Murray displays her county's Achievement Award for their program dealing with online tax sales.

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has led to cost savings.

The biggest reward of the program was shaving 60 percent off the total time it takes to get a contract fully executed and signed, allowing for projects to be completed in a shorter time frame.

#### **Camden County – Tax Sale Auction and Bidder Registration Automation**

Camden County wanted to find a more efficient solution to dealing with the workload of processing more than

1,000 properties entering the tax sale in March and all the additional duties, such as public listings, notarization and other requirements needed in accordance to state law.

To overcome this, Camden County partnered with the Hunter Group to develop an online system to simplify the process, while also automating some other aspects of the tax sale.

The results have led to a reduction in the amount of the manpower needed in processing, researching and management of the process. The

program also allowed for bidders to register online, and has streamlined the amount of time required to process the verification of residency and operations of the tax sale by making bidder information manageable in advance.

The initial budget for the complete system to be developed was \$15,000 and was funded out of the collector's maintenance fund. Camden County has collected more than \$550,000 since the system has been completely

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implemented.

### **Cole County – Electronic Aperture Card Conversion**

The recorder of Cole County needed to preserve 16 years of historical data from more than 194,000 fragile aperture cards which contained at least 388,000 images.

After determining the scope of the project and finding a qualified vendor, a grant was submitted for the funds under the Cares Act for nearly \$145,000.

County records are irreplaceable and some are extremely valuable. After the conversion of the cards to digital records, Cole County has 16 additional years of records that have been brought into the 21st century.

### **Saline County – Develop Saline County**

Saline County set out with a plan to develop the state's last undeveloped junction along Interstate 70 to give the county a positive economic impact.

The junction was undeveloped due to a lack of water infrastructure. Businesses that remained in that area had to close because well water was no longer approve by the sanitation guidelines.

After a traffic study revealed a high number of vehicles passing through the junction, the county commission – using their own personal money – published informational fliers and met with the public to ask voters to pass a one-half of 1 percent economic development tax. The measure was approved by voters in 2018 and will sunset in 2038.

The county was able to secure \$4.3 million in bonds with the help of the tax approved by voters and a new water line and water tank were installed in the summer.



Above, Cole County Recorder of Deeds Judy Ridgeway and Presiding Commissioner Sam Buschman accept the 2021 MAC County Achievement Award for converting 16 years worth of the county's aperture cards into an electronic format. At left, Saline County Presiding Commissioner Kile Guthrey shows off his county's Achievement Award for his county's plan on developing an undeveloped junction on Interstate 70.



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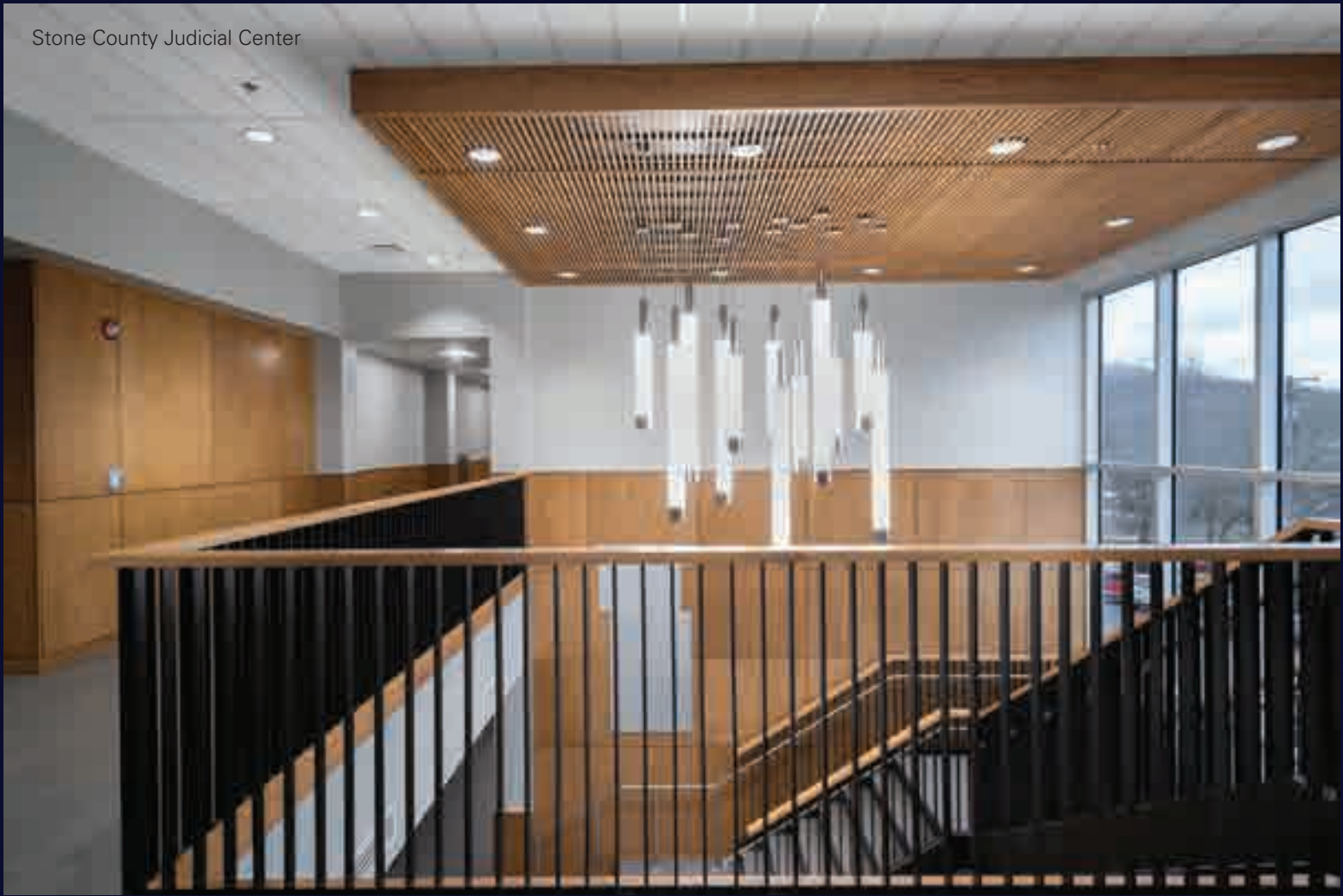
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MAC President Susette Taylor presents the Juanita Donehue Lifetime Achievement Award to Missouri Sen. Roy Blunt during the association's annual awards banquet in November at Margaritaville Lake Resort in Osage Beach, Mo. At right, retired Maui County, Hawaii Council Member Riki Hokama received the Friend of Missouri Award for his long-time relationship with members of MAC that was built through his time with the National Association of Counties.

## Blunt, Hokama receive distinguished honors from MAC

Missouri Senator Roy Blunt was the first public servant to be presented with the Juanita Donehue Lifetime Achievement Award for a distinguished career of nearly 50 years of public service, which began when he was appointed the Greene County Clerk in 1973. The award was named after the former MAC executive director who started her career with the association in 1974 before becoming executive director in 1980 and serving until her retirement in 1999.

"I'm incredibly honored to receive this award and grateful for the long-standing partnership I've had with the Missouri Association of Counties," said Blunt. "County officials have a unique understanding of the needs and challenges facing local communities – from infrastructure, to broadband, to health care, education, and economic opportunity. I've always appreciated having that perspective as we've looked at how the federal government could most effectively work with counties to address the needs of families and local

communities. I look forward to continuing to have that advice and getting a lot done over the next year."

Sen. Blunt, who is not seeking reelection in 2022, was one of the many dignitaries recognized at the association's annual awards banquet that was held in November during the 50th Annual Conference at Margaritaville Lake Resort. The association also presented its inaugural Friend of Missouri Award to Riki Hokama, a retired county-elected official from Maui County, Hawaii. Hokama, who served as president of the National Association of Counties in 2014 and helped Missouri establish itself at the national level while forming many friendships with Missouri county officials throughout his years of public service.

Along with recognizing outgoing board members from 2020 and 2021, MAC also recognized more than 20 past presidents who were in attendance at the banquet.





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# MAC adds new priorities for upcoming legislative session, tweaks others from previous years

During the annual conference in November, the membership adopted 10 resolutions that will be the focus for the association during the 2022 legislative session. Some of the adopted resolutions were familiar positions that were adopted in previous years with slight tweaks or changes, while four resolutions are completely new for the upcoming legislative session.

The association's County Government Platform for 2022 includes:

## **Support fully funding state mandates on county government**

MAC respectfully requests that the Missouri General Assembly and the governor include in the state's Fiscal Year 2023 budget: (1) an increase in the appropriation for prisoner per diem reimbursement authorized under Sec. 221.105, RSMo.; (2) an appropriation to fully fund state assessment maintenance reimbursements; (3) an appropriation to fully fund any new obligations placed on the election officials of this state, including state payment of a proportional share of primary and general election costs; (4) an appropriation to that would help with the mental health crisis and substance use issues found in Missouri counties and jails; (5) an appropriation that would relieve counties of the cost of providing office space and certain utility expenses for the various state public defenders' offices; (6) a perpetual appropriation or funding stream to offset any statutory mandate increasing the salary and retirement contributions for any county-elected official; (7) request that the General Assembly continue to refrain from implementing the requirements of SB 711 relating to property tax enacted in 2008 until full state funding for the same is authorized; and (8) an appropriation for county

public administrators aimed at funding and coordinating the state's public guardianship system, which is being operated independently by counties and the City of St. Louis, to ensure funding is balanced, sufficient and helps reduce caseloads that have become dangerously high at times.

## **Oppose preemption of local authority**

Missouri's county officials have expressed their opposition to the erosion of local authority, allowing counties greater flexibility to deal with local issues and problems. County officials believe in protecting the citizens they represent from large scale developments that infringe on their lives, and oppose the weakening or repeal of Section 229.100 RSMo., which requires county commission approval of utility easements through, across, or under public roads or highways.



## **Oppose legislation that erodes the local tax base**

In response to annual increases for the cost of county services, MAC will be calling upon the General Assembly to limit legislation that would have a negative budgetary effect on local governments without guaranteed

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replacement revenue. Additionally, county governments need to be able to modernize tax collection services and the auction of properties that are delinquent in tax payments. MAC also opposes legislation that would cap assessments on properties and eliminate personal property taxes, which could have a negative impact on the services that counties provide. However, MAC does support changes in legislation that standardizes the local assessment of power generation and transmission, which includes alternative sources of energy such as wind and solar, regardless of ownership with all tax related revenues to be taxed and distributed at the local level.

### **Support the full repeal of prevailing wage**

Missouri county officials are charged with ensuring taxpayer money is being used wisely when bidding for public work projects. However, Missouri's current prevailing-wage

law, despite being reworked in 2018, still can be a burden on the budgets of local governments. With the costs of construction projects fluctuating from year to year, MAC supports a full repeal of Missouri's prevailing wage in an effort to lessen the burden on what local governments spend on public work projects, as well as make the bidding process for those projects more competitive.

### **Support the expansion of financial statement publishing options for counties**

Missouri counties are required by law to prepare and publish their annual financial statement in some newspaper defined by law or in 10 places within the county. Over the years, many Missouri communities have lost their local newspapers or readership has declined, meaning that citizens may not be able to see or locate the financial statements of their counties. By expanding the posting options to include a designated county

website or news website, more county citizens will have access to county financial data. Therefore, MAC fully supports the expansion of publishing options for counties of the second, third or fourth classification to publish their financial statements.

### **Support eliminating/changing the date of the Presidential Preference Primary Election in Missouri while maintaining the independence of the April General Municipal Election**

In 2020, the Presidential Preference Primary Election cost Missouri roughly \$8 million with the results of the primary non-binding, making the election more of an opinion poll. In general election years, the March Presidential Preference Primary Election and the April General Municipal Election are held within four weeks of each other and is an unnecessary exhaustion of local

*continued on page 12*

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resources that can lead to unintended errors because the Municipal elections in April involves the largest number of entities of any election in Missouri, which creates a number of different ballot styles. MAC and its affiliate association the Missouri Association of County Clerks and Election Authorities support eliminating the Presidential Preference Primary Election and keeping the April Municipal Election to avoid voter confusion, unintended errors by election judges in handing out the wrong ballot style or voter fatigue.

**Support restoring the ability of third-class county salary commission to amend the base schedule of county officials to include assessed valuation factors in excess of \$300 million**

During the 2021 legislative session, the legislature adopted S.B. 53, which repealed provisions relating to the salary schedule for county sheriffs, specifically Section 50.327.4 RSMo., that gave third-class county salary commissions the ability to amend those base schedules to include assessed valuation factors in excess of \$300 million. MAC believes the removal of the statute was done in error because it negatively affects a number of counties of the third classification which have now, or soon may have, assessed valuations in excess of \$300 million. MAC supports the restoration of this section of the statute

in its original form.

**Support the participation of county governments in the development and implementation of broadband expansion efforts**

MAC is uniquely positioned to advise and help facilitate digital connectivity for urban and rural areas. The expansion of broadband internet will require resources from all levels of government, but will require the integration of local government in establishing the programmatic components that will successfully implement connectivity for all communities. MAC urges the General Assembly, Congress, and involved state and federal agencies to commit to the inclusion and engagement of MAC members in the earliest phases of the strategic planning and expansion of broadband services and access.

**Support empowering counties to be active in the deployment and operations of high-speed internet**

Local governments in many states are prohibited from being active participants in the deployment of these services. MAC supports the removal of barriers

to counties supplying infrastructure to the private sector, partnering with the private sector or operating internet services as a public utility when no commercial service is available.

**Support legislation to formalize the process by which data is gathered by internet connection tools and how the tools are used to modify broadband coverage maps**

MAC encourages the General Assembly, Congress and the Federal Communications Commission (FCC) to create a formal process by which crowd-sourced data gathered by applications such as the TestIT application can be used to create new or update the existing FCC broadband coverage maps. Further, MAC believes that such legislation should require the FCC to test and certify the accuracy of these crowd-sourcing applications.



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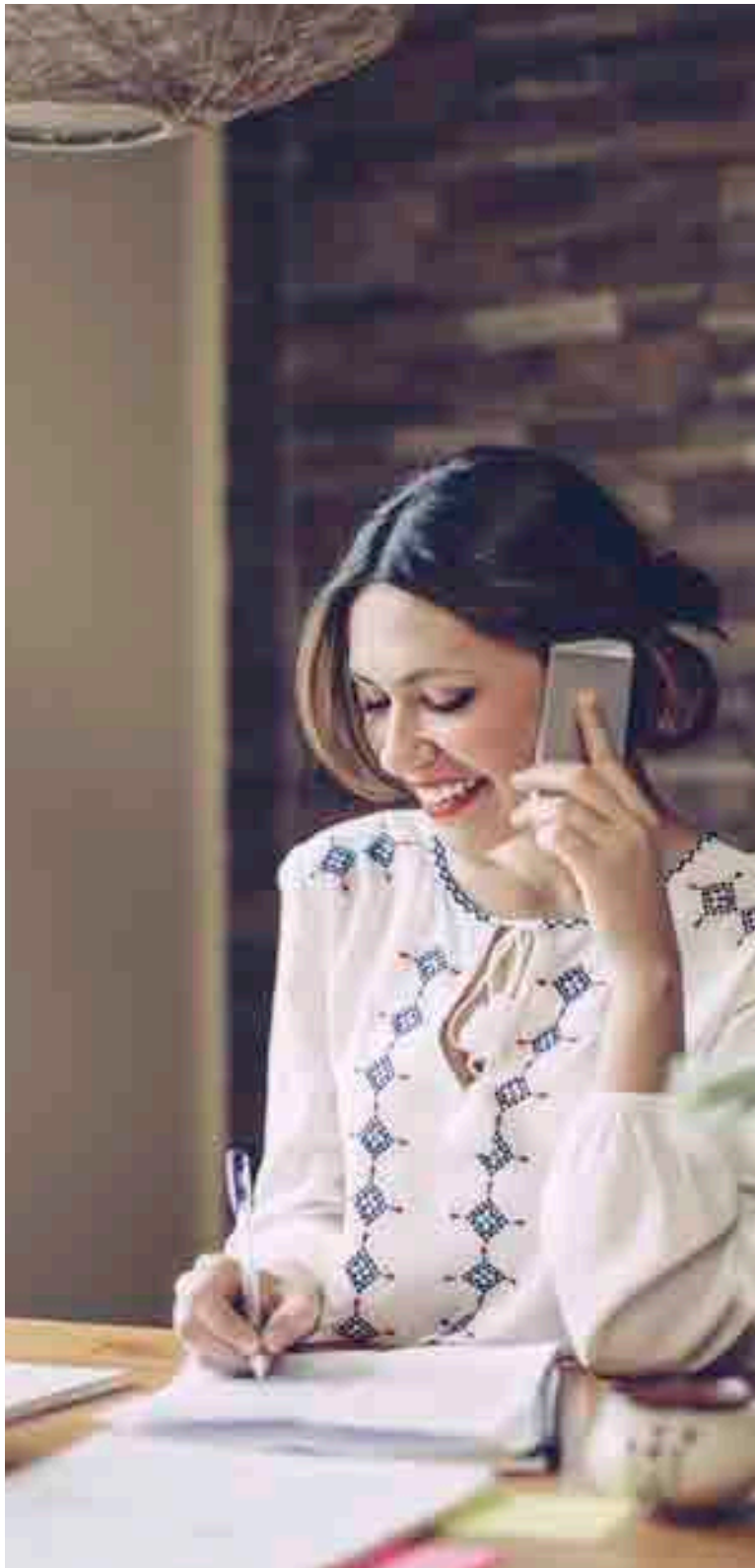
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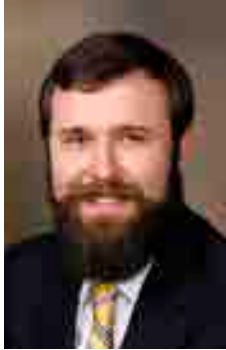
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## Sunshine Law and sovereign immunity legal updates

By Travis A. Elliott  
MAC General Counsel

In 2021, two case laws were developed that will have an impact on local county government with the Missouri Supreme Court interpreting the requirements of the Missouri Sunshine Law and a decision from the Eighth Circuit Court of Appeals that affects a county's sovereign immunity for certain types of lawsuits.



### Sunshine Law Update

In June 2021, the Supreme Court of Missouri issued an opinion in *Gross v. Parson, et al.* This case arose from two separate requests by an individual, Mr. Gross, for documents submitted under Missouri's Sunshine Law, which allows for member of the public to inspect and/or obtain copies of all public meetings and public records of public governmental bodies. The Supreme Court found in favor of Mr. Gross in his allegations that the Governor's Office had violated provisions of the Sunshine Law.

In response to Gross' initial request, he received communication that his request included 13,659 responsive documents and the estimated cost to obtain them would be \$3618.40, which accounted for 90.46 hours of attorney review time charged at \$40 per hour; that he must pay the estimated cost before the documents would be prepared for delivery to him; and that it would be at least 120 days after payment was received to complete the request. In response to Gross' second request, he received some documents; however, they had been redacted. Due to the

responses he received, Gross filed suit against the Governor's Office alleging the Governor's Office ignored his fee waiver request; the \$40 per hour fee was excessive; the office failed to provide the earliest date and time the requested records would be available, records had been improperly redacted, and that the Office knowingly and purposely violated the Sunshine Law, and the violations warranted injunctive relief.

The court addressed five main issues that counties need to be aware. First, the court held that a public governmental body may only charge the requesting party for the research time that is required to fill the public records request. Since attorneys may need to review the records sought in order for the

public governmental body to fulfill the obligation of determining whether a record is open or closed on all records, the attorney review time that it takes to review records to determine if it is open, closed, or includes privileged information cannot be charged to a party that requests public records. In essence, the only charges that can be assessed for a request submitted under the Sunshine Law must be charges that are specific to that request.

Second, while the public governmental  
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body is allowed to require advanced payment of authorized copying fees, if a fee is requested that is not authorized (i.e., such as attorney fees) advanced payment cannot be required prior to copying the documents. This ruling does not affect a county's authority to require the payment of fees prior to making copies and providing records to the requesting party.

Third, the public governmental body must provide an exact calendar date as to when the individual that requested the documents may inspect or obtain copies of the requested records. A generic statement indicating an approximate date to obtain the copies or an estimated time period it will take to complete the request does not satisfy the requirements set forth in the law.

Fourth, if the public governmental body is unable to provide the requesting party with immediate availability to the requested records, it must provide the requesting party with a detailed

explanation for any cause in delay and the place and earliest time and date that the records will be available. If the county fails to provide a detailed explanation, it may be found to be in violation of the Sunshine Law.

Finally, while the Sunshine Law does allow for redaction of records under certain instances, for example attorney-client privileged communications, the public governmental body must take certain steps when providing the requesting party with redacted documents. When the requesting party is seeking an open document that has been redacted, if the redaction is readily apparent, the public governmental body must generally describe the redacted information. The only exception to

providing a general description of that information arises when that general description would reveal the content of the redacted information. In those instances, a general description is not required

In conclusion, Missouri's Sunshine Law allows for individuals to gain access to information regarding public governmental body. Access to this information is important to the public as well as the public governmental bodies. The law sets forth many different

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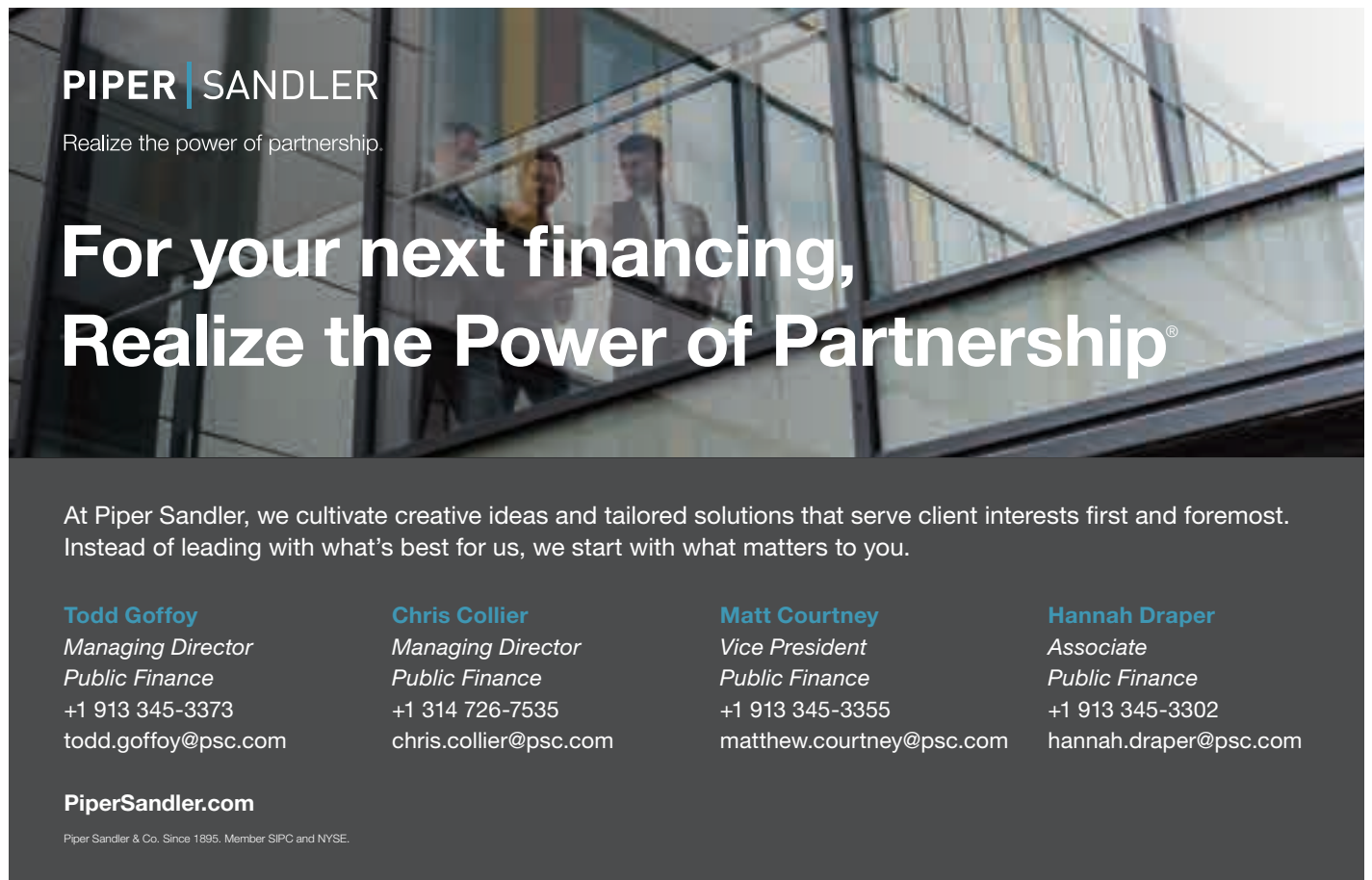
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requirements, which are not always straight forward, that must be followed, and it is imperative for counties to ensure that all requirements are being followed to avoid potential litigation. If a county encounters any questions when a request for records is received, we suggest reaching out to legal counsel for specific advice about that request and how to properly respond.

### **Sovereign Immunity – Additional Insured Provisions in Vendor Contracts**

On July 20, 2021, the Eighth Circuit Court of Appeals, which includes Missouri, issued a decision styled *Brenda Davis, et al. v. Buchanan County, et al.* The facts of the case are fairly straightforward. An individual died after he allegedly was denied medication while incarcerated. The individual's parents brought an action against numerous defendants relating to his medical care at the county, alleged wrongful death. At issue in the case was whether the county had sovereign immunity from the claims made. Generally, Missouri law protects public entities from state law tort claims but a public entity may purchase liability insurance for tort claims, thereby waiving the entity's sovereign immunity.

The county moved to dismiss the claim, arguing sovereign immunity pursuant to § 537.600, RSMo. The trial court denied the motion, concluding that the county had waived sovereign immunity by purchasing liability insurance. However, in this instance, the county did not purchase insurance directly, but rather, had contract with a vendor to provide inmate health service. In the contract, the vendor agreed to obtain liability insurance and to name the county as an additional insured.

While the court acknowledged that the county did not purchase liability insurance directly from an insurance provider; it noted that the statute does not require that a public entity directly

purchase liability insurance, nor does it require that a public entity purchase insurance from an insurance provided. In short, the court held that the county's acquisition of liability insurance, by the purchase of insurance by the vendor and naming the county as an additional insured, resulted in the county waiving its sovereign immunity. Thus, we recommend that counties review any

contracts it has with third parties in order to determine whether there are additional insured provisions in favor of the county that could result in a court's determination that a county has waived its sovereign immunity. Further, we recommend evaluating whether those provisions should be revised in order to avoid the waiver of sovereign immunity by the county.

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## MAC Trust members elect Winders to Trust board

Alan Winders was elected to the MAC Trust Board of Directors by the Trust membership during the annual membership meeting in November at Margaritaville Lake Resort in Osage Beach, Mo.

Winders is the Audrain County Presiding Commissioner and has served as the presiding commissioner since being appointed by Missouri Gov. Mike Parson in September 2021. Prior to that, Winders served as the Eastern District Commissioner since 2017.

Winders replaces Steve Hobbs, who vacated his position on the board to take over as the executive director of the Missouri Association of Counties in September.

The Trust, which is made up of 89 counties and 10 related agencies, is governed by a five-member board of directors, all of whom are county officials. Board members are elected to serve three-year, staggered terms by a majority vote of the fund members at the MAC fall annual meeting.

Audrain County Presiding Commissioner was elected to the MAC Trust Board of Directors by Trust members during the annual membership meeting in November at the Margaritaville Lake Resort in Osage Beach, Mo.



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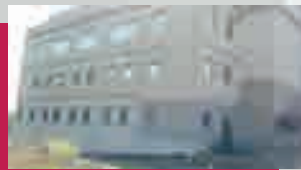
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