

the review

March / April 2019

the official magazine of the  michigan municipal league

Legislative Issues



LOCAL PERSPECTIVE

Municipal Leaders Take Their Seats in Lansing

the review

The official magazine of the Michigan Municipal League

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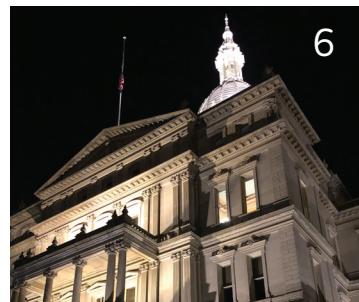
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COVER

Former local officials take the state stage in the House of Representatives: Alex Garza (D-Taylor), Padma Kuppa (D-Troy), and Mark Huizenga (R-Walker).

Photo by Matt Bach.

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the review

The official magazine of the Michigan Municipal League

Volume 92, Number 2

We love where you live.

The Michigan Municipal League is dedicated to making Michigan's communities better by thoughtfully innovating programs, energetically connecting ideas and people, actively serving members with resources and services, and passionately inspiring positive change for Michigan's greatest centers of potential: its communities.

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A Legislative Medley

An old English proverb says, "March comes in like a lion." The same could be said for the League—legislatively speaking, that is. (We'll skip the "and goes out like a lamb.") Our annual Capital Conference (CapCon2019) is approaching (March 19-20) and, sounding like a broken record, this is an event that should not be overlooked. The League depends on a strong partnership with our members to develop and advocate for a strong policy agenda that will give us the financial resources and tools to build and maintain strong communities.

As five new former local officials begin their new terms as State Representatives, and two are re-elected, this is an important topic to lead off with in our legislative issue. Over the years, the League has been proactive in recruiting and encouraging local officials to run for state office. With their considerable knowledge and experience with local issues, they bring a much-needed perspective to state government. Lisa Donovan, communications specialist/editor, tells the story about five former local officials who are now State Representatives—how they got there, what they hope to accomplish, and how they think their local government experience will help. We hope others will be inspired to do the same.

The midterm elections of 2018 brought out an unusually high number of voters, ushering in a new governor and administration as well as many other changes. The Lame Duck session of 2017-18 was one of the busiest ever and more successful than we could have imagined. I could not be prouder of all the hard work that the League's advocacy staff did, tracking and engaging with nearly 100 separate bills that had a potential impact on local government. The team will present a comprehensive overview at CapCon2019, as well as provide a legislative map moving forward in 2019.

Another notable result of the 2018 midterms is the passage of the legalization of recreational marijuana, which introduces legal and practical consequences for communities. The League has assembled a variety of informational resources on both medical and recreational marijuana, including a white paper, sample ordinance, facts sheets, and more. You can access these resources on our Marijuana in Michigan web page at www.mml.org/resources/information/mi-med-marijuana.html. This topic will also be addressed at CapCon2019—another good reason to attend!

It's been three years since the inception of SaveMICity, and the momentum continues to build. The League has long asserted that additional tools for communities are necessary as they look for the best ways to manage their growing pension and Other Post-Employment Benefits (OPEB) liabilities. We have been working hard on a bill that would help communities. This bill would extend the Dec. 31, 2018 sunset date of the current law by five years and expand access to this bonding tool to single-A rated communities. We are optimistic that we will see this bill passed into law in 2019.

On a sad note, the League mourns the loss of a great friend and colleague, James Buck. As the highly respected mayor of Grandville for nearly three decades, he was dedicated to his community and unwavering in his support of the League. Not only was he a former League Board member (1991-94) but served as its vice president (1993-94). He also served on the Michigan Municipal League Foundation Board for several years, many of those as chair. Jim was the recipient of almost every League award including the Jim Sinclair Exceptional Service Award in 2012, and the Michael A. Guido Leadership and Public Service Award in 2013. Jim was truly a giant among us and will be greatly missed.



Daniel P. Gilmartin
League executive director and CEO
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Unwrapping Lame Duck

2018

By Chris Hackbart

“...it was reported that nearly 400 bills had moved during the four weeks of Lame Duck... more than had passed during the preceding 23 months of the term.”

When the Legislature wrapped up the 2017-18 session in the early morning hours of Friday, Dec. 21, 2018, most of the legislators, staff, and lobbyists had no idea that this Lame Duck session had set records for the amount of bill activity. When the House and Senate adjourned that morning, following the final 22-hour marathon session, it was reported that nearly 400 bills had moved during the four weeks of Lame Duck... more than had passed during the preceding 23 months of the term. The governor signed 340 new public acts and vetoed 56 bills during this record-breaking period.

Numerous pieces of legislation that were brought up before the year ended had potential impacts on local government. The League was extremely active from both a proactive and defensive standpoint. The League's State Affairs team tracked and engaged on nearly 100 separate bills during Lame Duck 2018.

Below is an outline of the bills and/or language the League initiated or negotiated that were signed by the governor.

- **HB 6348—Personal Property Tax reimbursement formula.**

Now PA 616 of 2018, the bill creates a new mechanism to fully fund fire protection grants to more than 30 League member communities for the first time ever. The bill also accelerates the implementation of the next phase of the PPT reimbursement process to allow communities to start seeing their reimbursements reflect their current economic conditions and industrial investments.

- **SB 838—Expansion of pension and OPEB bonding authority for local units.** Now PA 575 of 2018, this bill will allow single-A rated communities access to bond financing as a tool to manage unfunded pension or OPEB liabilities. The law had previously been reserved for use only to those rated AA and above.

- **HB 6049—State Treasurer's assessing reform proposal.** Now PA 659 of 2018, the final product was modified significantly based upon our lobbying efforts and the input of local officials. Local government groups, including the League supported the compromise version and we were able to secure a huge concession that now will allow villages located in more than one township the option to consolidate their assessing duties under one assessor of record that they choose.

- **HBs 5939-5941—Enhanced local regulation of fireworks.** Now known as Public Acts 633-635 of 2018, these changes to the state's fireworks law produced major concessions from the fireworks industry, shrinking the number of days and the hours within those days that

fireworks can legally be used. The new changes also offer local governments the ability to assess stiffer penalties for violations and additional regulations on temporary structures in some higher population communities.

- **HB 6582—Ballot FOIA reforms.** PA 523 of 2018 was a priority for the League following the huge outcry from local clerks and communities when an unidentified "Emily" placed FOIA requests in nearly every community around the state for copies of every ballot and related information from the 2016 election. We worked to negotiate favorable language in the Freedom of Information Act (see details in the New Amendments to the Freedom of Information Act article on page 23).

- **SB 110—Clarifying authority for communities to negotiate below-market housing incentives with developers.** Now PA 585 of 2018, this legislation is the culmination of more than two years of effort to clear up the concern that these types of negotiations with developers are allowed and do not violate the state's Rent Control Act.

- **HBs 6087-6088—MI Infrastructure Bank clarification.**

The League worked with legislators and the state to pass what are now Public Acts 507 & 508 of 2018 to ensure that communities could legally utilize the state's Infrastructure Bank program without violating the Municipal Finance Act.

- **SBs 1222-1223—Tax capture conflicts with new PPT law.**

Public Acts 480 & 481 of 2018 reconnect a hold harmless provision that had been missed for certain TIF districts that had been impacted by the recent changes in the state's personal property tax laws. When the new PPT system was adopted in 2014, language that had held districts in Battle Creek and Detroit harmless from any negative impact on their debt-related captures from exempt equipment was inadvertently left out of the PPT law and had to be reestablished. This change will restore approximately \$3 million in lost reimbursements for those communities.

- **SB 1253—Street conversions.** PA 440 of 2018 clarifies authority for cities to turn one-way streets back into two-way streets.

- **SB 1116—New Transportation Economic Development Fund categorical.** PA 473 of 2018 creates the statutory language needed to implement the new Transportation Economic Development Fund Category B Community Service Infrastructure Fund grant program for road projects in cities and villages with populations less than 11,000. The current year budget has allocated \$3 million in grants for eligible cities and villages under this category.



Many aspects of the Legislature's Lame Duck session were covered on the League's Monday Morning Live broadcast.

- **HB 6064—Creates a Rural Development Fund.**

PA 423 of 2018 establishes this new fund within the MEDC/MI Strategic Fund to benefit economic development efforts in smaller communities around the state. The bill allows for communities of less than 15,000 population to now access Community Revitalization Program grants for up to 50 percent of a project's eligible investment (maximum \$10M) as opposed to the 25 percent maximum that normally exists for single project investments under the CRP. A new Rural Jobs and Capital Investment Fund also created within the MSF will have access, upon appropriation, to no more than \$30 million to invest in eligible companies/economic development projects located in counties with less than 225,000 population.

- **SB 995—Wetland Mitigation Board.** PA 471 of 2018 provides for an increase in available funding and a needed clarification to the local agency wetland mitigation board. The bill provides changes that the League had sought to the fund program board make-up related to League member participation and improved access to funding from this program.

More details on the 2018 Lame Duck session are available on the League's Inside 208 blog. And as always, if you have any questions on these bills or other policy issues, please contact the League's State Affairs team at 517.485.1314. Thank you to everyone for your support and engagement during Lame Duck. 

Chris Hackbarth is the League's director of state & federal affairs. He can be reached at 517.908.0304 or chackbarth@mml.org.



Chris Hackbarth, director of state & federal affairs for the League, gives testimony during Lame Duck.

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**WHAT WILL YOU
GET FROM ROSATI,
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WHEN YOU DON'T WANT
TO HEAR IT?**

ANSWER ON PAGE 37

SaveMI City

EXPANDS & AMPLIFIES ITS MUNICIPAL REFORM MESSAGE



By Anthony Minghine

It may be a new year, but Michigan communities are still facing many of the same issues they've been dealing with for more than a decade—crumbling roads, cuts to fire and police departments, steep drops in taxable values, and more.

These issues directly relate to how the state funds its local communities. Michigan ranks among the worst states in the U.S. in state support for local government services. According to the Michigan Department of Treasury, \$8.6 billion has been diverted away from Michigan cities, villages, and townships since 2002.

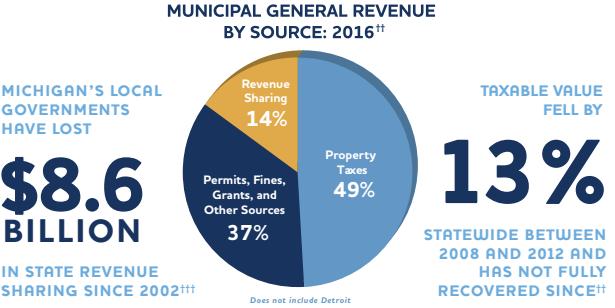
"Michigan communities can't thrive if changes aren't made to our municipal finance system. We need to keep

working toward new and better solutions to this important issue," said Dan Gilmartin, Michigan Municipal League executive director and CEO.

With this goal in mind, the League started its SaveMI City initiative as a legislative and policy push in 2016. The campaign focuses on educating the public, elected officials, business leaders, and the media about how municipalities are funded and why the current system does not work for Michigan communities. Now entering its third year, the League has been able to expand the initiative and improve ongoing messaging and awareness efforts thanks to support from the Charles Stewart Mott Foundation.



“By educating the public and decision makers, we hope to spark a movement that yields significant results for our communities in order to help them grow and prosper.”



2018 Relaunch

During its 2018 Convention in Grand Rapids, the League unveiled an updated branding effort to spotlight Michigan's disinvestment in its communities. Statistics show why rededicating existing resources to local government is the best way to further encourage growth in Michigan's economy.

The launch included a three-minute animated video to creatively explain the issue; a series of shorter, 30-second videos to drive home important messages for cities and villages across Michigan; storytelling efforts; messaging training for a new group of municipal ambassadors; an improved savemicity.org website with fresh content; more podcasts; and an updated social media presence. A new video was created toward the end of 2018 featuring League members talking about the impact of the broken system on their communities. You can find all the videos on the SaveMICity YouTube channel.

"We want all Michigan citizens to be aware of the financial challenges facing our state and how their community is being directly impacted by revenue sharing," Gilmartin said.

Dr. Sheryl Mitchell,
Lathrup Village
city administrator,
gets media training
in the SaveMICity
Ambassador
program.

"By educating the public and decision makers, we hope to spark a movement that yields significant results for our communities in order to help them grow and prosper."

Throughout the years, SaveMICity has experienced tremendous media coverage, including more than 200 news articles, op-eds, and columns written about the League's municipal finance work. *The Detroit News* and *Detroit Free Press* have published editorials supporting the call to fix Michigan's broken system for municipal funding. A seven-part series exploring the issue was also published by *Bridge Magazine*.

In addition to these traditional media efforts, the campaign is now putting greater emphasis on new media. In 2018, SaveMICity worked to establish a digital presence on multiple platforms, including Facebook, Twitter, Instagram, and YouTube. Social media outreach has allowed the message to reach people all over the state. "We're excited to be reaching new audiences and engaging with individuals from every corner of our state," said Matt Bach, the League's director of communications. "Our latest educational efforts really focus on using the information and data we've collected to make an impact in all Michigan communities."

Information shared by the initiative on these various platforms has reached hundreds of thousands of voters, decision makers, and influencers and has been used to shape numerous policy proposals, municipal budgets, and resource allocation plans. In Lansing, we've been feeling the momentum with candidates seeking seats in the Legislature talking about municipal finance and revenue sharing as part of their campaigns.

Most recently, the House this year renamed the Local Government Committee



to the Local Government and Municipal Finance Committee and the Lansing Chamber of Commerce made “local government financial health” one of their five legislative priorities for 2019. These small, yet significant, moves show that state and business leaders are looking at local government funding.

For this SaveMICity work, the League was recognized by the Michigan Society of Association Executives and awarded a Silver Certificate in the Public Relations Campaign category at the 2018 Diamond Awards. The SaveMICity.org campaign also received a Beacon Award in the nonprofit category in the 2018 Best of MichBusiness competition, which is dedicated to recognizing those companies and individuals that make Michigan a top-notch place to do business.

“We’re proud to continue to receive recognition for our efforts to educate the public about how Michigan municipalities are funded and why the current system does not work for our communities,” Gilmartin said. “This initiative has made quite an impact in the last three years, but we’re constantly working on new ways to get our message out.”

Ambassador Program

This year, the League will be launching its SaveMICity Ambassador program to bring its message directly to Michigan residents. Local leaders throughout the state have volunteered to share stories regarding disinvestment in their communities, spreading the word at the local level. The Ambassadors will play a key role in educating Michigan residents about how they are personally impacted by state disinvestment.

This past fall, SaveMICity Ambassadors throughout Michigan authored op-eds stating that lack of community investment has reached a critical point. Leaders such as Ferndale Councilmember and League President Melanie Piana, Lansing Mayor Andy Schor, and Battle Creek City Manager Rebecca Fleury appeared in media throughout the state, each time echoing the same message—“We need a new way forward.”

In addition to sharing stories with the media, many Ambassadors have chosen to partake in the new SaveMICity Speakers Bureau. These individuals will meet with citizens face-to-face through local groups, including partner and member organizations, as they speak about municipal finance reform. These presentations will be personalized to fit community needs and inform citizens of exactly how much their cities are losing.

“Local leaders know this is a major issue in their community and are taking it upon themselves to bring about change,” Gilmartin said. “They know better than anyone how disinvestment has impacted their community and they want their friends and neighbors to come be informed about this troubling issue.”

Currently, dozens of local leaders from across the state have volunteered to serve as members of SaveMICity’s Speakers Bureau. If you are interested in having one of these Ambassadors speak to your group or community, email savemicity@mml.org. 

Anthony Minghine is the deputy executive director and COO for the League. You may contact him at 734.669.6360 or aminghine@mml.org.



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Talent Attraction Is Key to Economic Growth

By Lou Glazer

“For cities to have sustained success, they must compete for the grand prize: intellectual capital and talent.”

Over two decades of research has taught us one fundamental lesson: talent = economic growth. Then New York City Mayor Michael Bloomberg got it right when he wrote in a *Financial Times* column:

Many newly successful cities on the global stage—such as Shenzhen and Dubai—have sought to make themselves attractive to businesses based on price and infrastructure subsidies. Those competitive advantages can work in the short term, but they tend to be transitory. For cities to have sustained success, they must compete for the grand prize: intellectual capital and talent. I have long believed that talent attracts capital far more effectively and consistently than capital attracts talent.

Talent concentration is essential to high-wage job creation. Amazon HQ2 demonstrated that concentrated talent increasingly is what most attracts high-wage, high-growth employers. Talent is also entrepreneurial, so where it is concentrated increasingly are the places with the most high-wage business start-ups.

Where you have concentrations of high-wage workers you get increased demand for local services. Their spending power ripples through the region's economy via increased demand for retail, hospitality, construction, and other locally provided goods and services. So concentrated talent is how you create prosperous communities in a 21st century economy.



Bloomberg, in his *Financial Times* column, also provided the answer to where talent is concentrating:

The most creative individuals want to live in places that protect personal freedoms, prize diversity, and offer an abundance of cultural opportunities. A city that wants to attract creators must offer a fertile breeding ground for new ideas and innovations... Recent college graduates are flocking to Brooklyn not merely because of employment opportunities, but because it is where some of the most exciting things in the world are happening—in music, art, design, food, shops, technology, and green industry. Economists may not say it this way, but the truth of the matter is: being cool counts. When people can find inspiration in a community that also offers great parks, safe streets, and extensive mass transit, they vote with their feet.

Improving Talent Attraction

To create those places will require five fundamental shifts in Michigan's approach to economic policy:

- Shift: from an emphasis on being a low-cost state to a state that develops, retains, and attracts human capital as its core strategy for economic success. Shift: from intolerance to welcoming all people who will increasingly be needed in a 21st century economy as Michigan's population rapidly ages.
 - Shift: from an economic strategy based on low taxes to one that recognizes taxes must be balanced with the need for public investment in lifelong learning, workplace skills, placemaking, and shared prosperity.
 - Shift: from state limitations that prevent cities and regions from controlling their own destinies to giving them the flexibility to develop, finance, and implement their own quality of place strategies.
 - Shift: from accepting a crumbling 20th century infrastructure to providing a world-class 21st century transportation, water, and communications infrastructure.

Creating a place where people want to live and work becomes even more important as Michigan goes through at least a decade and a half where the number of older workers leaving the labor market will far exceed younger workers entering the labor market. So, the competition for working-age population is going to be intense. Those regions without the quality of place that mobile talent is looking for will be at a substantial disadvantage.

Think Like a Region

In that competition, those who understand that economies are regional will almost certainly have an advantage. It is the region from which employers draw the employees they need. States and municipalities are political jurisdictions, they are not economic units.

The evidence is clear: successful regions have both strong suburbs and strong central cities. Put another way, they offer residents both high-quality, low-density, more car-oriented neighborhoods and high-quality, high-density, more walkable neighborhoods.

Michigan's big competitive disadvantage at the moment is in the latter. By and large, the state's regions do not have, at the needed scale, the kind of high-density neighborhoods to be leading talent magnets.

It is also clear that the desirable mix of infrastructure, basic services, and amenities differs from region to region. What makes small towns and rural communities attractive places to live and work is different than what makes big metros and their big cities attractive places to live and work. So Michigan's diverse regions need the resources and flexibility to develop and implement their own strategies to retain and attract talent. It's an essential ingredient to their future economic success.

Essential Placemaking Policies

In Michigan Future, Inc.'s new report, *Creating Places Where Across Michigan People Want to Live and Work*, we identify and detail the five placemaking policy levers we have learned are central to creating a more prosperous Michigan:

1. Welcoming to all. A legal framework that prohibits all forms of discrimination and access to the resources necessary for social and economic mobility.
2. State and local development-friendly regulations that facilitate the creation of high-density, walkable, high-amenity neighborhoods in our cities and inner ring suburbs.
3. Understanding that economies are regional and each region needs the flexibility to develop and implement their own strategies to retain and attract talent. They also need to be able to finance those strategies through removing limitations on local and regional taxation, combined with a substantial increase in returning state revenue from the state to local governments in a way that encourages regional cooperation.
4. Providing and paying for world-class 21st century infrastructure, basic services, and amenities.
5. Transportation is the most important placemaking public investment.

To download Michigan Future, Inc.'s new report, visit www.michiganfuture.org. 

Lou Glazer is president and co-founder of Michigan Future, Inc., a non-partisan, nonprofit organization. You may contact him at 734.747.8120 or lou@michiganfuture.org.



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THE WHITE HOUSE WASHINGTON

A POWERHOUSE EXPERIENCE FOR WOMEN MAYORS

By Suzanne Pixley

It's a rare occasion for a Michigan woman mayor to receive an email from the White House Office of Intergovernmental Affairs inviting her to the Women Mayors of America White House Conference. At first, you're sure it's a hoax. But when you check, you discover that it's real. That's what happened to me last August!

Just prior to the conference, the National League of Cities sent emails inviting all of the women mayors to a reception at their headquarters. The White House said they heard that to know what's really going on at the local level they needed to ask women mayors because they are more in touch with their constituency—and won't hold back.

At NLC's offices, we met 50 of the mayors that would be attending the conference the following day. We were also updated on recent NLC federal legislative efforts and what still needed to be accomplished. No surprise here—infrastructure funding was the biggest issue. The opioid bill had passed that week with only one dissenting vote—something that brought a round of applause from everyone in the room.

The Conference Experience

The day of the conference began with a White House tour, then the women mayors gathered in the Eisenhower Executive Office Building conference room. During the introduction, we were told that about 490 mayors from across the country had been invited, and 99 were in attendance. There were an equal number of confirmed Democrats and Republicans, but about 80 percent of the attendees were nonpartisan. You can imagine the networking that developed as we moved through a five-point security check and the start of the agenda. For the most part there were 2-3 mayors from every state, but I believe I was the only one from Michigan. The group was diverse, and most had served as mayor for 5-45 years.

It was a complete surprise to have Vice President Mike Pence drop in to welcome the group and introduce his wife, Karen, an accomplished art teacher. She is very active in military and veterans' hospitals, using art therapy to help patients combat post-traumatic stress disorder. She also spoke about her efforts to help military spouses across the world with employment issues and academic pursuits.

**“...to know what's
really going on at the
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won't hold back.”**

The Pences are the parents of three children, including two daughters in graduate school and a son who is a Marine with a wife and children. That gives them firsthand experience with military life. One surprising fact is that a large percentage of the women mayors had been in the military or were former military spouses.



Vice President Mike Pence extends a warm welcome to the women mayors attending the conference.

High-Level Speakers

For the remainder of the conference, high-ranking women in the White House shared their expertise on topics relevant to local government. Betsy DeVos, secretary of the Department of Education, spoke about the coordination between the Department of Labor, Health and Human Services and



the Department of Education to ensure education opportunities for skilled labor, workforce development for future job skills, preschool, and remediation. She also reminded attendees that a great deal of education efforts are controlled and financed at state or local levels.

U.S. Small Business Administrator Linda McMahon spoke on economic development. She was followed by the only male in the group, Ja'Ron Smith, who discussed the goals of the long-awaited Opportunity Zones, a key interest for community development in many of our cities. Economic development was also the focus of remarks from Beth Van Duyne, former mayor of Irving, Texas, now serving as an administrator with the Department of Housing and Urban Development. Margaret Weichert, deputy director of management for the Office of Management and Budget, dazzled the group as she spoke of her previous experience in private finance and auditing and how it was now applicable in the treasury and audit world of the federal government.

Names that most mayors seemed to know were Mercedes Schlapp, senior advisor for communications, Shahira Knight, director of legislative affairs, and Kellyanne Conway, counselor to the President. These three took pride in talking about their current roles in the White House but also emphasized their roles as mothers, which helps them relate to the needs of the average American.

Conway and Knight had taken the lead with the opioid bill, gathering a tremendous amount of information related to drug use in the U.S. The goal of the opioid bill is to reduce illicit drug supplies, reduce mortality, and provide funds for public safety departments, recovery programs, and additional research into maternal effects as well as preschool development. All of this is music to the ears of modern day mayors.

Exchange of Ideas

The audience was given a chance to ask questions and provide input related to local government needs and successful programs. Be ready if you provide that opportunity to women mayors! You'll find out that they don't hold back. That discussion could have gone on for hours. For future questions, we were provided with a list of direct White House department contacts. I never did find out who suggested my name or city, but if you ever receive an email inviting you to a White House conference, seize the opportunity. You will be glad you did, and so will your residents. ☺

Suzanne Pixley is the mayor of Eastpointe. You may contact her at 586.445.3661 or spxley@eastpointecity.org.



Suzanne Pixley really enjoyed her experience at the Women Mayors of America Conference.



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16/50 PROJECT

Packs a Lot of Gender Diversity Action into First Year

By Emily Kieliszewski

Women have made great strides in the workplace over the past few generations, but one thing remains the same: those serving at the very top of our municipalities are overwhelmingly male. According to the International City/County Management Association, the number of women serving as city/local government managers has barely moved in three decades. In 2014, just 14.4 percent of the nation's municipal managers were women. The story is the same in Michigan. Women make up only 16 percent of those serving in the municipal top spot.

The argument for women goes further than gender balance. Putting more women in the executive seat is better for our communities. Gender diversity and women in leadership positions help government organizations reach higher levels of success—and governments are more effective when they better mirror the populations they serve.

Recognizing this leadership gap, the Michigan Municipal League officially launched the 16/50 Project in March 2018 with a goal of highlighting this stark reality and doing

something about it. We put together a team of municipal managers and elected officials to dissect the issue and homed in on three major challenges:

1. Highly qualified women entering the field encounter barriers in the selection process.
2. The next generation of women leaders is being left untapped.
3. Aspiring managers are eager for development opportunities to advance and prepare them to take on the municipal executive roles.

Together with our work group (consisting of former and current managers and elected officials), the League constructed the 16/50 Project initiatives to be both robust and meaningful in our effort to increase the representation of women in the municipal management profession.

A year later, we're checking in. Here's how we're tackling gender diversity in local government and what we've got our sights set on next.



Delving into municipal budgeting essentials at the first session of the Women's Municipal Leadership Program.



Taking the 16/50 Project message to students at the University of Michigan.



Developing Tomorrow's Women Managers

Attracting, developing, and preparing a diverse pool of candidates to be the next generation of local government professionals is critical in solving the pipeline challenge facing the profession—and in ensuring gender representation in the process.

16/50 hit the road to bring inspiring women managers to meet students right where they're studying. Focusing on MPA programs and related fields, we presented our interactive panel session titled Women Leading Local Government at both the Ford School for Public Policy at the University of Michigan and at Grand Valley State University's School of Public, Nonprofit, and Health Administration. Combined, nearly 100 students heard about each speaker's path to municipal management. They were also presented with real-life local government challenges to work through, which included everything from how to handle audience participation in meetings to working with developers on projects.

"The 16/50 Project draws attention to a largely overlooked predicament in Michigan's cities, namely that while many municipal employees are women, those at the very top—city managers—are overwhelmingly male," said Elisabeth Gerber, associate dean at Gerald R. Ford School of Public Policy. "16/50 is a much-needed initiative designed to tackle this thick glass ceiling problem from multiple directions: mentoring young women; educating council members and the public; and ultimately changing policies, practices, and cultures."

These sessions will continue around the state to expand the 16/50 Project's reach, highlight women working as local government managers, and inspire more students in Michigan to consider this career path.

“ 16/50 is a much-needed initiative designed to tackle this thick glass ceiling problem from multiple directions... ”

Professional Development for Advancing Women

Just as the 16/50 Project aims to inspire young women, it also targets women already working in local government or with transferable skills who would make excellent candidates for the municipal top spot. To do this, the League created the Women's Municipal Leadership Program, an exclusive professional development opportunity for aspiring women to advance their skills and leadership abilities on the path to becoming strong local managers. The dynamic program was developed utilizing feedback from our work group and designed for participants to dive in on key topics taught by municipal experts; build leadership expertise with an executive coach; and gain insight on the application of their new skills through dialogue with current municipal managers.

Nearly 100 women applied for the inaugural class of the WMLP, with a similar theme echoing through many of their applications.

"I applied for two small-town city manager positions recently. While I made it to final interviews, I was limited by the fact that I have not served in an Administrative Office directly... I am hoping that this program will help me to demonstrate that I have the necessary skills and training to fully bridge this gap into a top leadership position."



The 25 women selected to participate in the first WMLP included clerks, department heads, finance directors, planners, police chiefs, and more. Each had dynamic and impressive experience and a demonstrated dedication to moving toward the municipal executive office.

The first class kicked off their journey in August, meeting each month through November to cover critical topics (municipal budgeting, municipal finance, economic development, and council-manager relations); develop leadership expertise with an executive coach; and engage with current municipal managers in open dialogue on the profession. To conclude their journey, the WMLP Class of 2018 participants will be recognized and honored at this year's Capital Conference.

By structuring the WMLP with content, tools, and opportunities that help serve women's specific needs, the 16/50 Project is on the right path to developing strong local managers and strong local communities.

What Else?

These educational opportunities are only part of the work behind 16/50's mission. Here's a snapshot of the other components we've been busy driving forward:

- **Elected Officials Academy**—Now included in the EOA Advanced Weekender rotating agenda is targeted diversity and inclusivity training for elected officials with specific information on gender balance.
- **16/50 Ambassador Program**—Connecting students and professional women interested in local government management directly with women currently serving as municipal executives. Our ambassadors serve as a point of contact, share resources, and provide insight on the profession to women from all career stages.
- **Executive Profiles**—You can't be what you can't see. By bringing the women leading local government in Michigan to the forefront, we're providing other women role models to follow and showcasing the work that women do as chief executives in our municipalities.

While incredibly energized by the 16/50 Project's mission and progress, there's still work to be done. Stay tuned as we continue to add resources, meaningful training opportunities, and other programming to help more women lead Michigan's communities forward. 

Emily Kieliszewski is the member engagement specialist for the League. You may contact her at 517.908.0302 or emilyk@mml.org.

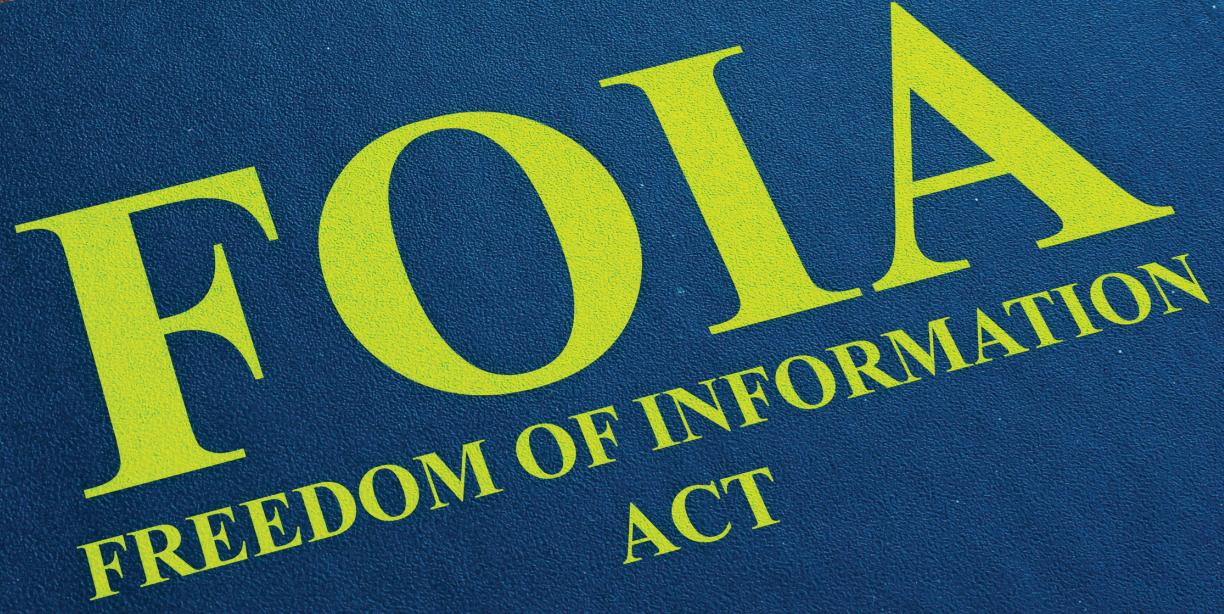


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New Amendments to the
**FREEDOM OF
INFORMATION ACT**

By Anne M. Seurnick

Effective Dec. 28, 2018, the Legislature approved two important amendments to the Michigan Freedom of Information Act ("FOIA"). Public Act 523 added a new requirement to Section 3 regarding the contact information that must be included in a FOIA request. In addition, Act 523 amended Section 4 to address what happens when a requester does not pay a deposit in a timely manner.

Contact Information

Section 3 of the FOIA now requires that a requester must include that person's complete name, address, and contact information in the FOIA request. If the request is made by a person other than an individual, the requester must include the complete name, address, and contact information of the person's agent who is an individual. An address must

be written in compliance with United States Postal Service addressing standards. Contact information must include a valid telephone number or electronic mail address. This new requirement does not apply to an individual who qualifies as indigent under Section 4(2)(a) of the FOIA.

Essentially, the amendment prevents an anonymous FOIA or a FOIA that does not fully identify the person making the request. This has been a problem in the past where the requester sends a FOIA request using only his or her first name and providing little contact information. Similarly, public bodies have received email FOIA requests with a company name and the only contact information is the email address itself. Now, the public body will have the necessary information to contact or talk to an individual about the FOIA request.



Timely Deposit

Public bodies have also been faced with deciding what to do when a requester does not respond to a request for a deposit. Currently, pursuant to the FOIA, a public body can ask for a deposit of up to half of the total estimate fee if that fee is expected to exceed \$50. The public body may also ask for a 100 percent deposit if a requester has not paid for a previous request and meets other requirements under the Act. Under Act 523, if (1) a public body requests a deposit, (2) if that deposit is not received by the public body within 45 days from receipt of the notice of deposit, and (3) if the requesting person has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requesting person. In such case, the public body is no longer required to fulfill the request.

Act 523 does include a new notice requirement for deposits. The notice of deposit ("deposit letter") is considered received three days after it is sent, regardless of the means of transmission. The deposit letter must include notice of the date by which the deposit must be received, which date is 48 days after the date the deposit letter is sent. So, each deposit letter must now include the deadline.

How to Comply

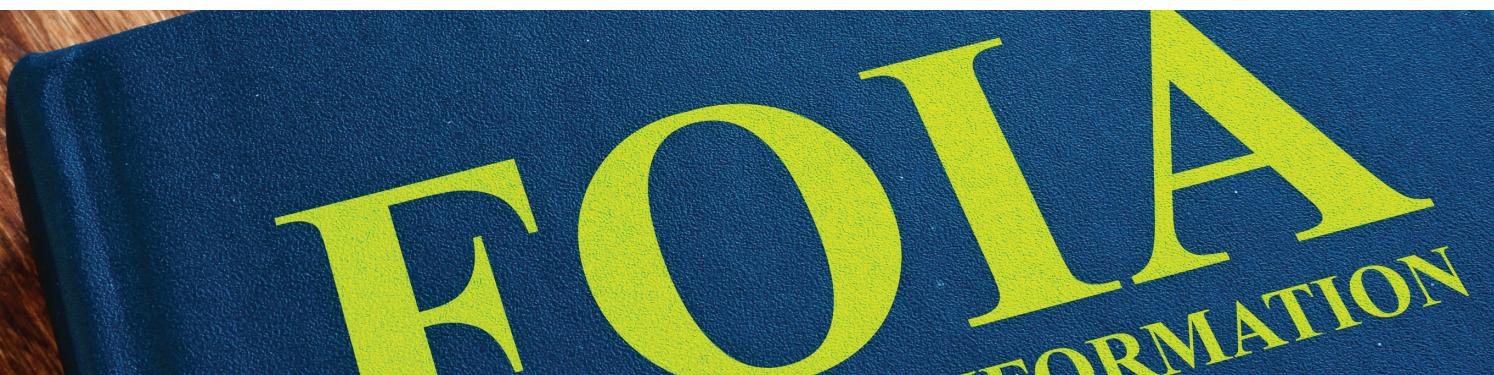
So, what should each public body do after understanding the changes? First, the public body should carefully review the FOIA requests as they come in to ensure that the required

included and record that deadline. As a matter of policy, the public body should amend its Procedures and Guidelines and Written Public Summary to reflect the new changes. Pursuant to Section 4(4) of the FOIA,

"[a]public body shall establish procedures and guidelines to implement this act and shall create a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal." MCL 15.234(4).

Because the FOIA requires the Procedures and Guidelines and the Written Public Summary to instruct requesters on (1) how to submit a written request and (2) deposit requirements, the public body should amend these documents to reflect the changes required by Act 523.

Anne M. Seurynck is an attorney with Foster Swift Collins & Smith PC. You may contact her at 616.726.2240 or aseurynck@fosterswift.com.



CAPCON2019



Michigan voters went to the polls in droves in November!

The result? In 2019, there will be an abundance of changes up and down the political ladder. From small towns to big cities, many local and state seats changed hands and political affiliation. But before the changeover, there was plenty of rapid-fire activity during the Legislature's Lame Duck session. At Capital Conference, you'll learn how the Michigan Municipal League has been tracking all this movement, making our members' voices heard, and keeping an eye on issues coming down the road. You'll also have plenty of opportunities to swap stories and experiences with colleagues who have headed down the highway to Lansing. We hope you'll join us for the League's premier legislative event!

Michigan Municipal League Capital Conference March 19-20, 2019 · Lansing Center, Lansing

Topics covered will include: affordable housing, civil discourse, constituent engagement, legislative update, lobbying, municipal finance, recreational marijuana, and social media. There will also be an Expo featuring vendors who supply a variety of municipal services.



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LOCAL PERSPECTIVE

Municipal Leaders Take Their Seat in Lansing

By Lisa Donovan



Representatives Alex Garza (D-Taylor), Padma Kuppa (D-Troy), and Mark Huizenga (R-Walker) get ready for their first day in the 100th Legislature.

“It was clear to me that the only way I was going to change something in Lansing was to go there and vote and help them understand the role of local government.”



LANSING

Michigan rang in the new year with a new governor, a largely new Legislature, and a number of firsts. On Jan. 1, Governor Gretchen Whitmer took the oath of office along with Lieutenant Governor Garlin Gilchrist II, the first African-American in that role in Michigan history. A week later, history was made as the 100th Legislature was sworn in. About a third of the 148 legislators are first-timers, with most of them in the House. In the Senate, just nine senators are back due to term limits, but many new senators are former House members.

Fortunately, some of the new and returning legislators bring a wealth of local government experience to their positions. Their paths to Lansing were somewhat different, but they all had something in common: a desire to serve their community and an innate sense of leadership.

Laying a Local Government Foundation

For second-term Representative Ben Frederick (R-Owosso), a financially challenged childhood led to a Habitat for Humanity house for his family and inspired him to go into public service. His political career began with a nine-year stint on Owosso's city council. He was then elected as Owosso's youngest mayor, serving in that role for seven years while also working as a House staffer. That gave him a unique combination of local and state experience when he first ran for state representative in 2016.

"I felt prepared from the House staff side, and the local side gave me a healthy dose of pragmatism. My big motivation was the skilled trades challenge," said Frederick, who served on the Workforce and Talent Development Committee in his first term. "Many people were leaving the state for jobs, and lots of people I went to school with were struggling to find jobs. I want to make sure educational institutions and employers are seeking and finding workforce development opportunities."

Reasonable decision-making was the ticket into politics for Representative Jeff Yaroch (R-Richmond). His neighbors recognized his talent and voted him onto the condo board. That same ability to listen to and understand issues won him a seat on the Richmond City Council, followed by election to the House in 2016.

"What really frustrated me was going to Lansing and talking about things like roads and revenue sharing. I thought if they'd just fix this, I could do my job better," said Yaroch. "I'd get a deer in the headlights look. I had people with no local experience telling me I don't know how to run government. It was clear to me that the only way I was going to change something in Lansing was to go there and vote and help them understand the role of local government."

Community service was the first step toward politics for first-term Representative Padma Kuppa (D-Troy), a former Chrysler engineer. Kuppa is the first Indian-American woman and first Hindu to serve in the Michigan Legislature. Diversity and the need to engage diverse people in city matters was the issue that first thrust Kuppa into the public realm. She got heavily involved in the Troy Community Coalition and founded the Troy Area Alliance Against Hate Crimes. From there, she was elected to the Troy Planning Commission, where she learned how to make the community better through development practices. She also served on the city's financial ideas team, which enhanced her interest in municipal finance, revenue sharing, and running for state office.

"In state office, I can have an impact on things that affect people every day," said Kuppa. "Building bridges is what I can do at the state level. It's needed for immigrants to be heard—their voices and women's voices."

Another first-time state representative got a very early start in politics. When Representative Alex Garza (D-Taylor) first decided to run for Taylor City Council in 2013, he was only a sophomore in college! Divisiveness and concern over public safety budget cuts prompted him to run—in a field of 27 candidates vying for seven seats. He eventually became city council chairman, and worked for Representatives Rashida Tlaib and Stephanie Chang, before taking the plunge into state politics.

"I decided to run for state representative due to many issues including road funding challenges and lack of support for public education," said Garza. "Also, part of my platform was Lansing's preemption of local government. I'm a big advocate of local government control, and I want to make sure Lansing empowers our local governments."

Experience as a healthcare consultant, helping clients with real estate decisions, prompted first-term State Representative Mark Huizenga (R-Walker) to say yes when a friend asked him to serve on the Walker Planning Commission in 2005. From there, he became city commissioner (2011–2013), and then was elected as mayor in 2013. He hit the campaign trail for state representative last year.

"My background is finance and accounting. Through all these things there's a common thread of fiscal responsibility," said Huizenga. "At the city, I learned how budgets work and how to reduce liabilities to make it easier for things to happen and make city council more successful. I hope to take that same fiscal conservatism to Lansing."

Sharing Their Local Government Experience

The strong understanding these representatives have of local government issues makes them an important voice in Lansing. They feel the weight of that responsibility.

"Not many legislators have local government experience," said Garza. "People think it's a natural progression, but a lot of legislators don't understand what local government officials deal with on a daily basis. I offer an important perspective on local issues."

"My first goal was to make sure I was the legislator that I wanted my legislators to be," added Yaroch. "I want to make sure I think of the people first, work on issues people in my district bring to me, and stay in touch with local government to help them do a better job."

Revving Up Revenue Sharing

One of the most important issues for local government is cuts to revenue sharing. The League's SaveMCity initiative has been driving home the message that Michigan's system for funding municipalities is broken. Since 2002, the state has diverted \$8.6 billion from Michigan communities to balance the state budget. Representatives Frederick, Yaroch, Kuppa, Garza and Huizenga have experienced the effects of those budget cuts firsthand in their communities and want to see change.

"Revenue sharing is a basic promise of state government to provide resources so communities can engage in front line services," said Frederick. "We haven't been able to provide that in previous years. I'd like to have an honest conversation on setting a baseline of revenue sharing they can count on."

"There's a loss of institutional knowledge due to term limits," added Yaroch. "Representatives don't appreciate the history of revenue sharing. It's not charity to local government but the result of agreements with the state over the years to support local government and help them provide daily services to residents."

Bringing about that change will require serious effort from the state level to invest in Michigan's communities, and provide them with the resources they need to thrive. As she embarks on her journey in the Legislature, Representative Kuppa says it well: "I want to build alliances, find people with common purposes willing to make changes to move forward. The economic imperative for Michigan is immense. We need new streams of revenue, and we need to do better at planning for our future."

But no matter what the issue, there's great value for municipal officials in expressing their thoughts and opinions to lawmakers. "I definitely see how important it is—especially for local government leaders—to engage with state representatives early and develop a relationship," said Yaroch. "That's much better than calling on the day of legislation." 

Lisa Donovan is the communications specialist/editor for the League. You may contact her at 734.669.6318 or ldonovan@mml.org.



Rep. Jeff Yaroch (R-Richmond) was joined by a first responder for Sept. 11 ceremony.



Rep. Ben Frederick (R-Owosso) honors local veterans.



Rep. Padma Kuppa (D-Troy) exchanges ideas with constituents.



Rep. Alex Garza (D-Taylor) attended State of the State address with Romulus Treasurer Stacy Paige.



Rep. Mark Huizenga (R-Walker) takes the oath of office.





Deadline Approaching for Local Agency Pavement Warranty Program

By John LaMacchia

As part of the Transportation Funding Package of 2015, the Michigan Legislature created a requirement (MCL 247.662, 247.663) that each local road agency in Michigan adopt a Local Pavement Warranty Program acceptable to the Michigan Department of Transportation (MDOT).

The resulting Michigan Local Agency Pavement Warranty Program is the statewide accepted format that local agencies can use for hot mix asphalt (HMA) and plain jointed concrete paving projects on public roads and streets, if they opt to utilize a warranty on a project. This Warranty Program must be adopted by every community no later than Sept. 18, 2019, and every community must consider a warranty on each project utilizing any state or federal funding that also includes \$2 million or more in paving-related components. Communities must annually report on projects with \$2 million or more in paving-related items, regardless of whether they implemented a warranty or not.

To assist with the adoption of the Warranty Program, the League has set up a Local Agency Pavement Warranty Program webpage where you can download all the information necessary to adopt the program.

<http://www.mml.org/advocacy/pavement-warranty/>

The overall goal of the Michigan Local Pavement Warranty Program is to have one standardized method for applying pavement warranties on local agency projects, which provides a consistent, quantifiable and transparent program that pavement contractors can recognize and implement.

Program Components

The Local Pavement Warranty Program, as approved by MDOT, consists of the following documents and they can be found on the League's Local Agency Pavement Warranty Program web page: Special Provisions (Boilerplate, Concrete, HMA, Location and a Pass-Through Warranty Bond).

- Warranty Bond Form and Contract Form
- Guidelines for Local Agency Pavement

Warranty Program

The program was developed by the Local Agency Pavement Warranty Task Force including representatives of the Michigan Municipal League, County Road Association, MDOT, Federal Highway Administration-Michigan, Michigan's Local Technical Assistance Program (LTAP), municipal road agencies, legal counsels and industry representatives.

Timeline for Warranty Policy Adoption

The Local Pavement Warranty Program developed by the Task Force must be adopted by your community on or before September 18, 2019.

To adopt the Pavement Warranty Program, each community should adopt two separate Resolutions. First, a Resolution to Adopt a Local Pavement Warranty Program (sample template and corresponding documents can be found on the League's webpage) is needed to adopt the Local Agency Pavement Warranty Program and its accompanying documents. Second, a Resolution to Implement



Michigan Local Agency Pavement Warranty Program

- Must be adopted by every community no later than Sept. 18, 2019
- Every community must consider a warranty on each project utilizing any state or federal funding that also includes \$2 million or more in paving-related components
- Communities must annually report on projects with \$2 million or more in paving-related items, regardless of whether they implemented a warranty or not.

a Local Pavement Warranty Program (sample template can be found on the League's webpage) that defines the agency's intent to apply the warranty program consistent with the Local Agency Pavement Warranty Guidelines and report annually on each project that includes \$2 million or more in paving-related components and includes any state or federal funds.

The goals of the Local Agency Pavement Warranty Program are to meet the legislative mandate to implement it, as well as to standardize review and oversight of pavement warranty projects, and to have a program that is transparent and uniform for private-sector contractors.

To find the sample Resolutions and corresponding documents, please visit the League's Local Agency Pavement Warranty Program webpage.

<http://www.mml.org/advocacy/pavement-warranty/>

Future Warranty Education Programs

The Warranty Task Force has obtained a FHWA grant of \$74,000, which its Education Subcommittee will use to work with the Michigan Local Technical Assistance Program (LTAP) to conduct education and training sessions. Training will be designed for elected/appointed officials, administrators, as well as managers/directors, engineers and engineering technicians in both onsite sessions and online webinars during 2019. The League will work with LTAP to publicize these sessions. 

John LaMacchia is the assistant director of state and federal affairs for the League. You may contact him at 517.908.0303 or at jlamacchia@mml.org.



63
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Selecting Qualified Engineers & Designers Saves Time & Money, Reduces Risk

By Steve Pangori & Ron Brenke

Everyone who has worked in municipal government has a horror story about receiving proposals from engineers. Here's one: a recent Request for Proposals for a bridge project in a small town yielded submissions from professional service firms with fees ranging from \$6,000 to \$60,000.

How can fees on design solutions to fix a problem vary by such magnitude? While there can be many reasons for the discrepancies, there's only one solution to the problem. Municipal leaders can avoid the pitfalls associated with varying fees by simply hiring the most qualified design professionals. Through the Qualifications-Based Selection (QBS) process, community leaders can select and negotiate scope and fees and ease their workload, creating better projects and stretching taxpayer's dollars.

QBS is a competitive procurement process in which firms submit qualifications to an owner, who evaluates and selects the most qualified firm based on the specified needs of a project, and not according to the lowest bid submitted.



"The City of Livonia has used the QBS process for years with great success," said Jacob A. Rushlow, PE, Livonia's superintendent of public service.

"By selecting the most qualified firm and working with them to prepare a refined scope of services, we've been able to cultivate a team environment that results in more proactive problem solving focused on delivering the best project with the lowest life-cycle cost."

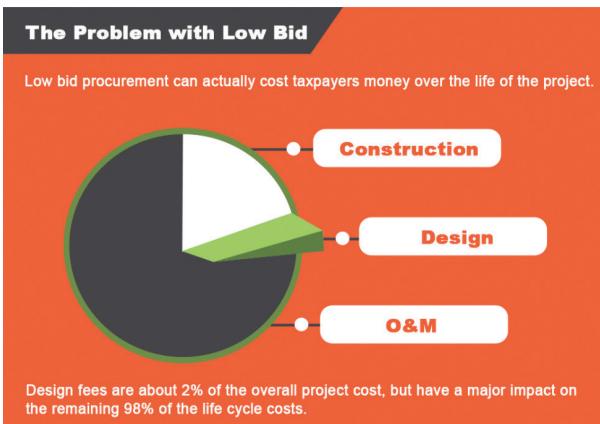
Think Above Value Over Cost

Best value is most often achieved when the focus is placed on finding the most innovative and effective long-term solution to a design problem during the design phase. Decisions made by architects and engineers impact the entire life of a project. Studies have shown that a small variance in consulting fees for architects, engineers, and their design teams can easily make a hundredfold difference in the value and public benefit of the project that gets delivered.

Design typically represents less than one percent of a project's life-cycle cost. Yet some communities think they will save money on their project by bidding professional fees.

Last year, Golden Township officials learned firsthand the impact of QBS when they selected an engineering firm to assist them on a USDA Rural

66 Best value is most often achieved when the focus is placed on finding the most innovative and effective long-term solution to a design problem during the design phase. **99**



Development project for a multi-million-dollar wastewater treatment plant and collection system improvements project.

"Our attorney recommended that we go with QBS, and we were all in favor of going that route," said Connie J. Cargill, the township's treasurer. "It is such a large project and we wanted to be sure that we got consultants that were really qualified to handle such a project."

Township officials received seven requests for qualifications and interviewed four consulting firms.

"We'd absolutely use QBS again on a big project like this," Cargill added. "We aren't experts in the consulting field and it's important to get somebody who is highly qualified. You have to hire a company with some depth that can handle the many facets of the project."

QBS Process

The American Public Works Association (APWA) has published a Red Book outlining the QBS process. It includes templates and sample criteria to use in selecting a consultant, sample interview rating forms with weighted scoring, and detailed discussions on formulating contracts.

The Red Book notes: "Consultant selection can be politically sensitive and has potential for controversy and misunderstanding. Adopting a written professional services selection policy can protect staff and the agency from allegations of impropriety and inspire confidence in staff recommendations within the governing body, the public, and the consulting community."

Developing common RFQ templates and processes will streamline the procurement process, speeding the evaluation and selection. Plus, it will encourage a wider range of service providers to submit qualifications, a further benefit to municipalities.

Consulting giant McKinsey recently conducted a study of 48 engineering megaprojects and diagnosed "poor execution" including insufficient scopes as the cause of cost and time overruns in 73 percent of the cases. "Project execution, from design and planning through construction, is riddled with problems such as incomplete design, lack of clear scope, ill-advised shortcuts, and even mathematical errors in scheduling and risk assessment," the study concluded.

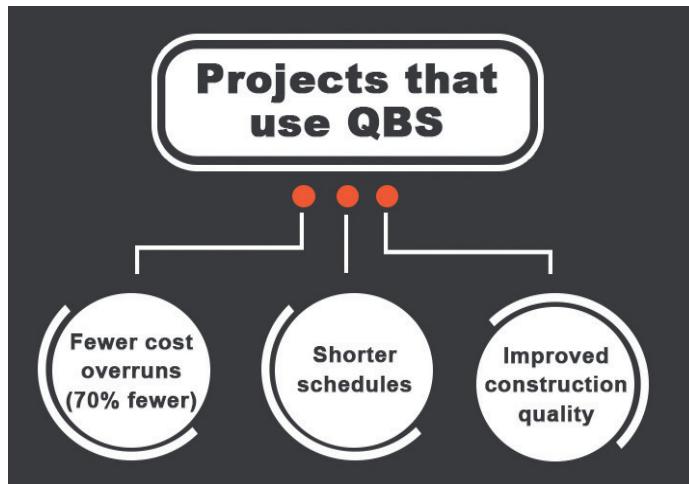
The McKinsey study also noted that a focus on low price is a contributing factor to cost and time overruns. "Having delivered an unrealistically low project budget, the temptation is to cut corners to maintain cost assumptions and protect the (typically slim) profit margins for the engineering and construction firms that have been contracted to deliver the project. Sometimes costs and timelines are systematically underestimated."

It's important to craft your project vision by describing the end result of your project. Is it an upgrade to your community's existing water treatment system to improve energy efficiency and make it compliant with regulatory requirements? Rather than prescribing exactly what tasks are to be accomplished within a project, share the outcome, the constraints, challenges and information. Then, select the most qualified respondent and develop the scope together.

The study showed that selecting the most qualified professional service provider can potentially save as much as 25 percent of the total

project costs, through a combination of shorter development and construction schedules, scope control, and improved engineering. Skimping on design fees is not only pennywise and pound foolish, it rewards firms that provide the minimum effort, commit fewer resources and hours, and often use less experienced staff. This can put the project at risk.

Local leaders retain consultants to turn concepts into a set of plans and specifications. Because each project has unique characteristics, communities have an opportunity to encourage innovations on materials, site options, construction techniques, scheduling, or delivery.



Price Is Still a Factor

QBS does not preclude the consideration of price in the overall process. Instead, it allows for it to take place at the most appropriate and meaningful stage of the selection process, when the scope of services has been decided upon with a preferred candidate who has a clear understanding of the project. If the community and top-ranked consultant cannot agree on a fair fee for the design services, negotiations are terminated, and the next highest qualified firm is brought to the negotiating table.

Selecting consultants based on qualifications facilitates optimal design and value within a defined budget—resulting in the owner getting the best bang for the buck. “Designing to budget” also allows the team to evaluate design alternatives and stakeholders’ wish list while keeping the budget on track.

“By utilizing QBS we are able to balance transparency in the procurement process with selecting the most qualified team for our projects, many of which are complex,” said Nicolette Bateson, CPA and chief financial officer/treasurer for the Great Lakes Water Authority.

Another study of consultant procurement conducted by the University of Colorado and Georgia Institute of Technology also supports QBS. It reads: “Public agencies that use Qualifications-Based Selection to procure architectural and engineering services are better able to control construction costs and achieve a consistently high degree of project satisfaction than those using other methods.” That study also found that projects using a QBS process had 70 percent fewer cost overruns, shorter schedules, and improved construction quality.

Qualifications-Based Selection of design professionals is a proven method of obtaining the best, long-term project result. Many communities in Michigan are already hiring design professionals through the QBS process. The time may be right for your community.

“Qualifications-Based Selection is very important on such a big project,” Cargill noted. “You can’t afford to go low bidder and then find out he can’t do it for that much or doesn’t complete the project because he didn’t know how to bid it.” 

Steve Pangori, PE, is the president of Anderson, Eckstein and Westrick, Inc. You may contact him at 586.726.1234 or spangori@aewinc.com.

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Legal Spotlight

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Grant of Use Variance for Billboard Approved in Area That Bans Off-Site Advertising

FACTS:

In 1999, the City of Detroit amended its zoning ordinance to ban off-site advertising signs in a portion of the city referred to as the Grand Boulevard overlay zone. In 2011, International Outdoor Inc., (IO) purchased a small parcel of vacant property measuring 30 feet by 184 feet, located within the overlay zone. In 2015, IO requested a permit to erect a billboard on the property. The city's planning department denied the application, referring to the overlay zone.

IO appealed to the City of Detroit's Board of Zoning Appeals (the BZA) requesting a hardship variance. IO asserted that the city's ordinance rendered the property unfit for any reasonable or economically feasible use due to its size and shape. The BZA granted the variance and the city appealed to the circuit court.

The circuit court agreed with the BZA, noting that although IO purchased the property with knowledge of the ban on off-site advertising, IO had taken no action to physically alter the property, creating the hardship. The city appealed to the Michigan Court of Appeals.

QUESTION:

Did the BZA have the authority to grant a use variance in the overlay zone?

ANSWER:

The Michigan Court of Appeals answered "yes," citing MCL 125.3604 and the provisions of the city's ordinance banning advertising signs within the overlay zone. The Court concluded that the BZA has broad powers to provide relief for a landowner who proves an economic hardship so long as no other permitted or conditional use is economically feasible.

QUESTION:

Did IO establish that it was deprived of all reasonable economic use of the property and that the ordinance imposed a hardship meriting a use variance?

ANSWER:

The Michigan Court of Appeals again answered "yes," based, in part, on the 4-part test set forth in *Janssen v Holland Charter Twp Zoning Bd of Appeals*, 252 Mich App 197 (2002). The Court found that the small, unusual parcel at issue could not be reasonably used in a manner consistent with existing zoning, that the landowner's plight was due to unique circumstances and not to general conditions in the neighborhood that may reflect the unreasonableness of the zoning, and that the use variance would alter the essential character of the locality. The only issue was whether the purchase of the property after the adoption of the overlay zone created a "self-imposed" or "self-created" hardship. The Court of Appeals declined to extend the self-created hardship rule to all instances where a landowner "simply purchases" the property with knowledge of an ordinance's restrictions. "IO simply purchased the property at a time when there was no permitted reasonable use and took a business risk that the BZA would grant a variance to erect the billboard in the overlay zone." A dissent was filed by one of the Court of Appeals judges.

City of Detroit v City of Detroit Board of Zoning Appeals, No. 339018 (October 23, 2018)

New League Medical Marijuana Report

Aims to Help
Communities
Choose



Online Sales Tax

Where Will All That Money Go?

By Rick Haglund



Michigan is expected to gain hundreds of millions of dollars a year in new sales tax revenues from online and mail-order retailers, the result of a recent landmark Supreme Court decision. That's good news for municipalities, which have been shorted billions of dollars in state revenue sharing. But the extra cash alone won't fix a broken municipal finance system.

In June, the Supreme Court ruled in *South Dakota v. Wayfair*, a large online home goods retailer, that a state can collect sales taxes from online and mail-order retailers that do not have a physical presence, or nexus, in the state. The ruling, which overturned decades of previous decisions largely preventing states from collecting sales taxes from remote e-commerce and mail-order retailers, was praised by retail trade groups as leveling the playing field for online and brick-and-mortar retailers. State governments applauded the ruling as a move toward tax fairness.

Online and mail-order shoppers in Michigan had long been required to remit a six percent sales tax on their purchases to the state Treasury. But few did, and



enforcement was almost impossible. The state Treasury Department estimated that sales tax noncompliance from remote e-commerce and mail-order sales cost the state nearly \$400 million last year.

But only about half of that amount is expected to be collected by the state this year. That's because Treasury is only collecting the tax from remote sellers with more than \$100,000 in annual sales or at least 200 transactions a year in Michigan. Smaller retailers are exempt, in line with South Dakota's treatment of remote sellers that was upheld by the Supreme Court.

The Treasury Department estimates that sales taxes remitted by remote sellers like Amazon and Wayfair will reach \$203 million in the current fiscal year, \$236 million next year and \$248 million in 2021. "That's good for constitutional revenue sharing," said Chris Hackbart, director of state and federal affairs at the Michigan Municipal League. "About \$20 million will be distributed this year on a per capita basis to municipalities, villages, and townships."

League officials also are hoping increased sales tax revenues will result in more statutory revenue sharing from the Legislature. Since 2002, lawmakers have diverted more than \$8.1 billion in revenue sharing for local units of government to balance the state budget. The statutory revenue shortfall this year will be about \$600 million, Hackbart said.

The money shift has deprived local units of money desperately needed to provide quality services. "For too long we have neglected and deferred investment in critical services like police and fire protection, parks and other local services on which residents rely. Sales tax revenue represents the second-largest source of revenue for Michigan's communities," said League CEO Dan Gilmartin.

Much of the new sales tax revenue from online and mail-order sales not already required to be spent on schools initially is being used to help fix Michigan's crumbling roads. And there are likely to be many other spending demands for the new money over the next few years at a time when little growth in the state general fund is being forecast.

The state's consensus revenue forecast in January predicted that state general fund revenue would rise from \$10.7 billion in the current fiscal year to \$10.85 billion in fiscal year 2021, a one percent increase. That increase is based on economic growth throughout the forecast period. A recession, which appears to be a growing risk because of a slowdown in auto sales, the trade war with China, and other economic headwinds could further tighten Michigan's budget.

And while more than \$200 million this year in new sales tax revenue from online and mail-order sales is being welcomed by state and local officials, it's little more than "a rounding error" in the \$8.5 billion Michigan is expected to collect in sales taxes in the current fiscal year, said David Zin, chief economist at the Senate Fiscal Agency. Of the \$687 million the state expects to collect in new sales taxes from remote retailers through 2021, \$503.9 million will go to the School Aid Fund, according to the state consensus revenue estimate.

There's also a risk that Congress could pass legislation that would limit or end states' rights to collect sales tax, nullifying the Supreme Court's decision in the Wayfair case. Three such bills were introduced in Congress following the Wayfair ruling last year but died at the end of the year.

It's unclear if similar legislation will again be introduced this year, according to a state Senate Fiscal Agency analysis. The agency also said lawmakers might want to pass legislation that would codify the current Treasury guidance on collecting the sales tax from remote sellers, heading off potential lawsuits.

Sales taxes from remote retailers will be crucial for states as online retailing continues to grow. Revenues from U.S. online retailers grew 16 percent in 2017 compared to overall retail revenue growth of 4.4 percent, according to the Commerce Department.

Former League Board President Catherine Bostick-Tullius, a Lapeer city commissioner, said it's essential that local communities share in the online tax revenue growth. "The demand to fund communities is clear," she said. "Our communities deserve better and this represents a real opportunity for lawmakers to send a message that they understand that without strong communities nothing else, including roads, really matters." 

Rick Haglund is a freelance writer. You may contact him at 248.761.4594 or haglund.rick@gmail.com.

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Clare Train Depot Chugs Back to Life

By Ken Hibl



If you have an interest in Michigan history and find yourself near the City of Clare during your mid-Michigan travels, a visit to the recently rehabilitated 1890s-vintage Clare Union Depot should be included on your list of stops. The city's historic downtown district, which is listed on the U.S. National Register of Historic Places, includes several other well-known Michigan sites—the Doherty Hotel, Cops & Doughnuts, The White House Restaurant, and The Herrick House, to name a few.

But now downtown also includes the only remaining railroad depot of its type in the state of Michigan. The depot, which was built by the Ann Arbor and Pere Marquette railroad companies in 1898, is a historical Queen Anne style wooden



structure that includes a rare and functional turret. The building is also one of a few remaining L-shaped depots in the nation. In years past, the Clare Depot served as a lifeline to this rural community through the

transport of goods and supplies. It also played a crucial role in the city's cultural transformation. The City of Clare derives its name from County Clare Ireland and the Irish immigrants who settled in the area. Many Irish settlers in search of land or work were transported to the area by rail. As the area developed, friends and relatives joined these early settlers, along with others who shared common values, religious beliefs, and heritage.

The railroads ceased passenger service between 1949 and 1950. In 1992, C&O Railroad, which had purchased the Flint, Pere-Marquette Railroad, abandoned the rail line. The depot and rail line were then privately purchased by the Tuscola & Saginaw Bay Railroad (now Great Lakes Central). The depot sat idle, fell into a state of disrepair, and was scheduled for demolition.

Bringing Life Back to the Depot

In order to preserve this important icon of Clare's history, the city purchased the depot with the intent of returning it to community use. A community coalition known as the Clare RR Depot Committee was formed. The mission of the group—comprised of local nonprofit organizations, public organizations, and a highly dedicated group of about 70 volunteers—was to relocate and rehabilitate the building. With an informal agreement between the city and the depot not to use public funds for the rehabilitation project, the coalition spent the next 12 years raising funds, writing grants, expending countless hours of sweat equity, and encouraging and soliciting in-kind resources to rehabilitate the depot. The total estimated cost was \$750,000, including in-kind donations.

All that hard work culminated in a ribbon-cutting on Oct. 12, 2018. Approximately 150 people came out to celebrate the transformation of the iconic building.

Today, the depot stands as an integral element of the city's historic downtown district. It is now occupied by the Clare Area Chamber of Commerce; it is the first-ever, permanent



home of the Clare County Arts Council; it serves as a focal point for the Clare County Visitor's Bureau; it functions as a local railroad museum; it provides rentable gathering space for community and private events; and it will serve as a trailhead for the Pere Marquette Rail Trail, which will pass by its front door. There are also plans to once again use the building as a passenger terminal for excursion trains coursing through Clare to northern destinations—such as Cadillac, Traverse City, and ultimately Petoskey—when regular excursion rail service is reinstated to this sector of the state.

The rehabilitated depot is a great example of what can be accomplished through collaboration, cooperation, and a strong sense of community spirit and pride. It is also testimony to all the dedicated volunteers who transformed a community dream into reality. 

Ken Hibl is the city manager for the City of Clare. You may contact him at 989.386.7541 or khibl@cityofclare.org.



What if Everybody Does Move to Michigan?

By Richard Murphy

For all the time Michigan has spent talking about things like talent attraction and economic growth, we're not necessarily prepared to deal with success on that front. How would we handle a scenario where we saw significant population growth in the state—a condition that hasn't happened in the last half century? Our internationally recognized successes around placemaking, combined with the state's natural assets, provide a potential pull for residents, while factors elsewhere in the country offer a push. Over the past few generations, snowbirds have flown from Michigan to other states. Now, challenges ranging from skyrocketing coastal housing costs to category five hurricanes, perpetual western forest fires, and worsening water shortages in the southwest are boosting our state's relative appeal. Just look to last year's *Popular Science* article and video that analyzed trends in natural disasters and other undesirable living conditions and concluded, "Looks like we're all moving to Michigan!"

For reference, Michigan's population has been essentially stable since 1979, adding only half a million residents over that 40-year period. By contrast, some states are picking up that many residents every four or five years. Florida, for example, had the same population as Michigan in that year, but added an entire Michigan of population in the following 30-year period.

Where Would New Arrivals Go?

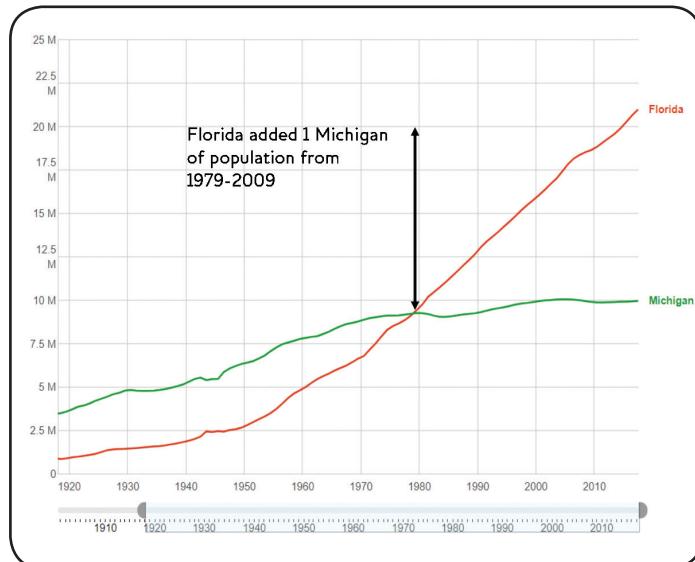
Let's imagine some combination of our talent attraction efforts with the push effects of hurricanes, flooding, and fires causing Michigan's growth rate to approach even a half of Florida's. If our population starts growing by 100,000 people every year, instead of every decade, Michigan would face a big problem: where would we put all those people?

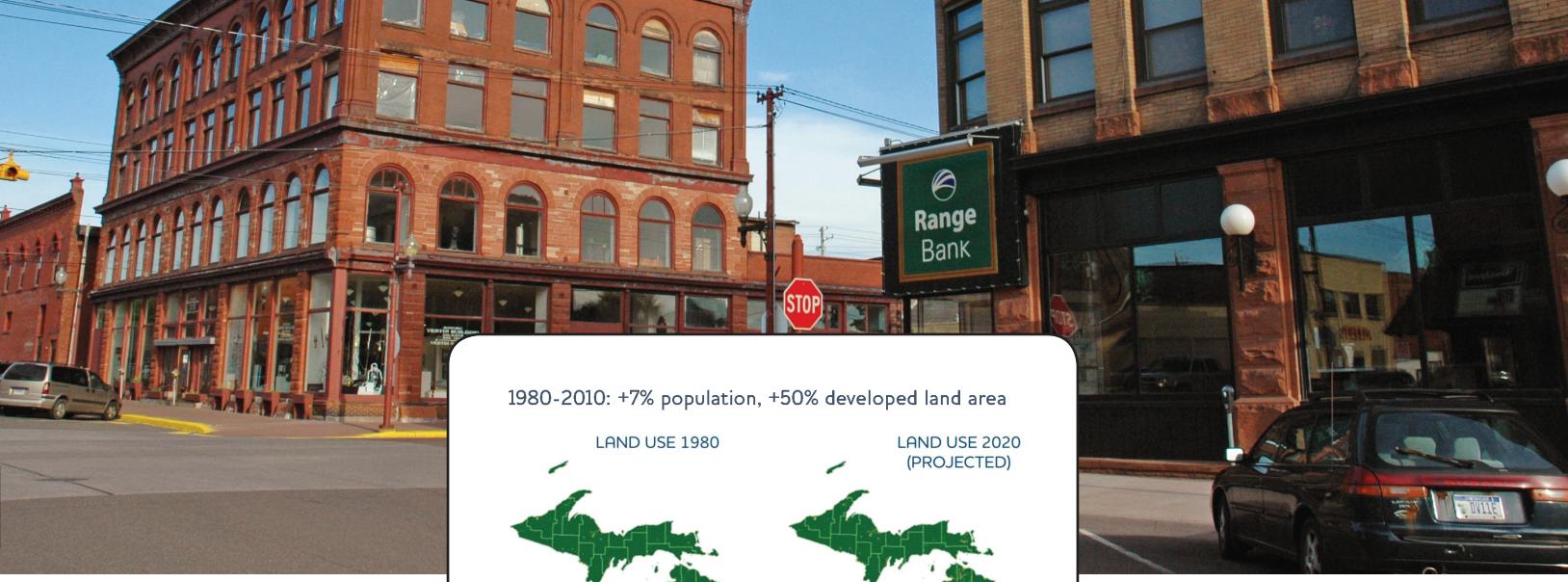
Our bigger, core cities?

It's easy to think that Michigan's larger legacy cities could receive this growth—cities like Detroit, or Flint, or Saginaw, or Lansing, which have lost population from their historic peaks. The challenge with this idea is that there are a lot of people already in those communities who aren't feeling the benefits of our current models of economic development and growth. Under the status quo, a flood of newcomers (or returnees) coming in from out of state would cause rampant gentrification, harming existing residents. Michigan needs to get better at development without displacement before we can look to our larger cities to absorb significant growth.

Our suburban periphery?

Michigan could continue to expand our metro areas outwards, a strategy we've relied on for decades—whether we're growing on net or not. But as we've found out, adding infrastructure so much faster than we've added new people to pay for it means that each of us has had to pay more. Michigan has expanded its developed land area by 50 percent in 30 years, a worse than 5:1 ratio of infrastructure expansion to population growth.





The outward growth “strategy” has stuck us with higher gas taxes and vehicle registration fees, higher utility bills, and higher property tax bills, just to slow the pace of entropy—it’s not one on which we should double down!

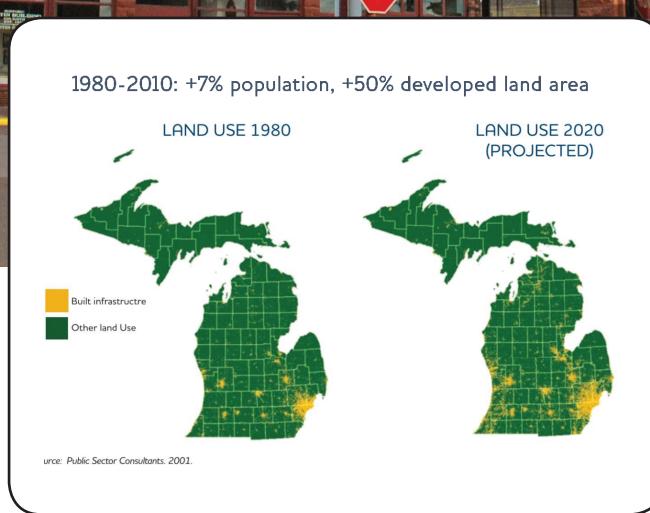
Even if financial sustainability weren’t enough reason to halt our unproductive expansion, consider our state’s natural benefits. Continuing to put growth on our edges would degrade the natural amenities and agricultural lands that are so important to Michigan’s identity and economy.

Our small towns?

Of course, Michigan also has hundreds of small towns around the state—the median League member has just over 1,800 residents. A great many of these smaller communities have lost population over time and could probably benefit from having some new neighbors. But some of these communities struggle with lost employers, others with tourist economies making housing scarce, and many suffer an aging housing stock for which it’s difficult to get a mortgage or rehab loan. Simply moving a bunch of new people in isn’t a straightforward answer unless paired with better models of local economic prosperity.

The Path Forward

We don’t have any easy answers to this challenge. A growing Michigan would mean that hundreds of places across the state will need to have new and unfamiliar conversations about their local opportunities and cautions, and to adopt their own local blend of tactics to support their best-case growth scenarios. Some of this work is technical, and we have good work underway already: look to our successes with placemaking, MEDC’s roll out of Redevelopment Ready Communities®, or our efforts with CNU’s Project for Code Reform for examples of things that are working and can scale up.



Financing equitable development will be a bigger lift. Tackling affordable housing needs in some areas while building up weak housing markets in others; supporting new, resilient local economies

through economic gardening models; implementing energy security through efficiency and new generating capacity—we will need to ramp up a combination of public investment, refocused traditional finance, and newer community investment models to effectively handle growth.

Identifying a new narrative and building consensus will likely be the hardest piece for any community, though. Many of our communities saw their economic peak decades ago—and have been dealing with decline for much or all of their memory. Other, more suburban municipalities have existed almost exclusively in the flat portion of Michigan’s population curve. If we are to navigate true population growth to our communities’ benefit, our local elected officials and staff will need to engage residents in frank conversations about what makes a place special—and what’s open to change.

It’s obviously a challenging hill to scale. It relies on the state both supporting local efforts, rather than preempting any creative program, as well as fixing the structural problems with our municipal finance system. And Michigan might not even ultimately see substantial population growth. But doing the work to figure out the next life cycle for each of our communities across the state and putting in place the tools to support those paths is work that will support a much more positive growth scenario than, say, “winning” Amazon. 

Richard Murphy is a civic innovations program coordinator for the League. You may contact him at 734.669.6329 or r murphy@mml.org.

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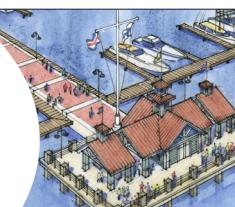
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MONDAY MORNING

LIVE

By Matt Bach

The Michigan Municipal League is continually thinking of new and different ways to communicate with our members and the general public. We've now entered the worlds of Facebook Live and podcasting. First, let's talk about Facebook Live. When Facebook Live became a thing in 2016, we dabbled with using the social media platform's live streaming tool for news conferences and other events. And it seemed to work.

We Love
Where
You Live



Podcasts

Monday Morning Live

Late last year, we began taking our use of Facebook Live to the next level by launching Monday Morning Live with the Michigan Municipal League (that's "MML with the MML" for those who like acronyms).

Monday Morning Live is a twice monthly, 30-minute conversation on the League's Facebook page (facebook.com/mmleague) with me—Matt Bach, the League's director of communications—and the League's Lansing legislative team—Chris Hackbarth, director of state and federal affairs; John LaMacchia, assistant director of state and federal affairs; and Jennifer Rigterink, legislative associate.

The first Monday Morning Live aired Nov. 19, 2018, just as the Lame Duck legislative session was starting. We did two additional episodes during Lame Duck when the League was tracking more than 100 bills flying through the Legislature. When the dust settled, the Legislature ended up approving about 400 bills and the governor ended up vetoing 56 of those. Obviously, there was a lot to talk about and our Legislative team covered as much as we could during our Monday Morning Live episodes. These discussions are all designed to keep our members informed of not only what's happening in Lansing, but what we are doing about it.

Future episodes are scheduled for March 4, March 18, April 1, April 15, and April 29 (all at 10:30 a.m.).

What we like most about Monday Morning Live is the instant interactive element with viewers and our members. We actively encourage people to type in the comments portion of the live video feed and ask us questions while we are on air. We also archive the videos so if you miss it live, you can watch it later when it's convenient for you. Feel free to still ask us questions in the comments, even when we are no longer live, and we'll do our best to answer them in a timely fashion.

We've had some great questions and feedback from our members and the viewing public—everything from "What is your take on the new sign law?" to "Thank you for the update! Great job during Lame Duck. The City of Auburn Hills appreciates the work you do on behalf of communities across Michigan!"

Like any new venture, we've been learning and making improvements as we go—tweaking the sound, adjusting the tone of the broadcast to make it more conversational, and improving on the branding that appears behind us.

What we've been happily surprised about is the number of viewers and interactions the Monday Morning Live segments have been getting. We were hoping for 100 to 200 viewers but depending on the episode we have sometimes tripled or quadrupled that goal. A couple of our Monday Morning Live episodes received more than 1,000 views. We're very excited about that and how we're able to reach such a large audience to spread the word about the importance of communities and how Michigan's system for funding its municipalities is broken and needs to be fixed (for more on that go to SaveMICity.org).

Podcasts

Another new-ish way we are trying to reach our members and the public involves podcasting. The League launched the *We Love Where You Live* podcast series in January 2018 and it continues to go strong. You can find these podcasts by searching under *We Love Where You Live* in the places you find your podcasts.

Each of our podcasts have themes, including one focusing on the amazing things happening in our communities and the people making it happen. Other podcasts hone in on the state's political scene and Michigan's broken municipal finance system. And one bigger picture podcast, hosted by the League's CEO and Executive Director Dan Gilmartin, highlights placemaking. You can also find all our podcasts through our website here: <http://mml.org/podcasts/>.



We hope you are enjoying the traditional and non-traditional ways we are trying to reach and inform our members. If you have additional ideas on how we can better inform you, feel free to contact me. mbach@mml.org

Matt Bach is director of communications for the Michigan Municipal League and a member of the Monday Morning Live team. You may contact him at 734.669.6317 or mbach@mml.org.



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Municipal Q&A

Q. We passed an ordinance to opt out of recreational marijuana businesses in our city. Do we need to send the opt out ordinance to any state agency?

A. The Michigan Department of Licensing and Regulatory Affairs (LARA) created a Bureau of Marijuana Regulation. The Bureau handles the Michigan Medical Marihuana Act of 2008, the Medical Marihuana Facilities Licensing Act of 2016, and now adult use (recreational) marihuana (Initiated Law 1 of 2018). The Bureau would very much appreciate receiving municipal recreational marijuanna ordinances.

Please email ordinances to:
LARA-BMR-Enforcement@michigan.gov.

Q. As a general law village, do we have to publish our village council meeting minutes in a newspaper? Or can they be posted at the village hall and library and on our website?

A. The requirements for publishing minutes are found in the General Law Village Act (MCL 65.5 (3)): Within 15 days after a meeting of the council, a synopsis or the entirety of the proceedings, including the vote of the members, prepared by the clerk and approved by the president showing the substance of each separate decision of the council shall be published in a newspaper of general circulation in the village or posted in three public places in the village.

Q. Our city needs to fill a vacancy on council. Is there a process for doing this?

A. As a city, you will need to look at your charter for the process to fill a vacancy on council. There are variations for this among Michigan's 280 home rule cities. Most charters will provide for council to appoint someone to fill a vacancy within 30 days. This is the most common. Others will require a vacancy to be filled by council within 60 days, or 90 days; some charters require vacancies on council to be filled by calling a special election.

Q. A citizen wants to videotape our council meeting. Can we allow this? Do we have to allow this? It makes some people uncomfortable.

A. According to the Open Meetings Act (MCL 15.263(1)), the right of a person to attend a public meeting includes the right to tape record, videotape, or telecast the proceedings. However, the council may establish reasonable rules so that the meeting is not unduly disrupted. Reasonable rules may include designating the spot/placement of the camera where it is the least obtrusive or distracting, for instance.

Updated Online Records Management Training

The State of Michigan Records Management Services offers free online training for local governments about a variety of records management topics. There are nine online tutorials; each tutorial should take less than 15 minutes to watch, and some are interactive. There are three online classes that provide detailed information. These classes take approximately 1-2 hours each. In addition, there are approximately 30 guidance documents available about a variety of topics. Topics include retention and disposal schedules, email management, digital imaging, destruction of confidential records, records clean up, recordkeeping, and more. Visit www.michigan.gov/recordsmanagement

New

League Recreational Marihuana White Paper

This paper is intended to provide municipal attorneys and their clients with an idea of what to expect and the issues to be addressed, given the adoption by Michigan voters of Initiated Law 1 of 2018 generally legalizing marihuana on November 6, 2018. The scope of this paper will outline the provisions of the initiated statute and address some of the practical consequences for municipalities while raising concerns that local governmental officials should be prepared to confront.

At its core, the new Act authorizes the possession and nonmedical use of marihuana by individuals 21 years of age and older, while establishing a regulatory framework to control the commercial production and distribution of marihuana outside of the medical context. Available at mml.org.

The League's Information Service provides member officials with answers to questions on a vast array of municipal topics. Call 1.800.653.2483 or email info@mml.org or inquiry@mml.org.



michigan municipal league

MONDAY MORNING

LIVE

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