



Photo compliments of the City of Maryville

City Spotlight: Maryville

The City of Maryville was established by an act of the General Assembly of the Territory South of the Ohio River one year before Tennessee became the 16th state in the Union in 1796. The location of the city was selected for the natural abundance of springs for a water supply.

Date of Incorporation:

1795

Population:

23,138

County:

Blount

Grand Division:

East

Web site:

<http://www.maryvillegov.com>

MTAS Management Consultant:

Margaret Norris

University of Tennessee
Municipal Technical Advisory Service
600 Henley Street, Suite 120
Knoxville, Tennessee 37996-4105
Phone 865-974-0411
Fax 865-974-0423
<http://www.mtas.tennessee.edu>

FTC Delays Compliance with the “Red Flags” Rule to August 1, 2009

Josh Jones, MTAS Legal Consultant

In September 2008 MTAS published [Model Identity Theft Policy and FACTA Compliance](#). This writing attempted to guide municipalities through the somewhat puzzling prospect of complying with the Fair and Accurate Credit Transactions Act (FACTA), specifically the Red Flag provisions. At the time of publication municipalities with covered accounts were required to adopt and implement a written identity theft policy by November 1, 2008.

Recognizing the unwieldiness of the legislation and the great scope of misunderstanding among affected entities, the Federal Trade Commission (FTC) extended the compliance date until May 1, 2009. Now the FTC has again delayed the compliance date by three months, making compliance mandatory by **August 1, 2009**.

Most covered municipalities have already complied by adopting and implementing a policy. Those cities do not need to take any further action. However, any city that has yet to adopt and implement a policy now has three additional months to do so.

For more information, contact your MTAS management consultant.

FLSA Reminder: Congress Increased Minimum Wage

Richard L. Stokes, MTAS Human Resources Consultant

On May 25, 2007, President George W. Bush signed the Fair Minimum Wage Act of 2007, a spending bill that, among other things, amended the Fair Labor Standards Act (FLSA) to increase the federal minimum wage in three steps. The first increase was effective July 24, 2007, and raised the minimum wage from \$5.15 per hour to \$5.85 per hour. The second increase was effective July 24, 2008, and raised the minimum wage from \$5.85 per hour to \$6.25 per hour. The final increase becomes effective **July 24, 2009**, and raises the minimum wage from \$6.55 per hour to \$7.25 per hour. Please make the appropriate adjustments to any salary rates that fall below the increased minimum.

For further information about the Fair Labor Standards Act, feel free to contact Bonnie Curran or Richard Stokes, MTAS human resources consultants, at 615-532-6827, or visit the Department of Labor's Wage and Hour Division Web site at <http://www.dol.gov/>.

Local Opt Out Prohibiting Handguns in Municipal Parks

Josh Jones, MTAS Legal Consultant

Pursuant to the recently passed [Public Chapter No. 428](#), as of September 1, 2009, handgun carry permit holders can lawfully possess handguns in Tennessee's federal, state and local parks. Local governments can opt out of these provisions and continue to prohibit handguns in parks they own or operate by passing a resolution and erecting appropriate signage.

Seemingly a city can, through appropriate resolution language, opt to prohibit handguns in specific parks, while allowing them in others. However, no individual park may be divided into handguns-allowed and handguns-prohibited areas, as a prohibition applies to an entire park. Upon passing the resolution, the city must post prominent signage in parks where handguns are prohibited. This signage must be in accordance with T.C.A. § 39-17-1311(c)(1).

The provisions allowing handguns in local parks take effect on September 1, 2009, and on that date any city that has not adopted an appropriate resolution will lack the authority to prohibit handguns in its parks. Cities are authorized to adopt resolutions as of June 12, 2009. MTAS has developed a sample resolution accompanied by an explanation of the new law and its requirements.

Those documents are available on the Web in the MTAS Knowledgebase. [Click here to view documents.](#)

For more information or questions related to this law, please contact your MTAS management consultant.

New Laws Affecting Cities 2009: Municipal Administration Class (July 2009)

Guns in bars and parks? Mothers to abandon infants at fire and police stations? The state to collect business taxes? The state to enforce building codes? Highways named after Jerry Lee Lewis?

(Continued on page 8)

MTAS Staff Highlight

Meet Pat Hardy, MTAS Municipal Management Consultant

Pat Hardy is a Municipal Management Consultant in the upper East Tennessee area.

From the MTAS Johnson City office he serves all of the cities east of Knoxville, which extends to the farthest city east, Mountain City. Hardy has been with MTAS since 1989, serving first in the Nashville office before moving to Johnson City in 1994.



Hardy received his education at East Tennessee State University, graduating from the Master of City Management program. During his years at ETSU he had a taste of both MTAS and Tennessee city management; he served a stint as editor of the Tennessee City Management Association newsletter, which at the time was produced through the program at ETSU. Upon graduation Hardy entered the city management profession.

Prior to coming to MTAS he served as assistant to the city manager in Big Spring, Texas, a town of about 25,000 in the heart of west Texas oil and cotton country. There he grew to love the dry heat, big sky, and occasional dust storm. Following this he served as city administrator in Blue Earth, Minnesota. He recalls that when he left Texas, in April, it was 95 degrees and the moving truck he rented had no heat, which did not seem to be a problem at the time. However, as he approached Minnesota it began to snow, finally stopping at 16 inches. "My feet were nearly frostbitten," he says. Needless to say, while in Minnesota he learned everything a consultant would need to know about indoor recreation, snow removal, and mosquito abatement.

Hardy really enjoys the variety of duties that come with working at MTAS and serving such a broad array of cities. "The problems and challenges differ greatly from city to city," Hardy says, "but where the rubber meets the road they all represent the efforts of public servants to improve the lives of Tennessee citizens."

(Continued on page 3)

From the Attorney General ...

Josh Jones, MTAS Legal Consultant

Opinion No. 09-55: States that the Master Intergovernmental Cooperative Purchasing Agreement meets the requirements of the Interlocal Cooperative Act.

Opinion No. 09-60: In an opinion dealing with numerous issues involving county officials, the AG opines that a car allowance provided by a local government constitutes “earnable compensation” and is subject to TCRS deduction and contribution.

Opinion No. 09-80: When evaluating whether a zoning ordinance constitutes a taking that requires just compensation, the determination is fact-intensive and can be determined only on a case-by-case basis. Also, a local government zoning ordinance that includes an amortization period before a business is required to cease operation could constitute a taking.

Opinion No. 09-94: States that a specific city’s charter under which the mayor is the executive head of the city, presides over council meetings, and has a vote on every matter before the board does not violate the separation of powers clause, despite the fact that the mayor has veto power over every ordinance passed by the board.

(Hardy continued from page 2)

Hardy’s specialty is strategic planning, and over the years he has designed and facilitated hundreds of strategic planning sessions and conducted numerous retreats for cities across the state.

In his spare time Hardy works with Habitat For Humanity, enjoys fishing and golf, plays guitar, and otherwise serves at the will and pleasure of his wife Bo and two children, Frank and Evelyn Esther.

Hardy may be contacted at pat.hardy@tennessee.edu or 423-854-9882.

New Resources for Cities

Each title listed below also is a hyperlink that will take you to the actual document on the MTAS Web site.

FLSA Reminder: Congress Increased Minimum Wage

Richard Stokes, MTAS Human Resources Consultant

Fair Labor Standards Act: Revised and Updated

Richard Stokes, MTAS Human Resources Consultant

Interest Rate Set at 7.25 Percent Effective July 1, 2009, on Delinquent Taxes Collected or Administered by the State of Tennessee

Dick Phebus, MTAS Finance and Accounting Consultant

Legislation Shortens Time to Correct Negative Changes in Net Assets for Water and Wastewater Facilities

Dick Phebus, MTAS Finance and Accounting Consultant

Legislature Declares When Ordinances, Resolutions to be Used

Dennis Huffer, MTAS Legal Consultant

Local Government Electronic Technology Act of 2009

Josh Jones, MTAS Legal Consultant

Local Opt Out Prohibiting Handguns in Municipal Parks

Josh Jones, MTAS Legal Consultant

State of Tennessee Mileage Rate Effective July 1, 2009

Dick Phebus, MTAS Finance and Accounting Consultant

Uniformed Service Employment and Reemployment Rights Act

Richard Stokes, MTAS Human Resources Consultant

For additional current materials, visit the MTAS Web site at <http://www.mtas.tennessee.edu>.

Alternative to Fines for Ordinance Enforcement Possible

Dennis Huffer, MTAS Legal Consultant

The Tennessee Supreme Court has presented cities with an alternative for enforcing ordinances that is not subject to the \$50 fine limitation. In *Barrett v. Tennessee Occupational Safety and Health Review Commission* (May 5, 2009), the court held that the constitutional provision limiting fines assessed without a jury to \$50 applies only to the judicial branch. For cities, that means the fine limit applies to only the city court and not to administrative boards created by the city. Therefore, beer boards, code enforcement boards, utility boards, property maintenance boards, and other boards created by the city would not be hobbled by the \$50 limit for civil penalties assessed by the board, assuming they are given proper authority to levy a greater monetary penalty.

In the *Barrett* case an inspector for TOSHA assessed monetary penalties totaling \$950 against a roofing contractor for serious safety violations in roofing a church. Mr. Barrett appealed to the TOSHA Review Commission, which sustained the inspector's actions. Mr. Barrett then appealed to chancery court, which affirmed the commission. Mr. Barrett's issue on appeal to the Supreme Court was one of first impression in Tennessee: "Whether Article VI, section 14 of the Constitution of the State of Tennessee applies to monetary penalties assessed by an administrative agency."

In holding that this unique provision applies only to the judiciary and not to administrative agencies, which are part of the executive branch, the court noted the history of this constitutional provision as stemming from judicial abuses in 17th century England and earlier. Judges in those times would levy heavy fines against the king's enemies. Some had to stay in prison because they were unable to pay the fine. A prohibition against excessive fines was included in England's 1689 Bill of Rights. The court noted that its own jurisprudence on Article VI, § 14 "consistently has affirmed that the clause is intended to limit only the power of the

(Continued on page 7)

Resources Available for Addressing Fiscal Challenges

Melanie Purcell, MTAS Assistant Director

There are many resources available to help local government leadership meet the challenges facing them with reduced revenues and increasing costs. National professional associations are assembling articles, recommended practices, case studies, and other resources to assist members and visitors to their Web sites in learning more about techniques and methods for increasing revenues and reducing expenditures to build more stability into local government finances. Some of these resources include:

International City/County Management Association

<http://www.icma.org>

Articles on a variety of topics, including operations management, human resources management, responding to crises, etc. The ICMA partnership with the Alliance for Innovation will provide Web-based training and research on fiscal issues.

Government Finance Officers Association

<http://www.gfoa.org>

The "Fiscal First Aid" Web page presents fiscal first aid techniques in four categories: Primary Treatments, Treatments to Use with Caution, Treatments to Use with Extreme Caution, and Treatments Not Advised. Articles and publications on a variety of topics focus on all aspects of government finance.

International Public Management Association-Human Resources

<http://www.ipma-hr.org>

Articles and other information on human resources management topics, including professional development, training, labor relations, reduction in force, and other human resources policies and research.

IPMA-HR also has released the results of its second Public Sector Economic Conditions survey. Read the press release and summary at <http://www.ipma-hr.org/content.cfm?pageid=931>.

Purchasing Guide for Tennessee Municipalities

Rick Whitehead, MTAS Municipal Management Consultant

City officials must stay up to date on changes in legislation that affect their procurement policies. There have been several amendments to municipal purchasing laws since the Purchasing Guide for Tennessee Municipalities was originally published in 1984. Especially over the last few years state legislation has been passed that affects every city, regardless of its form of government. Purchasing is a tricky area and mistakes can be costly. This guide is designed to answer questions, save cities money and keep municipal officials up to date on purchasing law.

This publication is fully up to date with statutes enacted through the 2008 session of the 105th General Assembly. The general laws addressed in this manual apply to all forms of municipal government unless there is a specific exclusion. Sample forms, procedures, resolutions and ordinances also are included.

Good purchasing methods are important to make sure taxpayers know how their money is being spent, city officials are adequately protected from unwarranted criticism, and vendors have an equal opportunity to solicit city business, all of which allow the municipality to make the best use of its funds.

This publication is available on the MTAS Web site at <http://www.mtas.tennessee.edu/Read+Pubs> and scroll down to “Purchasing Guide for Tennessee Municipalities (2008)” and click on the title link.

For more information related to this topic, please contact your MTAS management consultant.

Tennessee Renewable Energy and Economic Development Council First Meeting a Success

Warren Nevad, TREEC Executive Director/MTAS Municipal Management Consultant



The Tennessee Renewable Energy and Economic Development Council (TREEDC) held its first statewide meeting on June 10, 2009, at Fall Creek Falls State Park. A total of 75 interested mayors, business managers and state officials heard presentations about the University of Tennessee/Dupont Danisco Switchgrass Ethanol Demonstration Plant, Tennessee Valley Authority (TVA) Solar Energy Program, Arcadis Wind Energy Development, East Tennessee Clean Fuels Coalition, Biodiesel Logic, and StrataG biomass logistics planning.

University of Tennessee President Emeritus Dr. Joe Johnson gave



Founding executive committee members

the keynote address, which urged members to cooperate and provide leadership to their communities across the state. Dr. Johnson also reminded attendees that the agencies of the Institute of Public Service — MTAS, CTAS and CIS — are key

resources to assist communities in both renewable energy and economic development. Dr. Johnson also stated that the council would be an excellent vehicle to promote and educate citizens about renewable energy.

A presentation was made about the city of Crossville’s innovative program of sustainability and youth awareness. Attendees also heard about a proposed program from McBee/Bailey & Associates to develop 10 communitywide biodiesel recycling programs.

TREEDC’s mission is to promote and connect renewable energy with sustainable economic development. The council also is available to help communities with strategic planning in renewable energy and can be a conduit to assist communities with the developing energy production facilities. The council was chartered by the state of Tennessee on August 21, 2008.

The proceedings of this meeting have been placed on the [MTAS Web site](#). For information on TREEDC, contact Warren Nevad at warren.nevad@tennessee.edu or 865-974-9839.

City Officials Complete Another Successful Elected Officials Academy

Pat Hardy, MTAS Municipal Management Consultant

Another successful Elected Officials Academy Level II was held in Sevierville, April 17 and 18, 2009. The 26 attendees hailed from cities both large and small. Two were from a community without a city hall while others were from communities that had never sent anyone, board or staff, to an MTAS training session. Participants included mayors, council members, city managers, city recorders and even a city attorney. The Academy was held at the new *Wilderness in the Smokies Hotel*, and a special appreciation is extended to Steve Hendrix, City Administrator in Sevierville, who arranged the



Sevierville April 2009 EOA Level II graduating class.

accommodations, as well as to the management and staff of the hotel itself who were especially accommodating.

Academy sessions covered the range of municipal topics from risk management to the council at work. Presenters primarily were MTAS consultants; however, subject experts from the TML Risk Management Pool and the Parks and Recreation Technical Assistance Service also contributed valuable information to the class.

Group interactions and sharing stories of success, as well as occasional stories of failure, helped participants understand the broad scope of governance and the possibilities for

adapting programs from one community to another. Evaluations from the Academy were excellent with a number of participants expressing a desire to continue their training.

SOLUTION POINT

Registration and Transcripts Online Starting August 1, 2009

What classes does MTAS offer? How do I get a copy of my transcript? How do I register for classes online?

MTAS is pleased to announce the launch of the new UT IPS learning management system called "Solution Point," which will help you with these questions and many more.

MTAS customers can logon to Solution Point using any computer with an Internet connection and have access to class information, register online for courses, take an online course or review their transcript for classes offered by any of the UT IPS agencies, including MTAS.

Beginning July 8th, customers who have taken MTAS classes within the past three years will receive an e-mail with their login name and password.

If you do not receive an e-mail with a password from us, please call our office at 865-974-0411 during the dates listed below according to your last name:

- A-G July 13-17, 2009
- H-O July 20-24, 2009
- P-Z July 27-31, 2009

MTAS Training Classes

Municipal Administration Program New Laws Affecting Cities 2009

This course will provide a summary of legislation of municipal impact passed during the 2009 session of the Tennessee General Assembly, including personnel, law enforcement, tort liability, code enforcement, utilities, land use and many others. Especially hot topics this year include the scope of gun permit authority, court collection fees, immigration, reverse auctions and traffic surveillance cameras, just to name a few. This course will be conducted by MTAS legal consultants and will offer participants the opportunity to ask questions about any new legislation.

Franklin	July 7
Jackson	July 8
Lakeland	July 9
Johnson City	July 14
Knoxville	July 15
Collegedale	July 16

Elected Officials Academy Level II

Livingston City Hall | July 21 | Wastewater and Personnel

For more information, please visit the MTAS Web site at <http://www.mtas.tennessee.edu>.

Innovation Corner



What are other cities doing on vehicle replacement? How are you managing agendas and council meeting minutes? Are other cities using alternative fuels in their fleets?

Each month check the “**Innovation Corner**” for articles on programs that are currently working in Tennessee cities that could be of interest to your city. Sharing good ideas is an effective way to improve existing processes and to learn about new ways of doing things.

The following article on Chattanooga’s “Well Advantage” program is the first program to be highlighted.

You can start sending your ideas now to Frances Adams-O’Brien, MTAS Librarian and newsletter editor at frances.adams-obrien@tennessee.edu.

Chattanooga’s “Well Advantage” Program is a Model

Richard Stokes, MTAS Human Resources Consultant

Under the direction of Donna Kelly, HR Director, the city of Chattanooga implemented the “[Well Advantage](#)” program. The “Well Advantage” program is a comprehensive wellness program that provides employees with support, encouragement and information about their health and the benefits of maintaining a healthy lifestyle.

The city of Chattanooga currently provides health benefits to approximately 2,100 employees and their dependents, plus 800 retirees. Employees who take advantage of the program are offered services through two on-site medical centers at no cost to the employee and their covered dependents. Additionally, employees are offered free annual health risk assessments along with incentives to improve and maintain good health. A free fitness center is available as are educational opportunities on issues such as weight management, nutrition and smoking cessation.

One requirement of the program is that members use a new on-site pharmacy where they can obtain their prescription medications at reduced cost.

The pharmacy program went into effect on

December 16th, 2008 and has resulted in increased savings in health insurance costs for the city. The city will save a projected \$8.5 million dollars over the next five years. That savings includes all management and labor costs associated with operating the pharmacy.

The pharmacy is located on the same premises where the city currently operates its medical clinic and wellness center. City employees are still able to get their prescriptions filled at other retail pharmacies, but the co-pays are less at the on-site pharmacy. Employees and their dependents can obtain generic medication for \$2 for a 30-day supply and \$50 for a 90-day supply. Nongeneric prescriptions also are available at reduced costs to the employee.

This model puts Chattanooga at the forefront of containing health care costs. There are only a few other cities in the country that have undertaken this approach.



(Alternative to fines continued from page 4)

judiciary.” Further, the court held “the fifty-dollar limitation of article VI, section 14 does not apply to monetary penalties assessed by administrative agencies even though agency decisions are subject to judicial review.”

Although this case opens a new avenue for cities, it is one that, in most cases, cities are not now prepared to take. Municipal charters generally do not authorize cities to levy administrative civil penalties, and there is no general law that authorizes the levying of these penalties as a broad-based method of enforcement. There are particular instances in which municipal boards have been authorized to levy civil penalties. The beer board, for example, can levy a civil penalty up to \$2,500 in some instances.

Out of deference to Dillon’s Rule, which holds that cities generally can do only those things that are explicitly or impliedly authorized by the General Assembly, cities should wait until they have proper authorization to begin using administrative monetary penalties as a broad-based method for enforcing ordinances.

Law Enforcement Management and Administration Course

July 6 - July 20, 2009

This course is presented by the Tennessee Law Enforcement Training Academy (TLETA) and the University of Tennessee's Municipal Technical Advisory Service and is hosted by the Signal Mountain Police Department. The class should be considered a must for newly appointed chiefs and command staff officers.

Course topics include personnel law, overtime regulations, budgeting and financial management, internal investigations, managing the drug fund, risk management, Open Records Act, and state regulatory mandates.

This is a 32-hour school that begins at 1 p.m. on Monday, July 6, and concludes at noon with graduation on Friday, July 10.

The school will be held at the Signal Mountain Police Department located at 1111 Ridgeway Ave., Signal Mountain, Tenn. Contact Captain Greg Hall at Signal Mountain Police Department for directions or lodging at 423-886-2137. Registration is through TLETA. Contact Linda Spears at linda.spears@tn.gov or 615-741-4448.

MTAS Staff Vacancies

MTAS has the following openings in our Knoxville office:

- IPS Consultant II. MTAS Training Consultant
- IPS Consultant III. MTAS Management Consultant

For complete descriptions of these positions, please visit the MTAS Web site at "[View job listings](#)" or call the Knoxville office at 865-974-0411.

(New Laws continued from page 2)

These issues and many others were considered by the Tennessee General Assembly this session. During this MTAS class, MTAS legal consultants will present summaries of the some 200 laws passed that will affect municipalities across the state. Attendees will receive a copy of all the written summaries and have the opportunity to ask questions about any new law. For details on locations and dates for this class, go to [page 6](#) of this newsletter.

For more information on this class, contact Elaine Morrisey at elaine.morrisey@tennessee.edu or 865-974-0411.

Calendar of Events

July 11-July 14

Tennessee Fire Chiefs Association Annual Conference (Nashville)

July 21

Elected Officials Academy Level II (Livingston)

July 23-24

Real Estate Development and Reuse Course. International Economic Development Council. (Baltimore, MD)

July 24

Tennessee Personnel Management Association West (Bartlett)

July 23

"Reaching a New Audience: Using Social Media for Citizen Engagement" Alliance for Innovation Webinar (Free to MTAS/TN members)

July 28

"Tired of Singing Solo?" Alliance for Innovation Webinar (Free to MTAS/TN members)

"Municipal E-News" is provided by the University of Tennessee Municipal Technical Advisory Service in an effort to meet the challenge of providing timely, valuable information and assistance to Tennessee cities to build better communities.

If you have any questions or comments related to this newsletter please contact Frances Adams-O'Brien at frances.adams-obrien@tennessee.edu

... in cooperation with the Tennessee Municipal League