



From Your Associate Director

WHAT A SUMMER! It is hard to believe that it is about over but fall is on its way. My wife and I just finished shopping for school supplies for my three children (13), (11) and (8) and that is always a sign that summer is on its way out. However, we have many great accomplishments to reflect on as I recall the successes of the many events we held over the past few months in townships across the state.

Most notably is the Educational District program. I would like to thank everyone for their continued support of the Education District program. This year with the influx of the election changes and the necessity of having three of the district events reserved for Newly Elected Official trainings, overall it was a success. I will highlight attendance figures and survey results in my education article in this edition of *Perspective*.

THANK YOU!

I want to personally thank TOI staff for helping generate more than 1000 meeting information packets for attendees. The success of our organization could not be what it is without the dedication of Pam Butler, Erin Valentine and Jo Ann Cooper. Thank you to Barb Hale, our meeting planner; Bob Porter and Jeff Jurgens from Ancel, Glink, Diamond, Bush, DiCianni and Krafthefer; Rod Beck from TOIRMA and the CCMSI staff; U of I Extension; the volunteers provided by the Convention and Visitors Bureaus located in the educational districts for registration assistance; and most of all, you the TOWNSHIP OFFICIAL—both new and returning—for your quest for knowledge to better perform your statutory responsibilities as an elected official.

I hope that you are all making plans to attend the 2009 Annual Educational Conference in Springfield November 8-10. This year we have many things scheduled to make the event a success. It will be a birthday party for Abraham Lincoln that I am sure

he would be proud of. Several of the more than 2,000 new officials have attended events held over the summer months and I am looking forward to seeing them again as attendees of the annual fall conference.

We are seeing many changes across the local government landscape in 2009. We have experienced a 20 percent turnover among the elected township officials. Historically, this is a bit lower than expected but numbers that we can accommodate. As we start a new term in townships across the state, officials are visiting old and creating new programs to offer their electors. Help us maintain our status as the “Government Closest to the People” by most effectively serving your township electors.

As your statewide association, we strive to offer ways for your township to be responsive and innovative to the needs of your communities. The education programs offered and technical assistance available from our download center (www.toi.org) are excellent resources to assist in performing your responsibilities as an elected township official.

Attending the annual conference this year is a bargain. The registration fee of \$140 is a great price for the available education opportunities. Use this as a way to network with other township officials from across the state. Utilize this as an opportunity to unite your community with the services provided by your townships. Please note that if you cannot attend the full conference, we are again offering a single day registration. Monday is \$90 and Tuesday is \$70. Remember, it is a reimbursable township expense.

TOIPAC Silent Auction Request

TOIPAC is planning for the 2009 silent auction at the fall conference. As in years past, we are focusing on paper items (i.e. game tickets; golf packages, theater packages and gift cards.) If you would like to donate an item for the auction, please contact me at jerry@toi.org. Your contributions help TOIPAC’s success in securing the image of township government in Illinois as the government closest to the people. While attending the conference, visit the silent auction tables located outside of the registration area.

Las Vegas Raffle (Winner Announced November 10)!!

The image shows a raffle ticket form with fields for Name, Address, City, State, Township, County, Phone, Cell Phone, and Email. The ticket number is 0751. The drawing information states: "Win a Trip to LAS VEGAS Plus a Second Drawing for a weekend in CHICAGO". The prize is "\$10 per Ticket or 3 Tickets for \$20". The drawing will be held on "Tuesday, November 10, 2009 at the TOI Annual Conference Banquet". A note says "Need not be present to win." and "Details on other side." There is also a logo for the Township Officials of Illinois (TOI).

You can also support the financial efforts of TOIPAC by purchasing a Las Vegas Raffle ticket. Tickets are \$10 each or three for \$20. There will be two prizes drawn this year at the annual educational conference banquet Nov. 10.

4 Days/Three Nights for Two (2) in Las Vegas. Price includes airfare and overnight accommodations (with applicable taxes). The winner may elect to forfeit the trip for a cash prize of \$1000.

Shop the Chicago Magnificent Mile! Overnight Accommodations Two (Friday and Saturday night with a dinner gift card in Chicago.) The winner may elect to forfeit the trip for a cash prize of \$500.

County Association Update

If your county association is interested in having a meeting and would like TOI to attend and provide a presentation or just a TOI update, contact the TOI office at 866.897.4688. I have received invitations to a few county association summer picnics this year. The invitations are always appreciated. TOI makes every effort to attend all of these events that are possible. Help support your county association program. Promote TOI and its education offerings at your events.

Question of the Month

QUESTION: Can a township board member participate in a meeting by electronic means?

ANSWER: According to the Open Meetings Act (5 ILCS 100) states that ... *If a quorum of the members of the public body is physically present as required by Section 2.01, a majority of the public body may allow a member of that body to attend the meeting by other means if the member is prevented from physically attending because of: (i) personal illness or disability; (ii) employment purposes or the business of the public body; or (iii) a family or other emergency. "Other means" is by video or audio conference.*

(b) *If a member wishes to attend a meeting by other means, the member must notify the recording secretary or clerk of the public body before the meeting unless advance notice is impractical.*

(c) *A majority of the public body may allow a mem-*

ber to attend a meeting by other means only in accordance with and to the extent allowed by rules adopted by the public body. The rules must conform to the requirements and restrictions of this Section, may further limit the extent to which attendance by other means is allowed, and may provide for the giving of additional notice to the public or further facilitate public access to meetings.

The best practice application of this statute is to have the board adopt an attendance policy for (excused/unexcused) absences. Additionally, for meeting participation by electronic means.

Note:

The July/August, 2009 *Perspective* Associate Director's column included a re-print of the questions and answers utilized at the 2009 Educational District Program with the Township Practices and Procedures session. While these questions were presented by attorneys from Ancel Glink, Diamond, Bush, DiCianni and Krafthefer, PC., their presentations go beyond the answers and more fully describe updates in the law and various pros and cons of related policy positions. It should be noted they do not reflect the legal interpretation of the Township Officials of Illinois and applying the statutory references may be different from one township to another and dependent on the specific factual situation. Generally, attendance at the educational sessions is necessary to obtain Ancel Glink's complete answers and advice on the matters discussed.

In talking with one of the presenters and attorneys from Ancel Glink, Jeff Jurgens, he offered to clarify three specific issues that were raised after last month's publication. The first deals with whether a township board can take any binding votes in closed session. In his presentations, Mr. Jurgens advised about the limitations of closed sessions and the strict requirements for approving minutes and handling closed session recordings. Section 2.06 of the Open Meetings Act requires public bodies to meet periodically, but no less than semi-annually, to review the minutes and recordings of closed meetings and "determine" whether the need for confidentiality still exists or whether there is no longer a need for confidentiality and to report the same in an open session. Section 2(c)(21) further provides closed meeting minutes can be discussed for purposes of approval by the public body in closed session. Although not discussed as a "vote" within the confines of the Act, some argue that is essentially what this process contemplates and it would therefore be the only "vote" allowed to be taken in closed session. Others may argue that final action on the approval or release of closed session minutes must be taken in open session.

Another issue that was expanded upon beyond the

written answer deals with whether e-mails are subject to the Freedom of Information Act. In his presentations, Mr. Jurgens advised of the likelihood of such documents being subject to FOIA, especially if the e-mails are sent using township accounts, copied to township accounts, and/or are stored on or sent using township computers. He advised township officials to be very careful about putting sensitive material in e-mails and provided examples of where the e-mails of public officials had to be disclosed much to their disdain. You have to assume, he said, that your e-mails will be made public and subject to the Act. He also advised that while arguments exist that e-mails sent on private accounts to and from private computers are not covered by FOIA, the Attorney General's Office argues differently. In fact, in light of the press coverage of Governor Quinn using his private BlackBerry with a potential result of avoiding FOIA, the Attorney General's Office has publicly renewed their position that scope of FOIA covers such documents.

Finally, Mr. Jurgens wished to clarify the written response to the fifth question regarding whether a township board could hold an impromptu phone conference to reschedule a township board meeting. During the presentations, Mr. Jurgens reviewed recent changes in the law regarding the ability of two township board members to communicate without violating the Open

Meetings Act. In addition, with provisions now governing remote participation, Mr. Jurgens informed participants holding such a phone conference between all the members of a township board was clearly not permissible. While there are situations where some township board members can participate via phone in a meeting, the township first has to adopt a remote participation ordinance and follow certain procedures, including making sure a quorum is physically present at the meeting site. The practical solution, as discussed by Mr. Jurgens, was to have a staff person or official individually contact the board members in an effort to find a mutually acceptable date for the rescheduled board meeting. For those townships wishing to enact a remote participation policy, he encouraged participants to take advantage of a sample ordinance provided on their firm's website at www.ancelglink.com.

We apologize for any confusion the written interpretations may have caused without the benefit of the more formal presentations. Please also note that my personal opinions and statements are not to be considered as legal advice, rather they constitute a best practice application of the statutory provisions. If you need further legal advice on any of these or other township related issues, it is always recommended to contact a township attorney.



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As township attorneys and special counsel, Ancel Glink assists clients statewide in complex and mixed questions of law, public policy, finance and other issues.

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