



### **February 28 Meeting St. Louis City Hall**

The City of St. Louis will host the next League meeting at 7:30 p.m. on Thursday, February 28 in the rotunda at City Hall. The building is located at Tucker and Market Streets. Parking is available in a lot behind City Hall (enter on Clark St.) or on the street.

**Program:** St. Louis Mayor Francis Slay will update the membership on some of the many exciting and innovative development projects currently underway or planned for the City, including transportation issues, downtown development and the new ballpark.

On the agenda will be a presentation from By-laws Committee Chairman Jim Brasfield relating to changes to the dues structure and the composition of the Executive Board. These will be discussed and voted on at the March meeting. All other agenda items will be forwarded to mayors, board chairmen and chief administrative officers prior to the meeting.

### **Municipal Park Grant Applications Mailed**

The League recently sent to each municipality a grant application package from the Municipal Park Grant Commission. This Commission is funded by the 1/10 cent regional parks and trail sales tax approved by voters in November 2000.

20% of the money collected in each county is returned to the cities in the county and state law specifies that those funds for St. Louis County communities be awarded by a grant commission appointed by the mayors in the County. The League has been hired to handle the Commission's day-to-day operations.

Eligible projects include park land acquisition, development of park land or recreational facilities, and programs. Maintenance and operational costs associated with recreational facilities are not eligible. The Commission anticipates having about \$2 million in grant funds available. The deadline for applications is March 15, 2002.

Informational meetings about the grant program were held in several locations throughout the County in early February. For more information about the grant process, contact the League office at 314-726-4747.

### **League Trivia**

What city in St. Louis County has the largest number of elected officials? (Answer on Page 3).

### **January Meeting Synopsis**

At the January League meeting the membership heard a presentation from Jerry Uhlmann, Director of the Missouri Emergency Management Agency, who had been invited to speak on the issue of state homeland security. Mr. Uhlmann noted that Governor Holden had appointed Tim Daniel as Director of Homeland Security for the State. He also indicated that an advisory group comprised of elected and appointed state and municipal officials would be meeting in St. Louis on January 25 to develop final recommendations for a statewide emergency management plan. Mayor Joe Adams of University City is a member of this commission.

Mr. Uhlmann indicated that SEMA provides local training for employees and officials of municipalities who would be the first responders to a terrorist incident. Much of the training focuses on urban areas that would be the more likely targets for an attack.

Mr. Uhlmann also noted that at the current time, the State can never be fully prepared for a large scale attack, particularly in the area of bioterrorism. Local hospitals could be inundated if some type of smallpox or other similar outbreak occurred. Other issues that would have to be addressed in the event of an attack or other catastrophe, such as an earthquake, could include transportation facilities, utility service, and computer systems for industry, banks and key facilities like nuclear plants and dams.

Therefore, certain plans must be refined to have medical staff vaccinated in advance, systems for quarantines and other types of responses, all of which are under consideration now. Emergency communications systems must have redundancy, as failures in New York appear to have left citizens and emergency personnel in harm's way.

While many challenges exist, the very strong focus on prevention and contingency plans will result in safer communities. He urged municipal officials to determine what primary infrastructure in the city should be protected and develop plans to do so. He also noted that the federal government may provide additional funding for local governments with good plans. And the SEMA office continues to offer training and on-site assistance during emergencies.

We appreciate the warm welcome from Mayor Pat Kelly and the officials and staff of the City of Brentwood who hosted the January meeting.

## **Legislative Update**

Both the House and Senate are now holding hearings on most bills to determine which will be sent to the full body for further consideration. The League office receives copies of all bills filed, along with hearing notices and legislative calendars. If you have questions about any bill during the session, please give us a call. In addition, we will continue our weekly Friday faxes to city halls to keep you updated on the latest happenings at the Capitol.

### League Priorities

Several bills have been introduced which would erode municipal sales tax revenues or grant additional sales tax authority to other entities. The League opposes these bills.

HB 1070 (Hosmer) would grant fire districts the authority to levy a sales tax. It was voted out of the House Local Government Committee on January 29. House members should be contacted to oppose the bill.

Other bills would establish a "back-to-school" sales tax holiday during one week in August. The Senate bills, SB 894 (Kinder), SB 927 (Jacob), and SB 975 (Steelman) were all heard in the Ways and Means Committee on January 29. The House version is HB 1333 (Troupe).

In addition, bills have been introduced to eliminate the local sales tax on food and replace the lost revenue by state appropriation. In the House the bill is HB 1251 (Thompson), which has been assigned to the Ways and Means Committee, and in the Senate it is SB 780 (Bland), also in Ways and Means. While well-intentioned, we know that millions of dollars to local governments would never be replaced by the state government that is cutting its own budget.

Numerous bills have been introduced relating to transportation funding as well with hearings scheduled the week of February 4. Various increases could include gas taxes, sales taxes, user fees, big truck fees, toll roads, gambling fees and others. The League opposes the use of sales taxes for highways as we feel that user fees should take precedence.

### Other Bills of Interest

In 2001, the League endorsed the concept of a countywide emergency communications district to fund hardware improvements to help local public safety officials communicate during a large scale emergency. Legislation has been introduced again this year on this subject. The bills are SB 795 (Schneider), which was scheduled to be heard in the Local Government Committee on February 5, and HB 1432 (Foley), which has been assigned to the Miscellaneous Bills Committee.

HB 1496 (Green) would restrict the use of Tax Increment Financing in the St. Louis area by placing limits on the percentage of funds that could be used in retail projects and gearing a greater use of TIF funds to less

affluent areas. It has been assigned to the Miscellaneous Bills Committee.

Like last year, there are proposals to increase fines for violations of the Open Meetings Law. SB 685 (Steelman) would impose fines of up to \$2500 for a purposeful violation, while SB 709 (Goode) would impose the same fine for knowing violations. Both have been assigned to the Governmental Organization Committee.

Another subject for which a great number of bills have filed in the Senate is assessment procedures. Several of these were heard in the Ways and Means Committee on January 22. If a bill is to come out of committee, it will likely be a committee substitute that combines many aspects of the major bills.

Senator Goode has introduced two bills of interest to some municipalities. SB 711 would allow villages to have the same condemnation powers as 4th class cities. Currently no authority exists for towns and villages. This bill was heard in the Local Government Committee on January 22.

In addition, SB 772 would allow for the establishment of a "live near your work" homebuyer incentive program to help revitalize neighborhoods. It was heard in the Housing Committee on January 29. The League supports both of these bills.

As in past years, several bills have been introduced to allow the carrying of concealed weapons. These are HB 1408 (Purgason), HB 1475 (Selby), HB 1589 (Crump) and SB 938 (Cauthorn). The League has opposed this legislation in the past due to the potential danger to children and others when handguns are carried frequently and left around the house or car, carried to various events, or simply mishandled.

## **New Recycling Grant Program from Saint Louis County Department of Health**

The Saint Louis County Department of Health announces the new Quarterly Municipal Recycling Grant Program. Municipalities may choose from two grant applications based on community needs. The Residential Recycling Mini-Grant is for municipalities with limited or changing staff, lack of familiarity with recycling programs and fewer resources, or those requesting small-scale projects. This streamlined, one-page application may be used to apply for a specified list of eligible projects up to \$15,000 with no match requirement.

The Recycling and Source Reduction Municipal Grant Program is a more involved application process for a wider range of recycling projects up to \$100,000 (10% match required).

Interested applicants are invited to attend the Grant Program Orientation Luncheon on March 8, 2002. To register or receive an application package, please contact the Department of Health's Waste Management Branch at (314) 615-8958.

## **Chesterfield and Municipal Leagues Prevail in State Supreme Court**

In a case in which the MML and St. Louis County Municipal Leagues filed a supporting brief, the Missouri Supreme Court vacated an appellate decision and ruled in favor of the City of Chesterfield. A property owner was barred from asserting a temporary taking and inverse condemnation damages claim filed after the developer had obtained a prior judgment declaring the City's zoning unreasonable. *Chesterfield Village, Inc. v. City of Chesterfield*, No. SC83747 (01/22/2002).

In the first litigation, the plaintiff had obtained a judgment that the City's zoning was unreasonable and "unconstitutional" as applied to the specific parcel at issue. Chesterfield did not appeal that judgment but rezoned the property in accord with the judgment. Almost three years later, the owner sued the City again seeking damages under a theory of a temporary taking of property or inverse condemnation based on zoning that was the subject of the first lawsuit. The trial court dismissed the case for failure to state a claim, but the Missouri Court of Appeals reversed holding that the plaintiff did have a recognizable claim for temporary taking that was not barred by the prior judgment. Under a liberal reading of the appellate ruling, a city would have been subject to suit in any denial of a permit or refusal to rezone, and if the City did not prevail, it could be sued a second time for damages on exactly the same issue in a lawsuit years after the first judgment.

Given the impact of the appellate ruling on local governments, the Leagues filed a brief in support of the City of Chesterfield seeking transfer to the Supreme Court, and subsequently filed an *amicus brief* challenging the appellate ruling on the grounds that the doctrine of *res judicata* barred a second lawsuit against a city. The Supreme Court agreed and restored the trial court dismissal of the second action against the City. The Court held that the property owner could have raised its damages claim in the first lawsuit challenging the reasonableness of the zoning and therefore was barred by *res judicata*, which requires parties to bring all of their related claims in only one lawsuit. The Court noted that this doctrine "applies not only to losers, but also to parties that prevailed in an earlier judgment." Significantly, the Court also expressly refused to decide whether Missouri law recognizes a claim for temporary taking or inverse condemnation for a refusal to rezone.

*Congratulations to Doug Beach, City Attorney for Chesterfield and Dan Vogel, attorney for both the County and State Municipal Leagues.*

## **League Trivia**

The City of Wildwood elects 17 officials - a mayor and two council members from each of its eight wards.

## **Mixed Use Communities—Will They Work?**

Although most cities in St. Louis County have little room left for development, some can still accommodate new neighborhoods or redevelop old ones. Joel Hirschhorn of the National Governors' Association, recently described New Community Design at a forum held at the Missouri Historical Society. While many have grown accustomed to subdivisions consisting just of single family homes or condos, both polling data and sales data show that more mixed use developments are desired by about 40% of the population. The National Governors' Association is encouraging local communities to consider these new designs. In some cases, the higher density conserves taxes needed for infrastructure. When jobs are nearby, commuting time and pollution are reduced and more time is available for family. A greater variety of income in one area frequently results. When moving from a less expensive starter home to a more expensive home, there is a greater opportunity to stay in the same neighborhood. Transportation choices increase because more communities can be located on transit or light rail lines and more services are within walking or biking distances, reducing dependency on the car for every trip.

Mr. Hirschhorn has authored a 100-page book entitled "New Community Design to the Rescue: Fulfilling Another American Dream" that can be purchased for \$20 on-line through [www.nga.org/center](http://www.nga.org/center) then click on bookstore or by calling 301-498-3738. The book lists many successful communities thriving as a result of mixed development. It may not be for all, but many are interested in neighborhoods that provide more than just homes and cars, but include nearby stores, restaurants, offices, civic buildings, churches, schools and parks.

## **Bylaws Changes Proposed**

In November 2001, League President Virginia Bira appointed a Bylaws Committee to review the League's dues structure. At the time of the last Committee, it was recommended that the dues formula be evaluated when the 2000 census figures and per capita sales tax numbers would be in place. League dues for "B" pool cities are based on population while the dues for "A" point-of-sale cities utilize population with an added amount based on per capita sales tax revenue. As some "A" cities have lost population, it has caused per capita revenues to increase and lead to a very high supplement. The committee members, representing both "A" and "B" cities, felt that the supplement formula should be modified. This avoids situations whereby a smaller city would pay substantially more dues than a larger city.

The Committee also suggested creating two new seats that could be filled by past presidents to retain experienced board members.

Committee Chairman Jim Brasfield will explain these recommendations at the February meeting and the proposal will be considered at the March meeting.

### **Cities Should Review Sewer Lateral Program for the Coverage of Condominiums**

A number of municipalities that have enacted the sewer lateral program have elected not to cover condominium properties and are offering refunds of the fees paid by condo owners. This process could be more cost effective if deleted from the tax bill by the County data center. However, some condos are served by large laterals, some of which can only be repaired by excavations through parking lots. Other condos do actually each have their own laterals, rather than sharing one serving a multi-unit building. Some attorneys feel that Section 448.100 RSMo requires all fees to be applied to condos.

The League hosted a meeting of interested cities and St. Louis County to discuss billing options and continues to seek clarification on the issue. Interested cities should contact the League.

### **OJP Offers Grants for Bulletproof Vests**

The U.S. Justice Department is currently accepting proposals for grants under the Bulletproof Vest Partnership Grant Act of 2000. Funds help grantees purchase ballistic and stab vests for police and are available to cover a portion of the cost of any vest purchased after March 1, 1999 that meets applicable national standards. Applications are due by April 13, 2002. For additional information contact the BVP help desk at 877-758-3787.

### **MML Legislative Conference—February 27-28**

The MML will be holding its 32nd Annual Legislative Conference on Wednesday February 27 and Thursday February 28. The cost is \$85 if prepaid or \$95 if billed or paid on-site. This conference presents a unique opportunity to learn more about issues pending in the Legislature, participate in discussions with your peers on a wide range of municipal issues, and hear first-hand from state officials and learn more about their programs and how they will affect your city.

Topics of discussion will focus on property assessment; municipal personnel issues, highway funding and homeland defense. Invited speakers include Governor Bob Holden and Attorney General Jay Nixon. For copies of the registration form contact the County League or MML offices.

### **Reassessment Issues**

The League is in the process of meeting with County officials and others to consider changes to the reassessment program. A system that enjoys citizen confidence and protects the tax revenues approved by voters is needed if important revenue sources are to be preserved. Most villages are dependent on the property tax as they do not have authority for gross receipts taxes. Most cities with fire and EMS service also depend on this tax, as are some others with bond issues.