



Olivette to Host September 20 Meeting

The first League meeting of the fall is scheduled to 7:30 p.m. on **Thursday, September 20**. Please note that the meeting is on the 3rd Thursday to avoid a conflict with the Jewish holiday Yom Kippur. It will be hosted by the City of Olivette at the Community Center, 9723 Grandview Dr.

(Directions: from the intersection of Olive Blvd. and Lindbergh Blvd., go east on Olive to Warson Rd.. Go north on Warson Rd. to Grandview and go east on Grandview to the Community Center. If coming from I-170, take Olive west about 2 miles. Turn right on Warson Rd. and right on Grandview.

Program: The St. Louis area will be experiencing major changes in airline service over the next few years as the construction of the W1-W runway begins in earnest. A representative from Lambert-St. Louis International Airport, has been invited to discuss the impact of this project for the region.

All agenda items, along with a map to the community center, will be mailed to mayors, board chairmen and chief administrative officers one week prior to the meeting.

Citizen Seminars Scheduled on Neighborhood Improvement Tax Credits

In a first-of-its kind effort, the League is working with our many of our member municipalities to hold seminars for citizens to inform them of the availability of Neighborhood Improvement Tax Credits for home repairs in eligible census tracts. The meetings with representatives of the State Department of Economic Development will be held in early October. We appreciate the assistance of our members in this effort.

Public Fund Investment Seminar Offered

Missouri State Treasurer Nancy Farmer, in conjunction with the MML, GFOA and others will host a seminar for public officials entitled "Investing Public Funds in the 21st Century—A Seminar for Public Investment and Cash Management Officials." It will be held on September 26 and 27 and the Truman State Office Building in Jefferson City. The fee is \$90.

In addition to Treasurer Farmer, invited speakers include Governor Bob Holden, Auditor Claire McCaskill, and key members of their staff.

Hotel accommodations are being offered at the Capitol Plaza Hotel. For a copy of the reservation form contact the League office at 314-726-4747 or visit the State Treasurer's website at www.sto.state.mo.us/invest/seminar.htm.

League & State Treasurer Meet to Discuss Investment Pool

As a follow-up to a meeting in July with League members, Executive Director Tim Fischesser met with State Treasurer Nancy Farmer and others in Jefferson City to further explore the concept of a statewide investment pool for municipalities. The purpose of the voluntary pool would be:

- To increase the earning power of taxpayer funds;
- To more easily ensure that all funds are collateralized or insured, as required by law; and
- To possibly expand the types of investments eligible for municipal funds.

In concept, the Treasurer's Office would simply invest any municipality's funds with the billions of state funds already invested by that office as a local option.

League Trivia

Which two current elected officials have fathers who previously served as elected officials and also served as President of the League? See Page 4.

League Committee Update

Transportation Committee

This group, chaired by Alderman Richard LaBore of Crestwood, has met twice during the summer, first to review the region's five year Transportation Improvement Program, prior to its adoption by East-West Gateway's Board of Directors. The second meeting was to consider funding options, if any, the League should support regarding State tax increases for transportation.

At the first meeting, the Committee heard a presentation from Jim Wild of the Gateway staff, who outlined how spending on preservation projects now utilizes a greater percentage of funds than capacity expansion projects, although both are increasing.

It was noted that St. Louis County continues to receive millions less than equity would require based on population, miles traveled, employment and other measures of need. This is due to the allocation to surrounding counties for new freeway lanes. (See August Newsletter)

The review of state tax increases for transportation resulted in an interim committee report, later endorsed by the League Board for comments at RCGA, Missouri Chamber of Commerce and MoDOT forums. The report recommended:

- Halting the sale of bonds as no source of funds are available to pay the interest projected at \$40 million per year.
- Establishing tolls to pay for a four-lane replacement of I-70. In addition, equitable sales tax, including the tax on truck purchases, should be implemented.
- Modest increases in user fees such as the gas tax, tolls and license fees should pay for highways, but a lane increase is not justified. MoDOT's construction budget has doubled in 10 years and is growing
- Increasing gaming admission fees in counties where boats are located to pay for transit and rail services.
- Asking voters to amend the constitution to allow gas tax and other user fees to be available for light rail and urban and rural transit systems with 50% local match.
- Gradually transferring little used state roads back to local governments in order to "right size" the overly large system;
- Avoiding sales tax or other general taxes and rely solely on user fees for highways. Other sources of funding for transit are appropriate.

Free Household Hazardous Waste Collection Set

As in past year, the County Health Department has set two household hazardous waste collections in October. The first will be on Saturday, October 6, from 9:00 a.m. to 3:00 p.m. at the South County Shopping Center. The second will be on Saturday, October 20, from 9:00 a.m. to 3:00 p.m. at Florissant Valley Community College.

For more information, contact the Recycling Hotline at 314-286-9200.

Legislative Affairs Committee

This Committee, under the chairmanship of University City Mayor Joe Adams, has also met twice during the summer and will finalize its work with one final meeting in October. The members have reviewed last year's legislative package and selected issues for further consideration. The Committee has also received suggestions for additional legislative issues.

Upon determining the full content of the legislative package, the final task will be to designate several priority issues for the upcoming session. The recommendations will be submitted to the membership for consideration at the October 25 meeting. The priorities will then be presented to legislators from St. Louis City and County at the League's Legislative Breakfast on November 3.

League Joins Team to Preserve Emergency Room Service

As insurance and hospital costs change, some hospitals and doctors have found it difficult to care for uninsured patients with serious injuries. One area of a region can find its emergency rooms scaled back to handle only simple cases, but not serious trauma.

Such a situation recently occurred when Christian Hospital Northeast eliminated its designation as a trauma center. This caused an increase in demand at DePaul, which is now burdened with more high cost ER visits from patients with no insurance. If the patient is paralyzed or in a coma, the hospital and doctors may be stuck with uncompensated care for months. The doctors, especially at hospitals without medical school residents, offer more and more service for free.

Rather than eliminate its trauma service in the ER, DePaul has asked for help from community leaders, state representatives and senators, local mayors, County Executive Westfall and others. DePaul would like to avoid the community upheaval that follows hospital service reductions. All participants desire to see all its services remain open and available, especially for the 400,000 residents of North County. Other hospitals are supporting DePaul's efforts to avoid cutbacks that would result in more crowding at the remaining ERs and send ambulances all over the region in search of limited medical care.

The League, fearing the situation is reaching life threatening levels, has been attending meetings to review options and build support for solutions that are needed in the immediate future. We compliment DePaul for its proactive approach. Too often local officials are informed of a closure without the opportunity to lend a helping hand. Our goals to provide public safety services are compromised when ER service is inadequate. In a region that has the best medical personnel in the world, one must wonder how medical care, especially in emergency situations, can decline.

Hancock Vote Not Required for Municipal Permit and Inspection Fee in Some Cases

The following article was prepared by Dudley McCarter, City Attorney for Creve Coeur.

The City of Moberly adopted an ordinance establishing a “permit and inspection fee” for residential rental properties located within the city. The ordinance required the fee to be paid by the owner of rental properties on an annual basis or on a change of ownership. The fee varied from \$10 to \$35 depending on the dwelling. The fees in the ordinance were not submitted to the voters of the city for approval under the “Hancock Amendment” and several property owners challenged the ordinance on that basis.

The city filed a Motion for Summary Judgment stating, among other things, that the money collected from the fees totaled \$64,810, but the cost of administering the permit and inspection program during the same period was \$92,535. The Circuit Court granted summary judgment to the city and the Court of Appeals affirmed in Ashworth v. City of Moberly, No. W.D. 58716 (Mo.App. W.D. 2001).

To determine whether a fee is a “user fee” and not subject to the amendment, the five-factor test of Keller v. Marion County Ambulance District case is applied. (1) When the fee is paid. Here, since the fee might be assessed annually, it is more like a periodic payment than a payment in exchange for services and this factor favors the property owner. (2) Who pay the fee? Since this fee is specific and not blanket in nature, this factor favors the city. (3) Amount of fee. Since the amount of the fee depended upon the size or type of dwelling, this factor favors the city. (4) Is the government providing a service? Here the city is providing a service by inspecting the properties. Moreover, it was undisputed that because the cost of the program exceeded the fees generated, the program was a drain on the general fund of the city. This factor favors the city. (5) Is it an historical government activity? Since the regulation of public health and general welfare of the residents is historically a governmental function, this factor favors the property owner.

Because three of the five Keller factors favored the city, the permit and inspection fee imposed by the ordinance was a user fee and not subject to a vote under Hancock.

League Holds Seminar on Redistricting

Approximately 40 League members attended a recent session held to assist local officials with the process of redistricting after receiving the new census numbers. The League staff sent a memo to all cities explaining the process as outlined by the presenters at the seminar. A summary of that memo follows.

Kevin O’Keefe, Attorney for several cities, noted that the Missouri statutes do not require redistricting, but

the need is implied by the U.S. Constitution under the principle of “one person, one vote.” That is, cities should draw ward boundaries to provide wards that are: 1) as equal in population as possible; 2) contiguous; and 3) compact. He also noted that the courts, in many cases, have recognized that there is a legitimate principle to protect incumbents and communities of interest.

In general, the variance in ward population should not be greater than 10 percent from lowest to highest. However, this is only a guideline and if a city is challenged on the size of its wards, the courts could find a lower disparity to be unacceptable if it cannot be justified. To determine compliance, a simple first test is to divide the highest population ward by the lower. If this exceeds 1.10, you have a potential problem.

The St. Louis County Election Board recently sent a note to all cities asking for the return of new ward maps to the their office by September 10. Although this date is not a mandate, the Election Board does need the new maps as soon as possible so that they can begin the process of putting all of the homes in each city in the new wards. This is particularly important for those cities that require candidates to secure signatures from ward residents in December prior to filing for office for the April election. For information on this process, contact Joe Bennett at the County Election Board, 314-951-0127.

If a city is not able to complete the process in a timely manner before filing opens for the April 2002 election, redistricting could be done next year for the April 2003 elections but you should let the Election Board know this.

If you are contesting the census or have another good reason for waiting another year, it is appropriate to wait. Consult with your attorney. Do not rush and risk making election errors. Discuss your time schedule with the staff at the Election Board if you will not complete the process by mid-September.

Some of the sources of maps and population figures for census blocks and census tracts population include:

- The County Planning Department – contact Carolyn Nolan at 314-615-5465
- The University of Missouri – contact Jim Harlan at 573-882-1356
- The Secretary of State’s Missouri Data Center – contact Debbie Pitts at 573-526-7648

For a fee, St. Louis County will assist you with population counts as you modify lines on a map. The new ward boundaries must be adopted by ordinance and forwarded to the Election Board. Mr. O’Keefe recommends a legal description of the ward boundaries. Your attorney and the Election Board officials can determine the level of detail necessary in these descriptions.

We strongly advise officials to consult your city attorney for direction in all aspects of redistricting.

Local Governments Should Ensure Cell Towers are Properly Assessed for Taxes

Many communities may not have a full understanding of the value of telecommunications equipment co-located on cellular towers. In many cases a permit is issued for a steel structure rather than a more expensive personal wireless service facility. As additional antennae are added to the tower it is very possible that additional permits are not obtained from the city because the permit only called for a tower. This means that the assessor gets no notice of this new facility. In theory, the tower could become a platform for millions of dollars worth of equipment that may be subject to local property taxes.

Cities may need to review ordinances on cell towers to develop a process whereby co-locating facilities are required to receive permits from the city and be subject to proper assessments by the county. All taxing entities will then receive the correct taxes.

Trivia Answer

Alderman Larry Zielinski of Bellefontaine Neighbors is the son of former Mayor Ray Zielinski, who served as League President in 1969. In addition, new Chesterfield Mayor John Nations is the son of former Webster Groves Mayor Gus Nations who was the League President in 1963.

Chesterfield and League Ask Supreme Court to Hear Zoning Case

In the June Newsletter we reported on a zoning case involving the City of Chesterfield. The developer won the original case and the zoning was changed. Then the developer filed a second suit asking for damages to be paid by the City. The Circuit Court agreed that the request should have been part of the first suit and dismissed the second case. The developer appealed the case and the Appeals Court overturned the Circuit Court and told the Circuit Court to determine if damages were due.

Chesterfield asked the Supreme Court to hear the case. The League filed an amicus brief supporting Chesterfield arguing that a plaintiff should not be able to file a second suit after the first one was settled, when the plaintiff could have easily asked for damages as part of the first suit.

The Missouri Supreme Court has agreed to hear the case, one of the few it accepted in August.

Timely Reminders

Remind your citizens that the County has enacted a water lateral program to repair leaking and broken laterals countywide. Fees are being collected on water bills. For more information contact the County Water Lateral Repair office at 314-615-8407.

