



Congratulations to all Newly Elected and Re-Elected Municipal Officials!

April 25 Meeting in Vinita Park

The City of Vinita Park will host the League for the first time at 7:30 p.m. on Thursday, April 25 at the City Hall, 8374 Midland Blvd. (Directions: from I-170, exit at Page Avenue eastbound. Go to the first stoplight at Walton Rd. and turn left (north). Walton will soon parallel I-170. At the first traffic light, Midland Blvd., turn right (east) and go about two blocks to City Hall on the right, just east of the County Library.) A map will be provided in the mailing prior to the meeting.

Program: The Bi-State Development Agency is about to break ground for the next Metrolink extension from the Forest Park station to Shrewsbury. A representative from Bi-State will discuss the plans for building and financing this link.

The main business item will be the election of officers and board members for the 2002-2003 year. The report of the Nominating Committee and all other agenda items will be forwarded to mayors, board chairmen and chief administrative officers prior to the meeting. We will also present certificates of appreciation to members who served on committees.

Newly Elected Officials Seminar—April 29

The League will hold its Annual Seminar for Newly Elected Officials at 4:30 p.m. on Monday, April 29 at the Junior League of St. Louis, 10435 Clayton Rd., just west of Lindbergh. The cost is \$35, which includes materials and a buffet dinner.

We hope our new mayors, councilmembers, aldermen and trustee will join us for an informative introduction to municipal government presented by Municipal Attorney Kevin O'Keefe. Topics will include:

- Statutes governing municipalities
- Mayor and council powers
- Council procedures
- Authority of boards and commissions
- Legal issues/zoning decisions
- Open meetings (Sunshine) law
- Conflicts of interest/ethics

While primarily for new officials, experienced officials looking for a refresher are invited as well. The reservation deadline is Wednesday, April 24.

March Meeting Synopsis

At the March 28 League meeting, State Senator Wayne Goode updated the membership on some of the main issues facing the Legislature when the members return from spring break. He noted that with a stagnant economy, the State is facing a very tight budget in FY 2003. Many mandatory expenses are increasing, while revenues are flat or decreasing. In addition, the legislature must consider additional funding for schools and medicine to match federal funds. Another major issue to be considered is transportation funding. The Senate Transportation Committee has proposed a sales and gas tax increase to raise approximately \$500 million. It has yet to be debated. On the issue of reassessment, Senator Goode explained that the problems with higher increases were only found in St. Louis County. The Senate is considering legislation to assess and roll back tax rates on each class of property to prevent the shift of tax burden from commercial to residential. He also stated that there are several bills under consideration that would affect municipal sales tax revenues. Most of these would require the state to reimburse any lost revenue, but due to the budget crunch, this is very unlikely. He urged the membership to be vigilant on those issues affecting local government revenues.

The membership also voted to amend the League Bylaws to modify the dues formula and to authorize two past presidents to serve on the Board. These changes were explained fully in previous Newsletters.

Lastly the membership approved a resolution opposing legislation to allow carrying concealed weapons. This had been a League policy in the past.

We appreciate the warm welcome from Mayor Norm McCourt and the officials of the City of Black Jack who hosted the March meeting.

League Trivia

The League was founded in 1918 by officials from what seven cities. (Answer on Page 4.)

Mark Your Calendar

The League's Annual Installation Dinner will be held on Friday, June 7 at the Junior League. The Courthouse Steps will provide the after dinner entertainment. This group, consisting primarily of singing attorneys, pokes fun at local, state and national political situations.

Legislative Update

Both the House and Senate have passed numerous bills. Following the legislative spring break they will begin hearings on some of the bills from the other chamber. One of the main issues still to be addressed is the state budget, which still must pass the House before going to the Senate. 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. The League opposes bills that lower revenues approved by voters. Obviously, such mandates from Jefferson City force local services to be cut.

Other bills would establish a "back-to-school" sales tax holiday during one week in August. The Senate bills, SCS SB 894 et al (Kinder) was on the Senate Informal Perfection Calendar at press time and could be brought up at any time. The House version is HB 1727 (O'Toole) and was heard in the Ways and Means Committee on March 5. The League recommends that any such bills only cut the state tax, given the large revenue loss to cities, if the Legislature believes the State can afford the cuts.

In addition, bills have been introduced to eliminate the local sales tax on food and replace the lost revenue by state appropriation, which are never guaranteed. 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), was heard in Ways and Means on March 19.

SCS SC 915 et al (Westfall) contains several different tax and fee increases to fund transportation. At press time it was nearing the top of the Senate Perfection Calendar, but attempts to amend these provisions onto other bills are likely. The League supports traditional user fee increases (gas taxes or registration fees), but opposes the radical change of proposing new sales tax for highways.

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. HB 1432 (Foley) has passed the House but has not yet been assigned to a Senate Committee. The companion version is SB 795 (Schneider), which has passed the Senate.

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 eliminating use of TIF except in poor areas. It passed the House on March 21. The League calls for TIF, one of the few development tools not targeted to poor areas, to remain flexible. Without TIF, many problem properties will sit idle as the County ages. Neighborhoods will decline as the tax base stagnates. Senators should be contacted to oppose this bill.

The Senate Ways and Means Committee has combined several bills related to assessment procedures. SCS SB 688 (Gibbons) would limit assessment increases, among other provisions. At press time, the bill was on the Senate Informal Calendar. League leaders have met with County and State officials to support constructive changes.

SB 711 (Goode) would allow villages to have the same condemnation powers as 4th class cities. This bill was voted out of the Local Government Committee on February 25.

As in past years, several bills have been introduced to allow the carrying of concealed weapons. SB 938 (Cauthorn) is on the Senate Perfection Calendar. The House has passed HB 1344 (Crump) which would allow weapons to be carried in cars. The bill will be sent to the Senate. In 1999, voters statewide defeated a proposal to allow carrying of concealed weapons.

State Treasurer Nancy Farmer has proposed legislation to establish a local government investment pool, which could give municipalities a higher return, which banks have opposed. Although a House version, HB 1735, was introduced, the Local Government Committee stripped the investment pool language from the bill but it would allow investments in money market mutual funds. HCS HB 1735 is on the Perfection Calendar.

Bills to fund a new baseball stadium for the Cardinals have been introduced and had hearings. SCS SB 1279 (Kinder) has passed the General Laws Committee and is on the Senate Perfection Calendar. It would offer incentives not only to St. Louis, but Kansas City, Springfield and Branson as well. New money generated would also be set aside to assist economic development in other areas of the State not listed above. HB 1889 (Foley) is in the Commerce Committee. The League is supportive of keeping the stadium both in Missouri and in downtown St. Louis. The League supports the bill's concept of paying for a portion of the stadium with some of the new taxes generated there and from the proposed ballpark village.

HB 1869 (Barry) would circumvent municipal personnel rules by prohibiting residency requirements and other incentives for police officers to live in the city in which they work. If your city has incentives regarding residency you should contact House members to oppose the bill. It is on the Perfection Calendar.

Court Rules on Building Demolition Process

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

The Building Inspector for the City of Joplin sent a certified letter to American Investment, notifying it of a hearing before the Building Board of Appeals concerning the demolition of its building. At the hearing, the Building Inspector advised the Board that other individuals claimed to own the building. The Board continued the hearing to a later date and published notice of the hearing in the newspaper. On the published hearing date, Mr. Graves appeared and claimed ownership of the building. He told the Board that he intended to renovate the building and the Board continued the demolition hearing to a later date. Notice of the continuance was mailed to both Mr. Graves and American Investment. At the next hearing, Graves was late and arrived after the Building Inspector testified regarding the dangerous condition of the building. When Graves arrived, he was told the Board had decided to demolish the building. At the request of Graves, the Board stayed its order to demolish the building until the next meeting. At the following meeting, Graves asked for additional time for his architect to prepare plan, but the Board refused and ordered the building demolished. Graves filed suit challenging the Board's decision for lack of notice and absence of written findings. The trial court affirmed the Board's demolition order. In Graves V. City of Joplin, No. 23915 (Mo.App. S. D. 2001), the Court of Appeals affirmed on the notice issue, but remanded because there were no written findings or conclusions.

The Court rejected Graves' argument that he received insufficient notice from the City in violation of his due process rights. Due process is provided by affording parties to an administrative proceeding the opportunity to be heard at a meaningful time and in a meaningful manner. It requires that a litigant have knowledge of the claims, have a full opportunity to be heard and to defend, enforce and protect his or her rights. A party who has actual notice is not prejudiced by and may not complain of the failure to receive statutory notice. Statutes that impose technical requirements for notice should not be strictly enforced where the parties seeking enforcement had actual notice and cannot show prejudice as a result of the alleged failure to follow the technical requirements. Here, notice of the hearing on the dangerous building was published in the newspaper. Graves appeared several times before the Board, was given the opportunity to be heard and was informed that the building was the subject of a demolition hearing. He was fully aware that the building could be ordered demolished and had actual notice of the hearing and his right to be heard; he cannot now claim prejudice.

The case was remanded, however, because the Board failed to make findings of fact and conclusions of

law. Section 536.090 RSMo requires a final administrative decision in a contested case to include written findings of fact and conclusions of law; this may not be waived. Here, the Board failed to make such findings and conclusions. Judicial review is inappropriate unless a full, written opinion, including findings of fact and conclusions of law explains the basis for the Board's order. The failure to include such findings and conclusions in an administrative decision following a contested case hearing is a non-waivable error and requires reversal. The case was remanded to the Board for the making of findings of fact and conclusions of law.

League Hosts Seminar on Effective Discipline

Approximately 35 local officials attended the recent League seminar on effective personnel discipline. It was conducted by personnel attorney Ivan Schraeder of the Crotzer and Ford law firm.

Mr. Schraeder noted that Missouri is an "at-will" state for employment, meaning that employees stay only as long as the employer desires, although there are key exceptions. These include: employees with contracts; employees that have implied contracts particularly through the use of employee handbooks (currently evolving in Missouri as a result of Western District Court of Appeals decisions); constitutional protections; statutory protections, such as a merit system; and public policy exceptions as determined by the courts.

He also discussed the role of due process in a municipal merit system. In general, due process, if created, requires that the employee be provided:

- Notice of possible disciplinary action, including the right to know the general charges and what the evidence is;
- A right to provide an explanation; and
- A right to a hearing.

The hearing should be conducted by an independent reviewer of the facts. The employee should have:

- An evidentiary presentation;
- The right to be represented;
- The right to call witnesses and cross examine them;
- A written record of decision.

He indicated that the elements of an effective disciplinary process should have a corrective effect and be progressive in nature. Some of the key factors in determining the level of discipline are:

- The seriousness of the problem;
- The time span involved;
- The frequency and nature of the problem;
- The employee's work history; and
- Other extenuating factors.

Upon imposing the disciplinary action, the employer should create all necessary and formal records, notify necessary officials, retrieve any city property in the employee's possession and prepare for legal challenges.

Mr. Schraeder is available to consult with cities on personnel issues. He can be reached at 314-726-3040.

Advisory Committee Has Key Role in Park Grant

When the Legislature was considering St. Louis 2004's proposal for a 1/10 cent sales tax for trails and parks, the League advocated a municipal commission to oversee the grants to cities in St. Louis County. As part of the process, the League also advocated an Advisory Board of park professionals. The role of the Advisory Board is to help the Commission develop a simple, straightforward grant process without a bureaucracy.

As professionals, the group developed a user-friendly application along with a scoring system approved by the Commission. The Advisory Board then set up four seminars to explain the application process to cities. They also offered to review all 44 applications received in March and comment on each to assist the Commission.

Due to the many hours of volunteer time, the Advisory Board has provided a valuable service not only to the Commission, but to all the municipalities seeking to improve park and recreation facilities and programs. The Advisory Board members are:

Jerry Miller, former Parks Director, Ferguson
Dennis O'Brien, Parks Director, Ellisville
Mike Oppermann, Parks Director, Webster Groves
Herb Pyne, former Alderman, St. George
Therese Schroeter, Dellwood Parks Department
Eric Urfer, Parks Director, Clayton
Mary Vaughn, Parks Director, Maryland Heights

Christy Humerickhouse, Parks Director for Shrewsbury chairs the Advisory Board. Her time and organizational skills are very much appreciated. She also is an ex-officio member of the Park Grant Commission, which contributes to a seamless sharing of information between the Advisory Board and the Commission.

Action Guide for Fighting Billboard Blight

Scenic America recently published a 90-page handbook for use by local officials interested in maintaining local control of billboards.

It provides an outline of advantages to communities that focus on scenic beauty, dispels myths about industry claims supporting billboards, and includes a history of billboard control in America. Constitutional issues are highlighted, as are various ordinances designed to manage billboards successfully.

The Guide is available from Scenic America for \$20 (+\$5 shipping).

Contact them at 202-543-6200 or visit their website at www.scenic.org.

League Trivia Answer (from page 1)

Officials from the cities of Clayton, Ferguson, Kirkwood, Maplewood, Richmond Heights, University City and Webster Groves founded the League.

