



October 27 Meeting at Maplewood City Hall

OCTOBER 2016

Upcoming League Meetings

- Thursday, October 27, Membership Meeting, 7:30 pm, Maplewood
Thursday, November 17, Membership Meeting, Des Peres
Thursday, January 12, Legislative Reception, Sheraton Westport
Thursday, January 26, Membership Meeting, St. Ann

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The next League will be held at 7:30 pm on Thursday, October 27 at the Maplewood City Hall, 7601 Manchester Rd. Map (Directions: from east-bound I-64/Hwy 40, exit at Big Bend Blvd and turn right. Continue south to Manchester Rd. and turn right. City Hall is about 1/4 west on the right side. Parking is in the rear of the building.)

PLEASE NOTE THAT REFRESHMENTS WILL BE SERVED PRIOR TO THE MEETING AT 6:30 PM.

Program: The St. Louis County Board of Election Commissioners has voted to establish a process through which municipalities may enter into a cooperative agreement with the Election Board to conduct candidate filing. This can help reduce confusion and potentially avoid litigation for the Election Board and municipalities.

Eric Fey, Director of Elections, will discuss how this process will be implemented and how municipalities can participate.

At the meeting the membership will be asked to endorse the Report of the Legislative Affairs Committee, which contains the recommended legislative policies for the 2017 session. The Committee

Chairman is Mayor Scott Douglass of Clarkson Valley.

The membership will also be asked to endorse a report from the City Re-entry Committee, which recommends that the League support the concept of the re-entry of St. Louis City into the County as the 91st municipality. The Committee believes that the primary purpose of re-entry and other proposals to unify the City and County stems from the desire to enhance the image and potential for the economic growth of the St. Louis region by emphasizing "unity." Based upon on the committee's review, they believe there is ample evidence that: (1) the region has lost a significant part of the economic base that sustained it as a major metropolitan area over an extended period of time, (2) there is a need to intelligently utilize the advantages we currently possess to generate economic growth for the region, and (3) the image of the "great divorce" is indeed inhibiting those efforts.

Frontenac Mayor Keith Krieg, the Committee Chairman, will explain why the committee members believe there is an opportunity to achieve internal levels of cooperation and a symbolic and substantive move toward the concept of "unity" by expanding the boundaries of the County to embrace St. Louis City. This would allow the internal cooperative efforts to gain a sense of permanence, but more importantly, it should make a significant statement to the national and international communities that St. Louis is prepared and receptive to economic expansion.

Both of these reports will be emailed or mailed one week in advance of the meeting to allow time to review the proposals.

September Meeting Synopsis

At the September meeting, the membership heard a presentation from Tyler Meyr of Forum Studio, who had been invited to discuss a plan for development of the North Riverfront in St. Louis City. Mr. Meyr indicated that Great Rivers Greenway had commissioned the study, which takes in the area from the Eads Bridge to the Musial Bridge.

He said that the current plan envisions five distinct areas: Laclede's Landing; Lumiere; Creative and 2 innovation districts. Each area would have distinctive features to attract residents and visitors to the riverfront. It would also be designed to reduce the impact of flooding. Where existing historic

buildings are available, rehabbing would be encouraged while new construction would be featured on vacant land.

Although cost estimates are impossible to determine at this time, there will need to be significant private investment for the plan to come to fruition. He showed similar plans from other cities which have successfully re-developed riverfronts, including Cincinnati and Nashville.

We would like to thank Mayor Terry Briggs and the officials and employees of the City of Bridge-ton who hosted the meeting at their impressive new recreation center.

October 27 Training Program on Planning & Zoning

The next Municipal Officials Training Academy program is set for **Thursday, October 27** from Noon to 1:15 p.m. The program is entitled Planning & Zoning: Basics, Hot Topics & Practical Tips. The speakers are Attorneys Dan Vogel and Steven Lucas of the Cunningham, Vogel and Rost law firm. Topics will include:

- Basic Introduction to Land Use Regulation;
- Discussion of Basic Requirements for Different Categories of Land Use Regulation;

- Discussion of Recent Land Use Issues;
- Practical Recommendations and Tips for Zoning Issues; and
- Best Practices for a Successful Meeting.

Officials are invited to attend via Webinar or in person at Frontenac City Hall. The session is designed for:

- Planning & Zoning Officials
- City Clerks
- Elected Officials, and

- Municipal Attorneys

The cost is \$10 per person unless the city has an annual subscription. Please make checks payable to and mail to the Municipal League of Metro St. Louis. Registration by Tuesday, October 25 is encouraged to ensure that all materials are emailed to registrants prior to the Webinar. Click [HERE](#) to register.

Cities Should Regulate and May Prohibit Wireless Facilities Within its ROW

Cities have recently been inundated with applications from various entities (MONUT/Mobilitie, ExteNet, Verizon, etc.) wishing to install wireless facilities within the cities' Rights-of-Way ("ROW"). Below are a few items cities should consider so that they may best be able to respond to these applications:

- **PSC public utilities are subject to ROW management.** Generally, a city

"shall grant its consent" for use of its ROW to certain applicants such as PSC certified entities for *non-wireless* uses. [§67.1832](#). However, merely having a PCS certificate does not waive cities' permitting, management, and zoning requirements. A city still has the right to "manage its public rights-of-way and may recover its rights-of-way management costs." [§67.1832](#). Some "grandfathered" cities may also charge linear foot or other compensation. [§67.1846](#). Franchises

- or agreements may also be required in some situations, but limitations exist as to context and content. Note, applications to actually excavate in the ROW are deemed approved if not acted on within 31 days. [§67.1836.3](#).
- **Wireless facilities within the ROW are not subject to the "shall consent" provision.** Missouri law specifically exempts wire-

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Wireless Facilities in ROW (continued)

(Continued from page 2)

less communications facilities from the requirement that cities “shall grant its consent.” [§67.1830\(6\)](#) (cities may “establish permitting requirements for towers and other structures or equipment for wireless communications facilities in the public right-of-way, *notwithstanding the provisions of Section 67.1832*”) (emphasis added). The statute is silent as to the precise requirements, so cities should carefully consider the policies they need to protect the public and ROW, other factors that could result from a sudden switch of wireless towers from private property to the ROW, and the impact that requirements or lack of requirements may have.

- **PSC public utilities are subject to zoning.** Whether a wired or wireless user, *applicants for use of the ROW are also still subject to zoning regulations* such as setbacks, appearance, safety, and other requirements that would apply on other property, whether public or private. See [§67.1844](#) (preserves the authority to require all ROW users to comply with “national safety codes and all other applicable zoning and safety ordinances....”); [StopAquila v. Aquila, 180 S.W.3d 24 \(Mo. App. 2005\)](#) (holding that public utility was subject to zoning regulations). Because state policy prohibits a “preference on the basis of ownership” in deciding wireless applications, cities should ensure that the same zoning rules

apply in the ROW as on other properties, except where differences are established unrelated to the ownership of the subject location. See [§67.5094\(15\)](#).

Given the abundant new requirements imposed on cities relating to ROW management, timing of approvals, and numerous federal or state regulatory schemes that impact municipal authority or requirements depending on the type of use, user, and past actions or status, careful implementation of updated ordinances and policies are more important than ever to prevent inadvertent violations of this new, complicated topic within municipal obligations.

This article was submitted by Dan Vogel and Erin Seele from the Cunningham Vogel and Rost law firm.

Supreme Courts Sets Guidelines for Municipal Courts

The following was prepared by the law firm of Cunningham Vogel and Rost.

On September 20, 2016, the Missouri Supreme Court issued an order regarding municipal courts, which **will take effect on July 1, 2017**. [Rule 37.04](#) sets out several minimum operating standards for municipal courts.

The standards include, but are not limited to, the following:

- defendants must be allowed to present financial information when the court assesses their ability to pay a fine;
- municipal courts shall not

assess or collect unauthorized fines, costs, or surcharges (for example, fines for “minor traffic violations” must not exceed \$225.00);

- municipal judges shall complete certain training requirements;
- municipal courts must operate in facilities reasonably convenient to the public (courtrooms must be open to persons of all ages and be reasonably large enough to accommodate the public, parties, and attorneys);
- municipal courts must maintain a clerk’s office that is open to the public at least 30

hours per week during regular business hours for the purpose of paying fines;

- municipal courts must allow online payment of fines or be “actively pursuing” online access to payment of fines and information regarding pending cases;
- and clerks of court and other non-judicial personnel shall not perform any functions that constitute an apparent or actual conflict of interest.

For a full description of the standards and rule, [see here](#).

St. Louis County Municipal League
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The October 27 Membership Meeting will be
at the Maplewood City Hall.

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www.stlmuni.org*

Solid Waste District Grants Available

The St. Louis-Jefferson Solid Waste Management District has notified local governments of the availability of approximately \$2 million in grant funds to assist cities and other entities with recycling efforts. **The District is strongly encouraging cooperative efforts between groups of municipalities and others.** Projects designed to increase diversion and participation in residential recycling programs is also encouraged. In previous grant rounds, the average amount awarded has been approximately \$40,000, with a range of less than \$5,000 to well over \$100,000. The District requires a minimum 10% match, which may be either a cash or in-kind contribution.

Eligible costs include equipment, consulting, salaries, education, and direct costs associated with a project. District applications are currently available online at www.swmd.net and must be submitted by 5 pm, Friday, December 16, 2016. For more information contact the District office at 314-645-6753. The League office also has copies of the application forms available.

Congratulations To . . .

Hazelwood Mayor Matt Robinson, who was elected Vice President of the Missouri Municipal League and Black Jack Councilman Don Krank who was re-elected to the MML Board.

Also to The 24:1 Community in North St. Louis County which was one of just seven communities nationwide selected for this year's [Robert Wood Johnson Foundation Culture of Health Prize](#), which recognizes communities doing outstanding work to promote and prioritize health and wellness for everyone. 24:1 represents the 24 municipalities that touch the Normandy School District and their one vision for "strong communities, engaged families, and successful children."