



NOVEMBER 2017

Upcoming League Meetings

- Thursday, November 30, Membership Meeting, Berkeley
Thursday, January 11, Legislative Reception, Sheraton Westport Chalet
Thursday, January 25, Membership Meeting, Manchester

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November 30 Meeting in Berkeley

The next membership meeting will be held on Thursday, November 30 in Berkeley. This is the 5th Thursday due to Thanksgiving. Berkeley officials invite you to tour their new police facility at 6:00 pm. The address is 8340 Frost Ave. (Map)

Refreshments will be available at City Hall, 8425 Airport Rd. (Map) beginning at 6:30 and the meeting will start at 7:15 at City Hall.

Program: The speaker will be Matt Forck, Senior Director of Government Relations, Ameren Missouri, on the topic of Leading Missouri to a Smart, Stable and Secure Energy Future. In

an ongoing commitment to incorporate more renewable energy, he will introduce Ameren Missouri's innovative new way to help businesses and cities across Missouri reach their renewable energy goals

At the meeting, the membership will be asked to consider the endorsement of standards for municipal police departments which were developed and adopted by the St. Louis Area Police Chiefs' Association. These will be emailed to members in advance of the meeting.

November 17 Training Program on Business Licenses

The next Municipal Officials Training Academy program is set for Friday, November 17 from Noon to 1:15 p.m. The program is entitled "Municipal Business License Taxes." It will be presented by Margaret Eveker of the Cunningham, Vogel and Rost law firm. THIS WILL BE A WEBINAR ONLY PROGRAM. There is no in-person attendance option. Click HERE to register for the webinar.

The cost is \$20 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 Wednesday, November 15 is encouraged to ensure that all materials are emailed to registrants prior to the program.

Due to the subsidized and focused nature of the Academy, persons attending must be authorized to attend on behalf of a Missouri municipality or political subdivision. Additionally, registrants will need to state the jurisdiction that has authorized the attendance of the registrant on its behalf upon registration. Approval for persons not attending on behalf of a specific municipality will be subject to the discretion of the Municipal League of Metro St. Louis and Cunningham, Vogel & Rost, P.C on a case-by-case basis and such approval may be denied.

## October Meeting Synopsis

At the October meeting the membership adopted the report of the Legislative Affairs Committee, which was presented by the Committee Chairman, Mayor Terry Briggs of Bridgeton. The report identified four priorities for the 2018 session:

1. Statewide Vote on Local Issues - The League supports local autonomy and opposes legislation authorizing statewide votes on local issues pertaining to individual or limited political subdivisions which would threaten neighborhood stability.
2. Internet Sales Tax - The League supports legislation enacting the Streamlined Sales Tax Collection system.
3. Transportation Funding - Given the importance of the State's infrastructure, the League supports leg-

islation to create a long-term funding source to maintain and improve highways, roads and bridges throughout Missouri.

4. High Speed Internet Overlay District - The League supports enabling legislation to establish a High-Speed Internet District for St. Louis City and County, Jefferson County, and St. Charles County. The District governing body would oversee the installation, system management, collection and distribution of fees for an inclusive high-speed fiber network.

The meeting host and speaker was Chris Krehmeyer, President and CEO of Beyond Housing. For more information on the impressive work done by this organization see the article below

## 24:1 Municipal Government Partnership (MGP)

The 24:1 Initiative lead by Beyond Housing is taking on multiple challenges in North St. Louis County. The name 24:1 was chosen by the community and represents the 24 municipalities in the Normandy school district with one vision for successful children, engaged families, and a strong community.

- The 24:1 MGP is the partnership of mayors, their board members and key staff people convened to collaborate on cost savings and service improvements projects.
- Beyond Housing works closely with the Mayors and others in the municipalities to assist and support them in providing *good governance* to their communities in ways that are effective and efficient.
- 24:1 MGP priorities through summer of 2016 included police reform, court reform, court consolidation and municipal mergers.
- Police – There have been several voluntary dissolutions of police departments for cost savings. The Normandy Police department now provides services to 6 municipalities and the North County Cooperative Police department provides services to 7 municipalities.
- School Resource Officers – In partnership with the Normandy Police department, the North County Co-op and the Normandy Schools, Beyond Housing helped secure a two-year grant funding six school resource officers to serve Normandy schools. School resource officers will promote anti-gang activities and safer streets. This is the first grant of its kind to be awarded by the Justice Department.
- Court Consolidation – Thirteen of the 24 courts have consolidated or partnered into two main court hubs with the City of Normandy or the City of St. Ann. These court hubs have minimized cost burdens and allowed these 13 courts to comply with State standards.
- Municipal Mergers – The first municipal consolidation in the history of the Boundary Commission was approved by voters in the City of Vinita Park and the Village of Vinita Terrace in November 2016. The two municipalities celebrated the completion of the merger in May 2017. The process has now started for the merger of the Village of Glen Echo Park into the City of Normandy.
- Tree Resource Improvement and Maintenance (TRIM) – Beyond Housing was awarded a five-year grant totaling \$500,000 to establish a 24:1 Community Forestry Program. The priorities of the program include tree maintenance and removal as well as education and outreach efforts and the hiring of a 24:1 Community Forester. This is the first such collaborative grant ever awarded by the Missouri Department of Conservation.
- 24:1 MGP Strategic Work Plan – In June of 2017, the Mayors approved a strategic work plan that focuses on these four areas: 1) Streets & Sidewalk Repairs 2) Opt-In Trash Services Contract 3) Strategic Code Enforcement Management Plan – to address vacant, abandoned and deteriorated properties and 4) TRIM Grant – for tree maintenance and removals.

## Legislative Reception - January 11

The League will be holding its third Reception for Legislators from St. Louis City and County from 5:30 to 7:00 pm on Thursday, January 11 at the Sheraton Westport Chalet. Registration information will be sent to municipal clerks in early December and will be on the League website at [www.stlmuni.org](http://www.stlmuni.org). We hope you will can attend.

## Land Use and the Law: The Board of Adjustment

By Mary B. Schultz

Missouri's Zoning Enabling Act, §§ 89.020-421 R.S.Mo. ("Zoning and Planning") requires local governments to provide for a Board of Adjustment which is to consist of five residents. § 89.080, R.S.Mo. Three alternative members may be appointed to serve in the absence or disqualification of regular members. *Id.* The Board of Adjustment is a quasi-judicial body authorized to "determine and vary the application [of zoning regulations] in harmony with their general purpose and intent." *Id.* Members generally serve five year terms, and may be removed only for cause upon written charges by the appointing authority and a public hearing. *Id.* While the Board of Adjustment is not held to the same standard as a court of law, it more closely resembles a formal court than any other local government body. The Board of Adjustment is to be autonomous, and independent from other boards or councils. It is to hear and decide matters solely on the "record" before it. The chairman of the Board of Adjustment is to administer oaths by those who testify at public hearings. The chairman may also compel the attendance of witnesses. All testimony is to be taken down by a reporter employed by the Board for that purpose. *Id.*

Generally, the Board of Adjustment is authorized by statute to hear two types of cases relating to the administration and enforcement of zoning regulations: (1) Appeals from the interpretation of administrative officials in the enforcement of zoning regulations; and (2) Applications for variances from strict application of zoning regulations. § 89.090 ("Protest Provision") of the Zoning Enabling Act applies to all cities, towns and villages. § 89.060, RSMo.

On an appeal from the interpretation of a zoning regulation by an administrative official, the Board of Adjustment may "reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement or determinations as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken." § 89.090, R.S.Mo.

On a request for a variance for strict application of a zoning regulation, the Board of Adjustment must determine whether the applicant has demonstrated "practical difficulties or unnecessary hardship in the way of carrying out the strict letter of [the zoning regulation]." §89.090, R.S.Mo. Variances may be granted "relating to the construction or alteration of buildings or structures or the use or land so that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done." *Id.*

Generally, there are two types of variances: area variances and use variances. Area variances are deviations from permitted uses within a given zoning district, e.g., bulk area, lot size, height, density, and setback regulations. Use variances would permit a use of property other than the uses permitted by the jurisdiction's zoning regulations for the particular zoning district in which that property is located. The standard for hardship in the context of use variances is more stringent. The standards of hardship for the two types of variances differ, and will be discussed in detail in later columns.

An appeal to Board of Adjustment generally stays all proceedings relating to the action appealed from. §89.100, R.S.Mo. However, if the official from whom the appeal is taken certifies to the Board of Adjustment that a stay would cause immediate peril to life or property, and state the facts upon which that conclusion is made, the proceedings will not be stayed unless a restraining order is issued by either the Board of Adjustment or the Circuit Court based on "due cause". *Id.*

The Board of Adjustment must hear and decide appeals within a reasonable time after they are filed. Notice of the public hearing on appeals must be published in a legal newspaper. In addition, "due notice" must be provided to the parties in interest. Generally, jurisdictions publish notice in a subscription newspaper 15 days in advance of the date set for hearing, post the subject property, and mail written notice to persons owning property located with a certain number of feet of the subject property. There must be a "public hearing" on each appeal. Witnesses are to testify under oath. Records, including the zoning regulations themselves, the particular application for appeal and related documents, and proof of publication of notice of the hearing should be identified and submitted in evidence,

Any person aggrieved by a decision of the Board of Adjustment, including the applicant, those opposed to the application, and even the governing body of the jurisdiction itself, may appeal from the Board of Adjustment to the Circuit Court. §89.110, R.S.Mo. The standard of review in Circuit Court is very deferential to the Board of Adjustment, and the Board is to be affirmed where there is competent and substantial evidence "on the whole record", and the Board's decision is not arbitrary, capricious, or in excess of its jurisdiction. §89.110, R.S.Mo. The Board of Adjustment is to be affirmed if it could reasonably have reached the decision it did on the evidence before it. If a Board of Adjustment follows the proper procedures and makes a suitable record, it should never be reversed by the Circuit Court.

Many of the issues discussed generally in this overview will be addressed in more detail in future columns.

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*This column is intended to provide general information only. It does not constitute, nor should be relied upon, as legal advice or a legal opinion relating to specific facts or circumstances.*

Municipal League of Metro St. Louis  
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The November 30 League meeting will be hosted by Berkeley.

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[www.stlmuni.org](http://www.stlmuni.org)*

## Park Commission Awards Round 18 Grants

The Municipal Park Grant Commission recently announced the awarding of \$7.4 million for park and recreation improvements during the Round 18 grant cycle to the following 20 municipalities:

Ballwin - Aquatic Center, \$525,000  
Bellefontaine Neighbors - Bissell Hills Park, \$420,000  
Bridgeton - Bridgeway Park, \$353,000  
Clayton - Shaw Park Ice Rink, \$420,000  
Crestwood - Rayburn Park, \$397,800  
Crystal Lake Park - Hunter Park, \$212,477  
Eureka - Flat Creek Trail, \$420,000  
Ferguson - January-Wabash Park, \$235,366  
Florissant - Manion Park, \$519,805  
Jennings - Koeneman Park, \$420,000  
Kirkwood - Performing Arts Center, \$525,000  
Northwoods - Community Center, \$216,246  
Overland - Legion Park, \$475,000  
Pasadena Hills - Roland Park, \$125,884  
Richmond Heights - Highland Park, \$370,000

Sunset Hills - Upgrades to 3 parks, \$350,455  
University City - Janet Majerus Park, \$525,000  
Valley Park - Leonard Park, \$350,000  
Velda City - Municipal Park, \$32,102  
Wildwood - Community Park, \$525,000

Since 2001 and including this round, over 320 municipal grants have been approved totaling over \$60 million. The commission was created in 2000 to award grants to municipalities in St. Louis County after voters approved a 1/10 cent sales tax., which was increased by a 3/16 cent sales tax on 2013.

The commission will next meet on February 9 and could award planning grants that have been submitted. If your city is planning to submit a planning grant application for consideration, please have it to the Municipal League office by Monday, January 29. The applications can be found on the Park Commission website: <http://www.muniparkgrants.org/applications.html>