

REGIONAL COUNCIL OF MAYORS

February 8, 2016

PRESENTATIONS AND DISCUSSION

LEGISLATIVE OUTLOOK

Condo liability

Construction of new rental units has far outpaced construction of condo and co-op units, said J. Scott Andresen, an attorney with Bassford Remele. In the last five years, he said, 15,000 new apartment units were built, compared with 500 condo/cop/townhouse units.

The reason, Andresen said, is that developers don't want to be liable for lawsuits for 10 years, as they are under current state law. Yet, there is a great demand for ownership units in multifamily projects. He said a 59-unit condo in Excelsior—each unit selling for \$1 million or more—sold out before it was done.

The Housing Options Coalition is in the process of lining up authors for a bill that would make changes in the Minnesota Common Interest Ownership Act. Andresen said changes might include:

- Eliminating payment of attorney fees for winning plaintiffs who sue developers and/or construction companies. Having attorney fees paid by the defendant makes it easier to sue, Andresen said.
- Requiring a majority of owners to file suit. Currently, Andresen said, "an association board can decide to sue, even if it's only three of 100 owners."
- Allowing maintenance of a property as a defense for a developer/contractor who has been sued. In other words, if the owner of the property has not kept it up properly, that can be considered in a lawsuit.

Andresen said warranty rights for individual units would not be affected by the proposed legislation.

Metro Cities

Although the 2016 Minnesota Legislature doesn't officially convene until March 8, "for all practical purposes it has begun," said Patricia Nauman, executive director of Metro Cities.

<http://www.metrocitiesmn.org>

The budget forecast will be released on February 26. "That basically sets the parameters for the session," Nauman said. But discussions already have been underway on many issues.

2016 is not a budget year, so the focus likely will be on bonding and tax and transportation bills, Nauman said. She said speculation is that the Legislature will reconstitute the conference committees on the omnibus tax and transportation bills from 2015, but the numbers that those committees were dealing with are now out of date and there were big differences in the tax bills between the House and Senate.

Metro Cities has about 75 policies for what it hopes would be accomplished during the 2016 Legislature. Nauman went over a few of them:

- Changes to the governance of the Metropolitan Council. Metro Cities recommends continuing to have the governor appoint members, but a nominating committee made up of local officials would develop the list of possible appointees. Board members would serve staggered terms. Nauman said Metro Cities is opposed to having local elected officials serve on the Met Council.
- Construction sales tax exemption for cities. This was approved last year, to start in January 2016, but at the last minute the start of the exemption was moved to January 2017. An attempt will be made to have it effective in 2016, but Nauman said it will be an uphill battle.
- Local Government Aid reforms. Metro Cities supports funding at the 2003 funding level, which was \$586.8 million, and adjusting the appropriations for inflation and population growth.
- Influent infiltration assistance for local help with sewer repairs. Nauman said Metro Cities would like \$14 million, but the Governor's bonding bill has \$5 million.
- Capturing local tax capacity on high-value homes for affordable housing. Metro Cities is opposed to proposals to use that taxing capacity because "it takes the pressure off state funding," Nauman said.

Transportation is a huge topic, almost overwhelming, said Nauman. "Everybody wants a transportation bill, but the divisions that were there at the end of the 2015 session are still there," Nauman said. "It's how you pay for it."

The House is likely to look at paying for transportation infrastructure using money from the general fund, including part of the budget surplus. The Senate is looking for an ongoing way to pay for transportation infrastructure.

Nauman said there could be some agreement on a 1/2-cent Metro area tax to be used for transit, "depending on what kind of support there is for rural Minnesota."

Nauman said the governor did not include transportation projects in his proposed bonding bill; he is expecting that funding to be part of an omnibus transportation bill.

For the full list of Metro Cities legislative policies, go to:

http://www.metrocitiesmn.org/vertical/Sites/%7B63D48B3B-FE99-433B-BCDD-78BBF3D7629D%7D/uploads/2016_Legislative_Policies.pdf

Municipal Legislative Commission

Legislators are talking a great deal about Greater Minnesota, said Katy Sen of the Municipal Legislative Commission <http://mlcmn.org>. "The House has been flipping back and forth [between a DFL and a Republican majority] and most of the swing districts are in Greater Minnesota," she said.

The MLC, which represents 17 suburban cities, "is watching for what lines get drawn in the sand for bonding, taxes and transportation," Sen said.

The MLC is focused on several areas:

- Property tax relief. MLC would like it to go from a 12 percent circuit-breaker to 10 percent.
- Levy limits. The MLC opposes them.
- Retroactive reverse referenda on property tax levies. These would allow referenda to reduce the property tax levy—and MLC opposes the idea.
- Affordable housing. The MLC opposes “skimming off” property tax money for affordable housing.
- Job creation. The MLC supports the Job Creation Fund and the Minnesota Investment Fund. “These are really used by suburban cities,” Sen said.
- TIF. Cities would like more flexibility in how to use tax-increment financing, Sen said.
- Body cams. “We encourage the Legislature to pass a law that would preserve public safety while protecting privacy,” Sen said. “It’s not a partisan issue, but there are very strong opinions on both sides [of how the camera images would be released.]”

EMERALD ASH BORER THREAT

There are 1.6 million ash trees in the Metro region—and every single one of them is at risk of dying in the next five to 10 years.

That would be a loss of an urban natural asset, reducing parks and boulevards throughout the area, but it’s a greater loss than that, said Karen Sumach, manager of community forestry for Tree Trust <http://treetrust.org>. The presence of trees reduces crime, creates a sense of community and helps maintain the environment by absorbing carbon dioxide and stormwater. “When trees die, people also die,” Sumach said.

The Emerald Ash Borer is killing ash trees throughout the area, said Jeff Hafner, director of municipal consulting for Rainbow Treecare <http://www.rainbowtreecare.com>. “It’s causing damage now and about to cause more,” he said. “It has no natural predators and plenty of food in our environment.”

Hafner said the typical suburb is facing costs of \$1.5 million to deal with Emerald Ash Borer over the next 10 years. “The time to take action is now.”

While some cities are approaching the threat to their trees by aggressively removing ash trees, whether or not they are infected by the Emerald Ash Borer, the Minnesota Shade Tree Advisory Committee <http://www.mnstac.org> recommends a different approach—treating “high value” trees, but not every tree, and removing those that are already infected.

Treating high-value trees will allow for an orderly transition to an altered urban forest, as new trees are planted while diseased trees are removed, said Sumach. It also slows the spread of the Emerald Ash Borer, as untreated trees are surrounded by more treated trees.

Treatment, to prevent damage by the Emerald Ash Borer, costs roughly \$1.75 per inch for a tree, and lasts two to three years before treatment is needed once more. There are risks to treatment with a pesticide, “but these are outweighed by the risks of losing trees,” said Hafner.

Hafner and Sumach said that there is no way to avoid the cost of dealing with Emerald Ash Borer; cities will have to treat trees, cut down trees, remove trees and/or replant trees, no matter how they choose to approach the infestation of Emerald Ash Borer.

There is no real way to avoid the infestation, said Sumach. "Urban foresters are all talking to each other. This is like Dutch elm disease, but on steroids."

[For more information, see full presentation.](#)

EXECUTIVE DIRECTOR'S REPORT/UPDATES

ULI Minnesota is hosting a panel, [#MSPswagger](#), to consider the challenge of how the Twin Cities region can be a talent powerhouse.

The 2016 ULI Minnesota/Regional Council of Mayors 8th Annual Housing Summit will be Wednesday, June 8, 8-11am at Dorsey & Whitney. The focus will be on "Furthering Fair Housing: The Important Role of Mixed Income Development." Former Vice President Walter Mondale will be the keynote speaker. While in the U.S. Senate, Mondale was a chief sponsor of the Federal Fair Housing Act.

Mark Joseph, professor at Case Western Reserve University, will talk about the achievements and challenges of mixed income housing. He is the co-author of the book *Integrating the Inner City: The Promise and Perils of Mixed-Income Transformation* and is found of the National Initiative on Mixed-Income Communities <http://nimc.case.edu>.

COMING UP

The next meeting of the Regional Council of Mayors will be Monday, March 14, at 11:30am at Dorsey & Whitney. The focus of the meeting will be on water issues in the region.

Because of the Housing Summit, there will be no meeting of the Regional Council of Mayors in June.

ATTENDEES

Mayors

Mary Giuliani Stephens	City of Woodbury
James Hovland	City of Edina
Debbie Goettel	City of Richfield
Jim Adams	City of Crystal
Ardell Brede	City of Rochester
Bob Crawford	City of Elko New Market
Molly Cummings	City of Hopkins
Ken Hedberg	City of Prior Lake
Kathi Hemken	City of New Hope
Stan Karwoski	City of Oakdale
Peter Lindstrom	City of Falcon Heights
Scott Lund	City of Fridley
Lili McMillan	City of Orono
Ken Willcox	City of Wayzata
Gene Winstead	City of Bloomington

Guests

John S. Adams, University of Minnesota; Mike Adams, City of Woodbury; J. Scott Andresen, Bassford Remele; Ani Backa, Xcel Energy; Bob Butterbrodt, Wells Fargo; Bob Engstrom, Bob Enstrom Companies; Jeff Hafner, Rainbow Treecare; Tom Harmening, City of St. Louis Park; Karl Keel, City of Bloomington; Mike Mornson, City of Hopkins; Patricia Nauman, Metro Cities; Carolyn Olson, GMHC; Ellen Sahli, Family Housing Fund; Katy Sen, Messerlie & Kramer; Karen Sumach, Tree Trust; Jamie Verbrugge, City of Bloomington.

ULI Staff, Consultants

Aubrey Austin, Cathy Bennett, Caren Dewar, Linda Picone.