NOTICE OF A REGULAR MEETING OF THE
LEAGUE OF ARIZONA CITIES & TOWNS
EXECUTIVE COMMITTEE

Wednesday, August 24, 2016 at 11:45 a.m.
Fairmont Scottsdale Princess Resort, Palomino 4 Room
7575 East Princess Drive
Scottsdale, Arizona

Notice is hereby given to the members of the Executive Committee and to the general public that the Executive Committee will hold a meeting open to the public on August 24, 2016 at 11:45 a.m. Members of the Executive Committee will attend either in person or by telephone conference call. The Executive Committee may vote to recess the meeting and move into Executive Session on any item on this agenda. Upon completion of Executive Session, the Executive Committee may resume the meeting, open to the public, to address the remaining items on the agenda. A copy of the agenda is available at the League office building in Suite 200 or on the League website at www.azleague.org.

Agenda

All items on this agenda are scheduled for discussion and possible action, unless otherwise noted.

1. Review and Adoption of Minutes
2. Resolution naming the Ari-Son organization as an Affiliate Group of the League
3. TPT Implementation Update
4. Construction Sales Tax Task Force Update
5. Discussion of Public Opinion Survey/Communications Messaging
6. Resolution of Appreciation
7. Possible Executive Session: Legal Advice

Additional informational materials are included in the agenda packet but are not part of the agenda.
<table>
<thead>
<tr>
<th>Agenda Item #1</th>
<th>Review and Adoption of Minutes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Summary:</strong></td>
<td>Minutes of the previous meeting are enclosed for your review and approval.</td>
</tr>
<tr>
<td><strong>Responsible Person:</strong></td>
<td>President Mark Mitchell</td>
</tr>
<tr>
<td><strong>Attachments:</strong></td>
<td>May 13, 2016 Executive Committee Minutes</td>
</tr>
<tr>
<td><strong>Action Requested:</strong></td>
<td>Approval</td>
</tr>
</tbody>
</table>
League President Mark Mitchell called the meeting to order at 10:05 a.m.

President Mitchell recognized League Treasurer and Lake Havasu City Mayor Mark Nexsen, congratulating his city of Lake Havasu City as being one of the finalists in the America’s Best Communities Award.

1. **REVIEW AND ADOPTION OF MINUTES**

Mayor Harvey Skoog moved to approve minutes from the February 12, 2016 Executive Committee Meeting; Mayor Jonathan Rothschild seconded the motion and it carried unanimously.
President Mark Mitchell welcomed League Executive Director Ken Strobeck to present the Legislative Report.

Executive Director Strobeck informed the Executive Committee that the legislature had adjourned the previous Saturday. He also thanked all the members of the Executive Committee, intergovs and League legislative staff for their work during the session.

Mr. Strobeck then invited League Legislative Director Patrice Kraus to present on particular bills of note from the legislative session.

Legislative Director Kraus reminded the Executive Committee that during the session, the League’s main focuses are local control and protection of shared revenue, followed by the pursuit of League resolutions. She noted that local control took a bit of a hit this year, but that the League was able to protect shared revenues in the budget and was able to get a majority of the resolutions passed.

Ms. Kraus covered high-profile issues that came up during the legislative session that were of particular note to the League.

The residential rental bill was an issue early on in the session, which would have eliminated the ability to collect transaction privilege tax on rental activity. The bill failed; however, Ms. Kraus noted that it was likely a form of the bill would come up again in future legislative sessions. She also covered a potential bill that would have changed how Communities Facilities Districts are formed and could have given control of them to developers. The governor vetoed this bill and the League will work with developers over the interim to address their concerns.

Additionally, Ms. Kraus covered a bill related to Airbnb, noting that while cities and towns were pre-empted from banning their activities, the League had been able to negotiate inclusion within the statute for some protections, allowing for cities and towns to use existing ordinances to manage the negative impacts of these short-term rentals. Cities and towns will also receive tax revenue from these rentals after League negotiators were able to include that language in the bill as a tradeoff for the preemption on local bans.

She also mentioned SB 1487, which says that if a legislator perceives a city or town doing something in violation of a law, they can file a complaint with the Attorney General that may result in the withholding of state shared revenue. It was questioned what types of activities the legislature would be looking at specifically. Ms. Kraus indicated that the bill sponsor, Senate President Biggs, had mentioned gun laws, plastic bag laws, and not posting budgets on city/town websites as examples. Additionally, she reminded the Executive Committee that local wage and employment benefits laws were also items of note Governor Ducey had laid out in his State of the State address. The Executive Committee would further discuss this bill and our legal options regarding it.

In addition to covering bills of importance, Ms. Kraus discussed the budget, noting that cities and towns were treated fairly well. As always, there was the HURF shift to pay for DPS operations, however, cities and towns did receive some general fund money that will be distributed similarly to HURF.
Ms. Kraus then covered successful bills, including the PSPRS reform bill, which she reminded the Executive Committee, was developed out of the taskforce that the League had put together. A lot of the information developed through the taskforce ended up incorporated into the bill. She also covered the census bill, which was passed on the last night of the session. This is the bill that was a negotiated agreement among cities and towns, allowing for the use of US Census Bureau annual estimates to determine state shared revenue instead of moving forward with the process of a mid-decade census.

Other bills of note that the League worked on included telecommunications bills, those relating to water rates and purchasing of water companies, and drone regulation. In addition, Ms. Kraus noted that there was a large elections bill passed during the session and the League is sorting through the language of the bill and expects to see some cleanup of the bill within the next year.

President Mitchell thanked Legislative Director Kraus and the legislative team for their work during the session. He reminded the Executive Committee that action alerts had been sent out to members on bills of top priority and asked the members if they found those notifications helpful. It was determined that the alerts were helpful and if legislative schedules permitted, the League would send out these notifications in a timely manner.

3. Construction Sales Tax Task Force

President Mark Mitchell recognized League Executive Director Ken Strobeck to discuss the construction sales tax task force.

Executive Director Strobeck told the Executive Committee that there would likely be interest in introducing a construction sales tax reform bill again this year. A bill was introduced by Representative Cobb this year, focusing on a pure point-of-sale system. He said that the industry is interested in going a similar system and the League hopes to develop an alternative vision.

Executive Director Strobeck welcomed Legislative Director Patrice Kraus to present on the taskforce.

Legislative Director Kraus reminded the Executive Committee that Representative Cobb had introduced a bill regarding TPT simplification. The part of the original bill that wasn’t simplified was related to construction sales tax, which has now become very complicated, causing more pressure from the industry to fix the system. There is also a lot of pressure from the industry to move to a pure point-of-sale on materials only, which she acknowledged would be very costly to cities and towns.

Ms. Kraus said that Mr. Strobeck, in addition to League Deputy Director Tom Belshe, Tax Policy Analyst Lee Graffstrom and Legislative Associate Dale Wiebusch, had been working with her on developing a structure for a taskforce. The group had determined some suggested membership and would be working on something in the interim. Ms. Kraus also said she had been discussing the matter with Senator Lesko who was anxious to see that the taskforce develops.

She indicated that the purpose of the taskforce would be to create a long-term sustainable process for the construction sales tax that will give steady source of income and revenue.

President Mitchell asked Ms. Kraus about interaction from the industry and their involvement on this taskforce.
Ms. Kraus informed the Executive Committee that she had previously held conversations with representatives from both the homebuilders association and the commercial builders. Just like the PSPRS taskforce, the actual taskforce will be made of internal city and town individuals associated with the League who would draft a proposal. Members of the industry and outside parties will be invited to review and provide feedback, as it is imperative to have their input before developing a formal recommendation.

Gilbert Mayor John Lewis inquired about receiving data to present when discussing this issue with legislators.

Ms. Kraus informed the Executive Committee that one of the main challenges of this issue is that there is not much data available, as it has never been tracked what the impact would be should communities go to pure point-of-sale. She noted that developing data would be a project of the task force.

Maricopa Mayor Christian Price additionally inquired about a one percent cap issue, which is something that is impacting more communities.

League Deputy Director Tom Belshe responded to Mayor Price that the League had been working with the County Supervisors Association on this issue, indicating that the counties are interested in having cities and towns participate in the discussion of this issue. The League will keep the Executive Committee apprised of the activity.

4. POLICY COMMITTEE REPORT

President Mark Mitchell recognized League Legislative Director Patrice Kraus to present the Policy Committee Report.

Legislative Director Kraus informed the Executive Committee that a meeting of the Transportation, Infrastructure and Public Works Policy Committee had recently met and a particular item from Paradise Valley had been discussed regarding the high cost of the Arizona Department of Transportation administering federally-funded local projects. She noted that there had been a lot of interest in this subject.

Ms. Kraus said that she will be speaking with the councils of governments about the issue. She indicated that there were a few ideas that can be explored within the committee and a workgroup will be put together. She believed there can be a non-legislative solution, so it likely won’t be turned into a resolution at this time.

President Mitchell asked the policy committee chairs who were present for feedback on the policy committee process; all agreed that it was going well. He reminded the Executive Committee that the new process gets communities engaged in the resolutions process.
5. TPT IMPLEMENTATION UPDATE

President Mark Mitchell recognized League Deputy Director Tom Belshe to present a TPT Implementation Update.

Deputy Director Belshe reminded the Executive Committee that the Department of Revenue had a new director who had been enforcing new changes and forming a better working relationship with the League.

Mr. Belshe informed the Executive Committee that the staff implementing the changes to the tax program is progressing and it is expected that the TPT 2 forms will be tested beginning in June. He also noted that an additional form had been created for those businesses that don’t use a lot of deductions, making it easier for them to complete.

Mr. Belshe also informed the Executive Committee that one of the outcomes of the meeting with representatives from Airbnb on that previously discussed bill was a conversation with the residential relator industry about the concept of having property managers remit taxes for all their customers. He said that the League had been talking for years about creating an electronic system for this and DOR is now committed to help create that system.

6. BALLOT MEASURES

President Mark Mitchell recognized League Executive Director Ken Strobeck to introduce the agenda item on ballot measures.

Executive Director Strobeck informed the Executive Committee that there had been about 34 ballot propositions which have been issued applications and some could appear on the November ballot and some could impact cities and towns.

Mr. Strobeck informed the committee that an initial proposition regarding clean and accountable elections had included language that would eliminate the ability for city/town elected officials or employees to communicate with the legislature. Mr. Strobeck reached out to the organization and the language has since been removed. He reminded the Executive Committee that one of the dangers of these initiatives is that there is no vetting or hearing process so they needed to continue to be vigilant when reading through these.

Mr. Strobeck also reminded the committee that the election on Propositions 123 and 124, both supported by the League, would be voted on during the following Tuesday’s election. He said they would be watching the election closely.

7. LEAGUE BUDGET FOR 2016-2017

President Mark Mitchell recognized Budget Subcommittee Chairman Mayor Thomas Schoaf to present on the League Budget for 2016-2017.

Mayor Schoaf presented to the Executive Committee the proposed budget for 2016-2017.
He commented that, depending on potential legal expenses, there may need to be an adjustment to that particular line item in the future.

Mayor Thomas Schoaf made a motion to approve the 2016-2017 League Budget; Mayor Daryl Seymore seconded the motion and it carried unanimously.

8. 2016 LEAGUE CONFERENCE UPDATE

President Mark Mitchell recognized League Communication and Education Director Matt Lore to give an update on the 2016 League Conference.

Communication and Education Director Lore reminded the Executive Committee that this year’s League Annual Conference would be held August 23 – 26 in Scottsdale. Mr. Lore noted that a group consisting of city and town elected officials, Executive Committee members, and city and town staff had met in March to propose ideas for the conference. He thanked Executive Committee members who had participated.

Mr. Lore also told the Executive Committee that $112,000 had been collected in sponsorship, which is just over halfway to the targeted amount of $200,000. He reminded the Committee that the conference is the League’s second largest revenue source and sponsorships are a considerable portion of this revenue. Mr. Lore asked members of the Executive Committee to let the League Staff know of additional companies or organizations they would like the League to contract regarding sponsorship opportunities.

Scottsdale Mayor Jim Lane told the Executive Committee that the City of Scottsdale was excited to host the conference again.

9. EXECUTIVE SESSION: LEGAL ADVICE

President Mark Mitchell informed the Executive Committee that they would bypass this agenda item until the end of the meeting.

10. EXECUTIVE DIRECTOR REPORT

President Mark Mitchell recognized League Executive Director Ken Strobeck to present the Executive Director Report.

Executive Director Strobeck informed the Executive Committee that he had been working with many partners, particularly Yuma, to create a solution to current indemnity language within contracts with ADOT. He noted that cities and towns were required to sign a contract with ADOT that would require them to indemnify all of ADOT’s contractors, subcontractors and employees for negligence when a transportation project is in the city. He said that through a series of meetings, they were able to get ADOT to agree to a change in the language.

The committee moved to adjourn the Executive Committee meeting and reconvene into the League Property Corporation.

President Mark Mitchell adjourned the meeting at 11:06 a.m.
Agenda Item #2  Resolution naming the Ari-Son organization as an Affiliate Group of the League

Summary: Ari-Son is a binational council of Mayors from Arizona and Sonora who will meet to discuss advancing key binational initiatives of local and regional significance, working in collaboration with various stakeholders from all levels of government and the business community. Its purpose is to elevate the voice of local government on both sides of the border and identify key opportunity areas to further best practices, program information, and special project initiatives of local and regional significance.

In March 2014, a Partnership Agreement was signed by Mayors from Arizona and Mayors from Sonora at the Second Binational Forum in Nogales, Sonora, to form the Ari-Son megaregion. Since 2014, several binational efforts have been undertaken to enhance connectivity between local governments in Arizona and local governments in Sonora at this event. At the 2014 League of Arizona Cities and Towns annual conference, a Commemoration of Binational Local Cooperation was presented. The commemoration recognized the first-time attendance of Mayors from Sonora at the annual conference. In 2015, a business meeting was conducted among various stakeholders to discuss challenges and opportunities related to furthering commerce and trade between Arizona and Sonora. It also was the first time a city from Sonora participated in the Showcase of Cities and Towns event—a 27-year tradition where cities and towns from Arizona come to learn about one another.

This year, a special resolution will be presented to the League Executive Committee to make Ari-Son an official affiliate group of the League of Arizona Cities and Towns.

Responsible Person: President Mitchell

Attachments: Resolution declaring Ari-Son an official affiliate group of the League

Action Requested: Approval of Resolution
A RESOLUTION TO RECOGNIZE THE
ARI-SON MEGAREGION COUNCIL AS AN AFFILIATE GROUP
OF THE LEAGUE OF ARIZONA CITIES AND TOWNS

WHEREAS, local government officials in Arizona and Sonora have signed a partnering agreement to form a megaregion to advance projects of local and regional significance; and

WHEREAS, several binational efforts have been undertaken by local governments and regions in Arizona and Sonora to enhance greater cross-border connectivity and dialogue to further commerce, trade and tourism and administrative best practices and programs; and

WHEREAS, the League of Arizona Cities and Towns presented a Commemoration of Binational Local Cooperation to Mayors of Sonora at the 2014 annual conference, recognizing the first-time attendance of Mayors from Sonora at the annual conference; and

WHEREAS, leaders from cities and towns representing sister cities and regions of Arizona and Sonora have forged an alliance and spirit of cooperation to empower the voice of local government in both states; and

WHEREAS, Ari-Son is a binational megaregion council of local elected representatives from Arizona and Sonora who will meet to discuss the advancement of key binational initiatives; and

WHEREAS, the Ari-Son Megaregion Council will work in collaboration with various stakeholders from all levels of government and the business community to positively impact the economic prosperity of communities on both sides of the border; and

WHEREAS, the League of Arizona Cities and Towns supports continued efforts to maintain dialogue and advance initiatives that will increase greater partnerships among cities and towns to strategically position the Ari-Son Megaregion in the global economy;


President, League of Arizona Cities & Towns

Date
RESOLUCIÓN DE RECONOCIMIENTO AL CONSEJO DE LA MEGAREGIÓN ARI-SON COMO UN GRUPO AFILIADO A LIGA DE CIUDADES Y PUEBLOS DE ARIZONA

CONSIDERANDO QUE, representantes políticos de los gobiernos locales de Arizona y Sonora han firmado un acuerdo para formar una megaregión con el fin de promover proyectos de importancia local y regional; y

CONSIDERANDO QUE, varias iniciativas binacionales han sido impulsadas por gobiernos locales y regionales en Arizona y Sonora, para mejorar la conexión transfronteriza y dialogar para promover el comercio, el turismo y los programas sobre mejores prácticas en la administración pública; y

CONSIDERANDO QUE, la Liga de Ciudades y Pueblos de Arizona presentó a los Alcaldes de Sonora en la conferencia anual del año 2014 una Conmemoración de la Cooperación Binacional entre Gobiernos Locales, en la cual se reconoció a los Alcaldes de Sonora por participar por primera vez en la conferencia; y

CONSIDERANDO QUE, los líderes de las ciudades y pueblos que representan a las ciudades hermanas y a las regiones de Arizona y Sonora han forjado una alianza y espíritu de cooperación para fortalecer la voz de gobiernos locales en ambos estados; y

CONSIDERANDO QUE, Ari-Son es un consejo binacional de la megaregión formado por representantes políticos locales de Arizona y Sonora que se reúne para debatir sobre el avance de iniciativas binacionales; y

CONSIDERANDO QUE, el Consejo de la Megaregión Ari-Son trabajará en colaboración con actores de distintos niveles de gobierno y con la comunidad empresarial para impactar positivamente la prosperidad económica de las comunidades de ambos lados de la frontera; y

CONSIDERANDO QUE, la Liga de Ciudades y Pueblos de Arizona apoya continuamente esfuerzos para mantener el diálogo y promover iniciativas que fomentarán más alianzas entre ciudades y pueblos para posicionar estratégicamente la Megaregión Ari-Son en la economía global;

AHORA POR LO TANTO SE RESUELVE QUE, el Comité Ejecutivo de la Liga de Ciudades y Pueblos de Arizona en la Conferencia Anual del año 2016, declara en el día de la fecha, al Consejo de la Megaregión Ari-Son como un grupo afiliado a la Liga de Ciudades y Pueblos de Arizona.

______________________________________________  ___________________
Presidente de la Liga de Ciudades y Pueblos de Arizona  Date
Agenda Item #3  TPT Implementation Update

Summary: Since our last report, significant progress has been made by the DOR in the implementation and testing of new collection systems for municipal TPT. Additionally, we have successfully negotiated a new IGA with the Department for collections services and have updated the contract between cities and towns and the Department. The Executive Committee will be given an update on the outcome of testing and the date DOR collection services, with the location data required in legislation, will be ready to go.

Responsible Person: Tom Belshe, Deputy Director

Attachments: New City IGA with DOR
DOR Project Summary
Modifications to the IGA with DOR

The IGA all cities and towns have with Department of Revenue for the administration of TPT was due for review and modification in March, however, due to time constraints a complete review was not able to be completed according to that timeline. In late June the League reached agreement with the DOR on five changes deemed critical based on the experience of the first year under the new agreement.

1) A section was added to more efficiently handle adjustments in tax allocations, particularly when the taxpayer has made an obvious error. Previously DOR was required to send the money to the wrong city, then collect it back when the error was resolved to send it to the correct city. Now DOR has permission to hold funds they know are allocated in error.

2) Language was added to ensure that cities and towns are involved in the discussion of rulings and interpretations of the MCTC and any new items that impact both the State and the cities. TPT Simplification assigned this authority to DOR, but it was recognized that the cities need direct input in such matters.

3) A minor language change was made to clarify that DOR provides TPT collection without charge, regardless of any statutory requirement for local jurisdictions to contribute toward the operating expenses of the agency.

4) The specific dates for the term length were removed to clarify that the agreement perpetually renews automatically each year. Also, language was added stating any modifications approved by the reviewers are to be incorporated from the beginning of the term identified by that group, regardless of when officially approved.

5) Dates were shifted from requiring review completion by March 31st, to merely require initiation of the review not later than June 1st. This will allow for a more robust review, without deadline pressure at a time when resources appear to be least available.

The IGA modification document is currently in the hands of each city and town awaiting approval of their Council. Upon approval, please follow the instructions for returning two signed originals to DOR for additional processing by the Attorney General’s office.
DOR Project Summary

The League continues to work with the Department of Revenue on the implementation of systems that will enable the agency to take over collection of TPT in all cities and towns in the state.

The revised software, including the location data required by cities and towns, was implemented for Program cities and towns beginning with the June tax return. As a function of the development process, fields are also available online to process license fees and tax returns due to the self-collecting cities.

DOR met with the League and several Finance Directors to discuss this issue and a reasonable solution was worked out. DOR would make efforts to assist the self-collecting cities in retaining their processing during this phase-in period by placing prominent announcements on their website.

Meanwhile, any payments that are processed by DOR would be transferred to cities in the manner planned for life after the full transition. All of the new reports are ready to go, with weekly reports received by each city and town, and with monthly reports expected in the next few days or weeks depending on the nature of the report.

The process of merging the taxpayer databases of the self-collecting cities and the State continues. The cities offered to perform the 2017 Tax License Renewal process again in an effort to relieve the pressure to complete that task before October, and all indications are the DOR will accept that offer.

The self-collecting cities can begin testing the live processing outcomes when the June report period closes in mid-August.

The agency remains committed to our request for two consecutive successful reporting periods, including a Quarterly period (June), as the basis for the “Go Live” decision, followed by actual transition to full State collection and administration on the 1st of the month that is not less than 60 days later. If all goes according to plan, we could conceivably see transition to full State administration in January.
Agenda Item #4  Construction Sales Tax Task Force Update

Summary: In anticipation of legislation next year that will again change the way Construction Contracting is taxed, the League created a new Task Force to research practices in other states, to define the unique characteristics of Arizona and to recommend a set of principles for reform acceptable to cities and towns.

John Kross, Town Manager of Queen Creek, is chairing the group which is meeting over the summer and is expected to issue its findings in the late Fall.

Responsible Person: Patrice Kraus, Legislative Director
John Kross, Chairman of Construction Sales Tax Task Force

Attachments: CST Task Force Project Summary
Principles for Reform
Stakeholder Issues and Concerns
Task Force Membership
CST Task Force Summary

The League established a Contracting Sales Tax Task Force along the lines of the very successful PSPRS Task Force effort of last year. The primary goal is to identify or create a variety of “best practices” models for the simplification of Construction Contracting tax administration.

Since late June the Task Force has held three official meetings covering 1) the history and current application of the tax in Arizona, 2) developing a set of identified Stakeholder Issues and a set of Guiding Principles (still in development), and 3) discussed the true nature of how Construction Contracting is taxed in our neighboring states.

The next meeting will be a brainstorming session to collect the group’s ideas for potential solutions that are aligned with the principles for our technical experts to further evaluate. Later meetings will discuss issues raised by a study from the industry versus the realities of actual practice, and discussion of the experts’ analysis of proposals.

Potential solutions will be evaluated on their ability to equally address the needs of both the industry and the taxing jurisdictions. Our effort is focused on crafting a balance between ease of administration for all stakeholders, and maintaining the most accurate allocation of local tax revenues to the city/town where the activity occurs.

This effort should culminate in the development of objective reference materials for future discussions with the industry and legislators.
PRINCIPLES OF A CONSTRUCTION ACTIVITY TRANSACTION PRIVILEGE TAX AND USE TAX SYSTEM

- **Ensures tax revenues are remitted to the jurisdiction in which the activity occurs**
  
  - Transaction privilege taxes (TPT) related to contracting should be imposed at the job site to address the demand for additional local services resulting from the construction activity.

- **Does not result in a significant reduction in revenues for the local or state governments**
  
  - The intent of taxation is to generate revenue to pay for government infrastructure and services. Revenue losses in one area could result in a need to increase other taxes or fees, shifting the burden from one group of taxpayers to another, or could cause services to be reduced.
  
  - Revenues from construction taxes have been pledged to support bond repayment and, in some cases, have been part of impact fee calculations. Changes to the system that materially impacts the amount of revenue collected can adversely affect these other policies.

- **Maintains the integrity of other tax systems and policies**
  
  - Transaction privilege taxes in Arizona are imposed on gross receipts. Changes in Contracting TPT should not undermine this basic tenet, adversely impact or lead to alterations in the imposition of other transaction privilege taxes or impact local sales tax authority.

- **Fairness for all similarly situated taxpayers**
  
  - All taxpayers within a subcategory of construction activity should be treated equitably, but inherent differences between the activities that are covered within the broader scope of the construction industry must be recognized.

- **Easy to determine tax obligation and to comply with remittance**
  
  - Provides clarity for each type of taxpayer within the broad definition of construction about how the tax applies and the amount owed, particularly when bidding a job.

- **Prevents tax avoidance by relocating or restructuring businesses**
  
  - Does not create unintended consequences or encourage tax avoidance, for example by moving businesses out of state, out of a city's jurisdiction, onto reservations, etc.
Stakeholder Issues and Concerns

Cities and Towns:

- Revenues need to stay in the city where the burden of the job occurs
- Revenue losses must be minimized to avoid other TPT tax increases, property tax increases, other service fees and charges, or service level decreases
- State shared and direct Contracting revenues are essential and pledged to bond covenants and will impact the ability to pay bonds and future borrowing
- Impact fees adopted in 2014 included tax rate differentials between Contracting and Retail, so removal of this tax will negatively change the impact fee calculations, ultimately increasing direct impact fees
- Tax has always been on the total activity and gross receipts, not just materials
- Contracting is major revenue source, particularly in growing areas
- Sets a precedent or principle of shifting the tax burden to a wholesale transaction and away from the final transaction to the consumer
- Non-compliance appears to be growing under the current system – Permits are going up, but revenues are going down without a clear pick up in Retail or MRRA

Counties:

- Revenues need to stay in the county where the burden of the job occurs
- Revenue losses must be minimized to avoid other TPT tax increases, property tax increases, other service fees and charges, or service level decreases
- Tax has always been on the total activity and gross receipts, not just materials
- Contracting is major revenue source, particularly for the rural counties that typically do not have material supplier Retail operations
- Sets a precedent or principle of shifting the tax burden to a wholesale transaction and away from the final transaction to the consumer
- Non-compliance appears to be growing under the current system – Permits are going up, but revenues are going down without a clear pick up in Retail or MRRA

State:

- Tax has always been on the total activity and gross receipts, not just materials
- Contracting is major revenue source
- Revenue losses should be minimized to avoid other tax increases or service reductions
- Non-compliance appears to be growing under the current system – Permits are going up, but revenues are going down without a clear pick up in Retail or MRRA
Stakeholder Issues and Concerns

MRRA Contractors (Handymen):
- 35% Labor is insufficient and unfair given their higher than normal labor element
- Filing 15 separate tax returns each month is burdensome
- Too difficult to know which jurisdiction each job is located in

Prime Contractors:
- Believe tax should only apply to materials
- Believe tax at the Retailer is easier, greater compliance, fewer tax return filers
- Believe Arizona is harder/more work than other states to comply with
- Most protested/litigated area of the TPT tax code
- Complaints that ADOR is requiring annual exemption certificates
- Inconsistency in tax treatment, both State vs. cities and from city to city
- A split system is unfair and too hard
- Want to make this the last change to the system

Hybrid (Doing both Prime and MRRA):
- Too difficult to determine if the job is MRRA or Prime Contracting, so many just choose one for all jobs, usually Prime (anecdotally, it appears some are choosing not to report)
  - Want all bids to be made on the same basis, either Prime or MRRA
  - Confusion over when it applies
  - Need a cleaner bright line
- DOR has told them they must choose and will be held accountable for the choice
- Differentiating inventory for MRRA vs Prime
- Some complain the vendors have cancelled all exemption certificates
- Complaints that ADOR is requiring annual exemption certificates
- Tax should only apply to materials
- Believe that tax at the Retailer is easier, greater compliance, fewer tax return filers

Materials Suppliers:
- Most have always been fully tax exempt, now will become new taxpayers
- Confusion in the DIY market; how they tax their own contracting activity
- Complaints that ADOR is requiring annual exemption certificates
- Pressure to move out of city / out of state to reduce tax burden and pricing
- Likely eventual shift of revenues from Retail to Use tax – not uniformly applied, low compliance, still relies on the Contractor to report and pay based on job site
Members of the Construction Sales Tax Task Force

John Kross, Town Manager, Town of Queen Creek, Chairman
   Larry Price, Finance Director, City of Buckeye
Ryan Peters, Intergovernmental Affairs Coordinator, City of Chandler
   Brian Wright, Finance Director, City of Eloy
Barbara Goodrich, Deputy City Manager, City of Flagstaff
   John Olsen, Tax Compliance Manager, Town of Gilbert
Doug Sandstrom, Finance Director, City of Goodyear
Ben Ronquillo, Finance Director, City of Litchfield Park
   Erik Montague, Finance Director, Town of Marana
   Mickey Tait, Tax Administrator, City of Mesa
Kevin Burke, Town Manager, Town of Paradise Valley
Paul Lopez, Sales Tax, Audit and Collections Supervisor, City of Peoria
   Sandra Schilling, Assistant Finance Director, City of Phoenix
Jeff Nichols, Chief Financial Officer, City of Scottsdale
   Ken Jones, Chief Financial Officer, City of Tempe
Donald “Pat” Wicks, Finance Director, City of Yuma
Agenda Item #5  Discussion of Public Opinion Survey/Communications Messaging

Summary: Cities and towns face significant challenges in getting our message heard through all the clutter of news and political dialogue. Legislators and the general public often know city services only through anecdotal reports or isolated incidents. Mayors are in a unique position to command the attention of their citizens and are generally much better known to local citizens than their legislative representatives. Yet, our recent messaging has not been consistent across cities and towns.

The League conducted a comprehensive statewide public opinion survey on cities and towns in 2007 that revealed that citizens trusted their local officials more than any other level of government to use their tax dollars wisely and to deliver the services that they promise.

In light of the challenges we face at the legislature and in our own communities, it is time to develop a new baseline of data on city services in Arizona, and develop a coordinated set of messages that can be used consistently by Mayors in all parts of the state and using a variety of effective media tools. This agenda item is designed to open up that dialogue and receive direction from the Executive Committee about its execution.

Responsible Person: Ken Strobeck
Agenda Item #6  Resolution of Appreciation

Summary:  A Resolution of Appreciation for former Mayor John Lewis of Gilbert is enclosed for action by the Executive Committee.

Responsible Person:  President Mark Mitchell

Attachment:  Resolution of Appreciation
RESOLUTION OF APPRECIATION FOR

John Lewis

A RESOLUTION EXPRESSING THE APPRECIATION OF THE EXECUTIVE COMMITTEE OF THE LEAGUE OF ARIZONA CITIES AND TOWNS TO JOHN LEWIS for his DEDICATED SERVICE TO LOCAL GOVERNMENT IN ARIZONA.

WHEREAS, JOHN LEWIS has served the citizens of the Town of Gilbert as Mayor since 2009; and

WHEREAS, JOHN LEWIS has provided outstanding service to the League as a member of the Executive Committee from 2012-2016; and

WHEREAS, JOHN LEWIS served on the League Resolutions Committee, the League Resolutions Subcommittee, the League Nominating Committee and other special League committees; and

WHEREAS, JOHN LEWIS was an active participant in League meetings and Conferences as a speaker and a presiding officer; and

WHEREAS, JOHN LEWIS was actively engaged with legislators about League issues of importance to cities and towns; and

WHEREAS, JOHN LEWIS was a highly visible and publicly engaged Mayor who brought positive energy, a sense of community and family-friendly values to the Town of Gilbert;

NOW, THEREFORE BE IT RESOLVED, that the grateful appreciation of the League of Arizona Cities and Towns be extended to JOHN LEWIS for his service to municipal government in Arizona and to the League.
Agenda Item #7 Possible Executive Session: Legal Advice

Summary: The Executive Committee may go into Executive Session pursuant to A.R.S. 38-431.03(A)(3) for the purpose of receiving advice from legal counsel.

Responsible Person: President Mark Mitchell
State senator wants AG to investigate Bisbee over plastic-bag law

By Howard Fischer Capitol Media Services
August 10, 2016

PHOENIX — A Republican state senator wants Attorney General Mark Brnovich to investigate Bisbee for what she claims is a decision to ignore state law prohibiting local laws on plastic bags.

Gail Griffin of Hereford noted that earlier this year, lawmakers re-enacted a statute that specifically blocks any regulations, fees or deposits on bags, bottles, aluminum or other “auxiliary containers.” That law took effect this past Saturday.

In a letter to the attorney general, she cited another statute, which became effective the same day, requiring Brnovich to investigate any complaint by a lawmaker that a local government is violating any state law.

If Brnovich finds a violation, that law requires him to give the community 30 days to withdraw the regulation. If the local government balks, the state treasurer is mandated to withhold that city or county’s state-shared revenues, money that can make up a substantial part of the local budget.

While this complaint is specific to Bisbee, the way it is handled and resolved is important.

This is the first complaint filed under the new law on local control.

If Brnovich sides with Griffin, it could sideline similar restrictions on bags and containers being weighed in other communities, including Tucson and Flagstaff.

It also could result in litigation over how much power state lawmakers have over issues that cities — and particularly charter cities like Bisbee — contend are strictly of local concern.

This particular dispute involves a Bisbee ordinance imposing a nickel-a-bag tax on disposable bags.

Retailers get to keep 2 cents for the cost of the bags and administering the fee; the balance goes to a fund that can be used to provide reusable carryout bags and to promote conservation and recycling efforts.

Shortly after the local law was enacted in 2012, Bisbee City Attorney Britt Hanson wrote to Brnovich.
In that letter, Hanson cited several court rulings where judges have voided state laws that improperly interfere with the rights of charter cities to have final say on matters of local concern. He said the city’s bag ordinance fits within that category.

“One of the several purposes of Bisbee Ordinance O-13-14 was to eliminate the unsightly litter along Bisbee roads and elsewhere that resulted from plastic bags blown and caught on trees,” Hanson wrote. “Accordingly, the city regards the ordinance as in full force and effect.”

Griffin, in her letter to Brnovich, said she has been told that the city council and others operate from the position “that they are grandfathered and that the new law that took effect Aug. 6 does not apply to them.”

“The Bisbee City Council is choosing to ignore these new laws,” she said, of both the prohibition on bag ordinances as well as the statute requiring cities to bend to the will of the Legislature or face financial penalties.

She wants Brnovich to clarify that cities and towns cannot make their own laws that have been precluded by lawmakers, and to tell her “what steps you will be taking to enforce the Arizona statutes.”

Hanson said late Tuesday he could not comment on Griffin’s letter.

Griffin said her letter is the result of a complaint from constituents in Bisbee.

Brnovich may not get the last word: There already is a lawsuit pending in Maricopa County Superior Court filed by Tempe Council member Lauren Kuby.

Tempe, along with Bisbee, Tucson, Flagstaff and 15 other Arizona communities, are charter cities. Attorney Tim Hogan of the Arizona Center for Law in the Public Interest, who filed Kuby’s lawsuit, said the Arizona Constitution “gives charter cities certain rights and privileges in local matters to legislate free from interference by the Legislature.”

Hogan said the question of recycling fits that definition. “Waste has always been a local issue,” he said.

Griffin disagreed. “I think it’s a matter of statewide control because there are several other cities that are contemplating and have contemplated this particular issue,” she said.

Charter cities in Arizona

Source: League of Arizona Cities and Towns
Additional Informational Materials

Not Part of the Agenda

League Budget Report
Property Corporation Budget Report
ARTICLE: Sign anarchy: Aftermath of Supreme Court decision opens Pandora’s Box of sign code problems
ARTICLE: My Turn: Arizona cities to state: Butt out!
League of Arizona Cities & Towns  
**FY 2015-2016 Budget vs. Actual**  
**July 2015 through June 2016**

<table>
<thead>
<tr>
<th>Ordinary Income/Expense</th>
<th>Jul '15 - Jun 16</th>
<th>Budget</th>
<th>$ Over Budget</th>
<th>% of Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4057 · Valley Schools Health Pool</td>
<td>25,000.00</td>
<td>25,000.00</td>
<td>0.00</td>
<td>100.0%</td>
</tr>
<tr>
<td>4000 · Affiliate Group Contribution</td>
<td>121,870.76</td>
<td>131,450.00</td>
<td>-9,579.24</td>
<td>92.7%</td>
</tr>
<tr>
<td>4005 · Annual Conference</td>
<td>429,144.95</td>
<td>375,000.00</td>
<td>54,144.95</td>
<td>114.4%</td>
</tr>
<tr>
<td>4010 · Dues</td>
<td>1,897,377.00</td>
<td>1,897,376.00</td>
<td>1.00</td>
<td>100.0%</td>
</tr>
<tr>
<td>4012 · Executive Recruitment Income</td>
<td>0.00</td>
<td>6,000.00</td>
<td>-6,000.00</td>
<td>0.0%</td>
</tr>
<tr>
<td>4020 · Miscellaneous</td>
<td>37,092.33</td>
<td>22,000.00</td>
<td>15,092.33</td>
<td>168.6%</td>
</tr>
<tr>
<td>4030 · Risk Pool</td>
<td>143,530.54</td>
<td>141,000.00</td>
<td>2,530.54</td>
<td>101.8%</td>
</tr>
<tr>
<td>4035 · Seminars &amp; Meetings</td>
<td>38,660.00</td>
<td>30,000.00</td>
<td>8,660.00</td>
<td>128.9%</td>
</tr>
<tr>
<td>4040 · Interest Income</td>
<td>6,797.41</td>
<td>2,500.00</td>
<td>4,297.41</td>
<td>271.9%</td>
</tr>
<tr>
<td>4055 · US Communities Purchasing P...</td>
<td>14,767.47</td>
<td>12,000.00</td>
<td>2,767.47</td>
<td>123.1%</td>
</tr>
<tr>
<td><strong>Total Income</strong></td>
<td>2,714,240.46</td>
<td>2,642,326.00</td>
<td>71,914.46</td>
<td>102.7%</td>
</tr>
<tr>
<td>Expense</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5005 · Annual Conference (Expense)</td>
<td>232,942.00</td>
<td>220,000.00</td>
<td>12,942.00</td>
<td>105.9%</td>
</tr>
<tr>
<td>5010 · Benefits</td>
<td>479,242.98</td>
<td>596,000.00</td>
<td>-116,757.02</td>
<td>80.4%</td>
</tr>
<tr>
<td>5015 · Capital Outlay</td>
<td>22,348.42</td>
<td>20,000.00</td>
<td>2,348.42</td>
<td>111.7%</td>
</tr>
<tr>
<td>5025 · Contingency</td>
<td>0.00</td>
<td>10,000.00</td>
<td>-10,000.00</td>
<td>0.0%</td>
</tr>
<tr>
<td>5030 · Equipment Rental &amp; Maintenace...</td>
<td>23,064.47</td>
<td>25,000.00</td>
<td>-1,935.53</td>
<td>92.3%</td>
</tr>
<tr>
<td>5035 · Executive Committee</td>
<td>6,007.30</td>
<td>12,000.00</td>
<td>-5,992.70</td>
<td>50.1%</td>
</tr>
<tr>
<td>5043 · Executive Recruitment</td>
<td>0.00</td>
<td>3,000.00</td>
<td>-3,000.00</td>
<td>0.0%</td>
</tr>
<tr>
<td>5050 · Insurance</td>
<td>8,120.75</td>
<td>7,600.00</td>
<td>520.75</td>
<td>106.9%</td>
</tr>
<tr>
<td>5055 · Postage &amp; Shipping</td>
<td>3,463.43</td>
<td>6,000.00</td>
<td>-2,536.57</td>
<td>57.7%</td>
</tr>
<tr>
<td>5057 · PR &amp; Communications</td>
<td>32,400.00</td>
<td>70,000.00</td>
<td>-37,600.00</td>
<td>46.3%</td>
</tr>
<tr>
<td>5060 · Printing</td>
<td>9,363.21</td>
<td>10,000.00</td>
<td>-636.79</td>
<td>93.6%</td>
</tr>
<tr>
<td>5065 · Professional Services</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5065-1 · Accounting Services</td>
<td>42,379.76</td>
<td>42,000.00</td>
<td>379.76</td>
<td>100.9%</td>
</tr>
<tr>
<td>5065-3 · Legal Services</td>
<td>29,715.21</td>
<td>40,000.00</td>
<td>-10,284.79</td>
<td>74.3%</td>
</tr>
<tr>
<td>5065-2 · Contract Lobbying &amp; Cons...</td>
<td>141,815.88</td>
<td>80,000.00</td>
<td>61,815.88</td>
<td>177.3%</td>
</tr>
<tr>
<td><strong>Total 5065 · Professional Services</strong></td>
<td>213,910.85</td>
<td>162,000.00</td>
<td>51,910.85</td>
<td>132.0%</td>
</tr>
<tr>
<td>5070 · Rent</td>
<td>105,000.00</td>
<td>105,000.00</td>
<td>0.00</td>
<td>100.0%</td>
</tr>
<tr>
<td>5071 · Salaries</td>
<td>1,219,253.65</td>
<td>1,361,500.00</td>
<td>-142,246.35</td>
<td>89.6%</td>
</tr>
<tr>
<td>5075 · Seminars and Meetings</td>
<td>52,178.25</td>
<td>50,000.00</td>
<td>2,178.25</td>
<td>104.4%</td>
</tr>
<tr>
<td>5085 · Subscriptions &amp; Dues</td>
<td>60,397.30</td>
<td>58,000.00</td>
<td>2,397.30</td>
<td>104.1%</td>
</tr>
<tr>
<td>5090 · Supplies</td>
<td>33,132.55</td>
<td>38,000.00</td>
<td>-4,867.45</td>
<td>87.2%</td>
</tr>
<tr>
<td>5095 · Telecommunications</td>
<td>26,698.61</td>
<td>32,000.00</td>
<td>-5,301.39</td>
<td>83.4%</td>
</tr>
<tr>
<td>5100 · Travel</td>
<td>17,230.28</td>
<td>26,000.00</td>
<td>-8,769.72</td>
<td>66.3%</td>
</tr>
<tr>
<td><strong>Total Expense</strong></td>
<td>2,544,754.05</td>
<td>2,812,100.00</td>
<td>-267,345.95</td>
<td>90.5%</td>
</tr>
<tr>
<td>Net Ordinary Income</td>
<td>169,486.41</td>
<td>-169,774.00</td>
<td>339,260.41</td>
<td>-99.8%</td>
</tr>
<tr>
<td>Net Income</td>
<td>169,486.41</td>
<td>-169,774.00</td>
<td>339,260.41</td>
<td>-99.8%</td>
</tr>
</tbody>
</table>
## Property Corporation
### FY 2015-2016 Budget vs. Actual
#### July 2015 through June 2016

<table>
<thead>
<tr>
<th>Ordinary Income/Expense</th>
<th>Jul '15 - Jun 16</th>
<th>Budget</th>
<th>$ Over Budget</th>
<th>% of Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Income</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4000 · Rental Income</td>
<td>119,774.40</td>
<td>119,400.00</td>
<td>374.40</td>
<td>100.3%</td>
</tr>
<tr>
<td>4005 · Miscellaneous</td>
<td>0.00</td>
<td>3,100.00</td>
<td>-3,100.00</td>
<td>0.0%</td>
</tr>
<tr>
<td>4010 · Interest</td>
<td>48.42</td>
<td>50.00</td>
<td>-1.58</td>
<td>96.8%</td>
</tr>
<tr>
<td><strong>Total Income</strong></td>
<td>119,822.82</td>
<td>122,550.00</td>
<td>-2,727.18</td>
<td>97.8%</td>
</tr>
<tr>
<td><strong>Expense</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5000 · Maintenance Services/Agreements</td>
<td>34,169.69</td>
<td>33,000.00</td>
<td>1,169.69</td>
<td>103.5%</td>
</tr>
<tr>
<td>5015 · Utilities</td>
<td>37,079.36</td>
<td>36,000.00</td>
<td>1,079.36</td>
<td>103.0%</td>
</tr>
<tr>
<td>5020 · Repairs and Maintenance</td>
<td>17,009.95</td>
<td>12,000.00</td>
<td>5,009.95</td>
<td>141.7%</td>
</tr>
<tr>
<td>5025 · Operating Expenses</td>
<td>5,752.67</td>
<td>4,800.00</td>
<td>952.67</td>
<td>119.8%</td>
</tr>
<tr>
<td>5030 · Accounting and Auditing</td>
<td>6,700.00</td>
<td>6,700.00</td>
<td>0.00</td>
<td>100.0%</td>
</tr>
<tr>
<td>5035 · Insurance</td>
<td>3,982.38</td>
<td>5,050.00</td>
<td>-1,067.62</td>
<td>78.9%</td>
</tr>
<tr>
<td>5040 · Capital Outlay</td>
<td>31,766.84</td>
<td>25,000.00</td>
<td>6,766.84</td>
<td>127.1%</td>
</tr>
<tr>
<td><strong>Total Expense</strong></td>
<td>136,460.89</td>
<td>122,550.00</td>
<td>13,910.89</td>
<td>111.4%</td>
</tr>
<tr>
<td><strong>Net Ordinary Income</strong></td>
<td>-16,638.07</td>
<td>0.00</td>
<td>-16,638.07</td>
<td>100.0%</td>
</tr>
<tr>
<td><strong>Net Income</strong></td>
<td>-16,638.07</td>
<td>0.00</td>
<td>-16,638.07</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
As the political season begins in earnest and campaign signs start to pepper roads around the state, a recent U.S. Supreme Court decision is complicating cities’ abilities to regulate other kinds of signs.

The 2015 Supreme Court decision in Reed v. Town of Gilbert leaves cities in a difficult position: State law says cities must allow political signs on the public right-of-way for roughly five months surrounding an election. But the Supreme Court says if cities allow political signs on street corners, they must allow other types of signs, too.

The window during which cities must allow political signs on the public right-of-way opens on July 1. When that window opens, so does a Pandora’s Box of sign code problems.

In light of the Reed case, some cities plan to stop removing almost any sign placed in the public right-of-way during that period.

John Baker, a Minnesota-based attorney who works on sign code laws around the country, said the ruling is leading to “noncommercial speech anarchy.”

But some cities are interpreting that anarchy as also extending to commercial signs.
The city of Phoenix is being extra cautious in enforcing its sign code in the wake of the ruling, and isn’t even taking down commercial signs during the political season. That will mean leaving up about 18,000 signs along the roadsides that otherwise would have been taken down - signs advertising everything from yard sales, weight loss programs, and offers to buy “ugly houses.”

The city has two full-time employees who take down about 3,600 of those signs a month, or about 42,000 per year. But starting July 1, those two employees will be reassigned to graffiti duty until Nov. 23, when cities can once again remove political signs under state law.

The city will still remove signs in the public right-of-way if they are larger than 32 square feet, block traffic or present a safety hazard. But as long as the signs follow the same lenient rules imposed on political signs, they can remain on the roadsides during the political season.

“Content based” regulations

Clyde Reed, pastor at Good News Community Church, filed the groundbreaking lawsuit after his church had been ticketed by the town of Gilbert for not removing a sign advertising its services within one hour after the services concluded. Reed sued, arguing the city sign code violated his First Amendment right to free speech because it had imposed tougher regulations on the church signs than on political candidate signs, who were allowed to leave their signs up for months at a time.

The court agreed. In a unanimous ruling, the court essentially stated that governments cannot impose “content based” regulations on signs, which are a form of free speech.

Signs everywhere

As cities struggle to re-write their sign codes in the wake of Reed v. Town of Gilbert, sign code experts say the key is to create “content neutral” sign codes that focus “time, place and manner” restrictions and the physical characteristics of the signs, rather than the message they contain.

Unconstitutional

“Political sign” allowed in public right of way for 60 days preceding the primary election until 15 days following the general election.

Constitutional

“Temporary sign” allowed in public right of way for 60 days preceding an event until 15 days following an event.

The takeaway point from that case, experts say, is that if you have to read a sign to know if it’s in violation of a city sign code, that city sign code is probably unconstitutional, like Gilbert’s code.

The problem is, most cities’ sign codes look a lot like Gilbert’s.

In Arizona and across the country, cities, towns and counties are struggling with how to write a sign code that doesn’t reference what the sign is for - whether it is a political sign, a business sign, a real estate sign, a restaurant menu sign, a construction sign or a garage sale sign.
Experts say the best way to deal with the ruling is to draft sign codes that classify by physical attributes of the signs, rather than the words the signs contain.

But as they struggle to re-write their codes, many cities are choosing not to regulate signs at all during this year's political season.

**Seeking a model ordinance**

Ken Strobeck, executive director of the League of Arizona Cities and Towns, said nearly every city in Arizona that has a sign code will have to revise its code in the wake of Reed v. Gilbert – but nobody has figured out a good model code for the new rules.

“Our attorney and a group of city attorneys have been trying for months to put together a model ordinance that harmonizes all this, and it doesn’t sound complicated, but it really is,” Strobeck said.

He said many cities have been interpreting the law differently from each other, with some applying the ruling only to non-commercial speech and some applying it to all kinds of signs, including those that are simply advertisements for businesses.

Strobeck said in his view, Reed doesn’t necessarily apply to commercial speech.

Some cities, such as Gilbert, are reading the law that way. But others, such as Phoenix, disagree.

Jared Blanchard, an attorney with the Goldwater Institute, recently penned a policy paper for the institute titled “Heed Reed” that stated: “A quick look around the state shows that Arizona municipalities have either failed to revise their sign codes in accordance with Reed, or have failed to do so properly.”

He argued the ruling actually applies to commercial speech as well. In order to know if the sign’s speech is commercial or non-commercial, a person would have to read that sign, which is exactly what the court found problematic, he said.

**The City of Phoenix removes:**

42,000 illegally placed commercial signs in the public right of way

18,000 commercial signs during the roughly five-month window defining election season

(Graphic by Rachel Leingang, Arizona Capitol Times)

And while the case didn’t specifically speak to commercial versus non-commercial speech, Blanchard noted there have been other cases in the 4th Circuit Court of Appeals that seemed to apply the same logic to commercial speech.

But Jack Vincent, Gilbert's assistant town attorney, argued that the case only applied to non-commercial speech, so the city can still regulate roadside signs advertising businesses.

“As far as we see, the court didn’t do anything to change the distinction between commercial and noncommercial speech. Non-commercial speech still has greater protections than commercial speech,” he said.

**Not so simple**
Further complicating the issue is the state law requiring cities to allow “political signs” in the public right-of-way beginning 60 days before the primary election and ending 15 days after the general election. This year, that means from July 1 to Nov. 23.

Attorney General Mark Brnovich recently issued an opinion on the question of whether that law is unconstitutional in light of the Reed case. He concluded, in short, that it isn’t because the law allows signs rather than restricts them.

Blanchard, the attorney for Goldwater Institute, agreed.

“I don’t think it’s unconstitutional because it’s a command for cities and towns and they can be complied with in a constitutional manner so long as cities and towns also allow everyone to speak in that forum equally,” he said.

But others say it’s not quite that simple.

Mark White, an attorney who specializes in sign codes and has helped re-write several municipal sign codes following Reed v. Gilbert, said most states have similar laws restricting what communities can do to regulate political signs, and their constitutionality hasn’t been tested in court yet.

“But it’s somewhat discriminatory because if I have a sign like the Presbyterian Church in Gilbert had, (state law) doesn’t protect that sign. And therefore the state has violated my constitutional rights by not offering me the same protection that’s offered to political signs. That’s exactly what happened in Reed,” he said.

White said the Legislature has a duty to clarify the law for cities and towns in the wake of the ruling, and if lawmakers don’t do that, “they’re leaving local governments in Arizona in a very, very difficult position.”

Strobeck, from the League of Arizona Cities and Towns, said his organization won’t be pushing the Legislature to clarify the state law and is instead focusing on helping cities and towns deal with their own sign codes.

‘Mitt bit my sushi’

During the 2012 presidential election, public relations guru Jason Rose turned heads of passing motorists when he founded a federal Political Action Committee and, with a cry of free speech, dotted Valley streets with advertisements for a local sushi restaurant in the guise A-political campaign signs.

Phoenix officials declared Rose had “found a loophole” allowing the signs in the public right of way such as city-owned land, along sidewalks and on street corners.

Because the signs were paid for by the restaurant’s PAC and contained slogans mentioning the presidential candidates – such as “Mitt bit my sushi” and “Obama cares about our sushi” – the signs were ostensibly political speech, and not advertisements for a business, which are banned from the public right of way under Phoenix city code.

But this year, companies wouldn’t need the guise of a political PAC to place advertisements in the public right of way.

Rose said he no longer represents the sushi restaurant, and didn’t plan to put up similar “political” signs this year.

But he didn’t realize the Reed case would open up the public right of way to commercial signs. And now he said he may check with his clients to see if they’re interested in putting up advertisements, even though the public hates roadside signs.

“A bunch of wise ass marketers like myself are going to take advantage of that. And the public doesn’t like road signs to begin with, they tolerate it as part of democracy. When they start to see that crap all over the streets, especially the commercial element, they’re gonna be really angry at their local officials,” he said.

It is true that in many states the state legislature is responsible for enacting all the rules for both state and local government. That is not true for Arizona. The framers of Arizona's Constitution took a much different approach when they specifically provided for the establishment of cities and towns by the people and for the adoption of city charters.

Their intent was for the Legislature to be primarily responsible for statewide matters and for cities to govern areas of local concern.

Defining these areas of responsibility is sometimes difficult. In a few instances it has required a court to determine who has jurisdiction. It is certainly not as black and white as Mr. Quinlan would lead you to believe and requires a far more nuanced understanding of the role of state and local governments.

Legislature doesn't create cities

It is also important to note that the state Legislature does not create municipalities. While the Arizona Constitution gives the Legislature the responsibility of creating a process for the incorporation of cities, these communities are actually created by the people.

They elect local mayors and councilmembers to reflect their local values, community culture and identity. When the state steps in to usurp local decision making, it often ignores the time and effort these residents have invested in their community.

In every session, pieces of legislation are introduced that propose to preempt municipal authority. This year it seemed like there was an unusually high number of these attempts to micromanage the business of local governments.

Why pit government against itself?

Instead of state legislators advancing bills pitting one level of government against the other, representatives of cities and towns would prefer to see a more cooperative approach to governance and service delivery.

There are important roles and responsibilities for both the state and for cities and towns in addressing the needs of our residents. There is nothing excessive about wanting to create safe communities, exceptional neighborhoods, quality infrastructure and an environment in which both businesses and families thrive.

By working together instead of as competitors – or worse, as adversaries – we can achieve these goals.

Ken Strobeck is executive director of the Arizona League of Cities and Towns.

Read or Share this story: http://azc.cc/1WVFHn