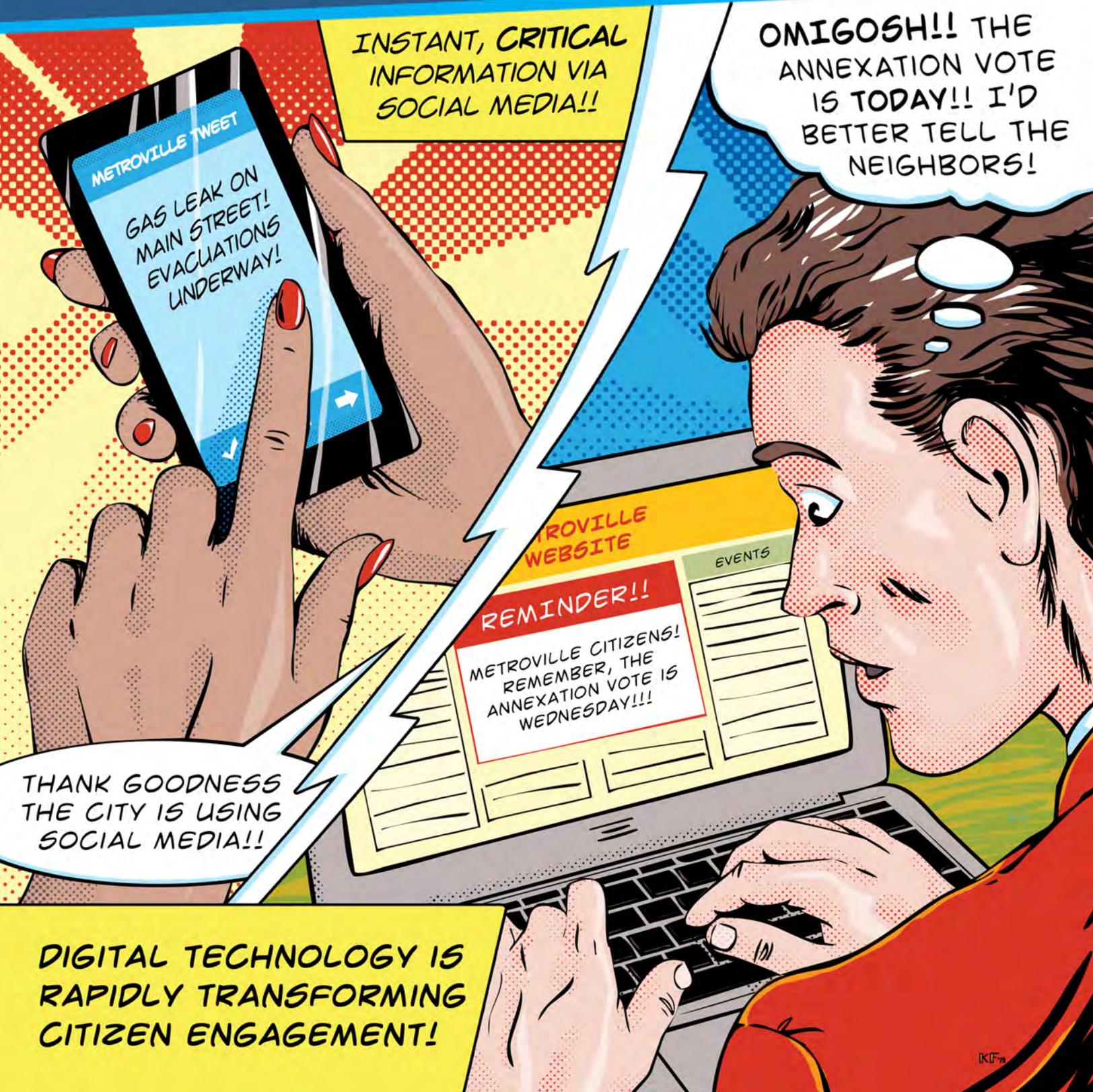


# The Alabama Municipal JOURNAL

October 2013

Volume 71, Number 4



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# The Alabama Municipal JOURNAL

Official Publication, Alabama League of Municipalities

October 2013 • Volume 71, Number 4

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## Table of Contents

<i>A Message from the Editor</i> .....	4
<i>The President's Report</i> .....	5
Social Media Matters	
<i>Municipal Overview</i> .....	7
The Alabama League and the National League of Cities	
<i>Social Media in the Fountain City</i> .....	9
<i>The Legal Viewpoint</i> .....	11
Paying Legal Expenses of Officers & Employees	
<i>Legal Clearinghouse</i> .....	15
<i>Tis the Season: Be Safe!</i> .....	17
<i>Policy Committee Resource Advisor Reports</i> ....	20
<i>Legal FAQ: Procedure – Points of Order</i> .....	21
<i>2014 Municipal Quality of Life Awards Call for Entries</i> .....	26-27
<i>Summary of Requirements for Municipalities Under New Firearms Law</i> .....	28

## On the Cover:

Technology, particularly social media and specialized apps, is rapidly changing not only how we communicate, but how we live. The constant expansion of broadband technology – and the ever increasing capability for people to access it – will eventually dictate how communities provide information and engage citizens. This issue of the *Journal* reviews how Prattville and Tuscaloosa are using information technology to directly reach their citizens.

- Original cover art by Karl Franklin, ALM Graphic Designer

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**Alabama League of Municipalities**



## **A Message from the Editor**

Last month, I spent a couple of days going through the League’s directory of Alabama’s incorporated municipalities to determine which cities and towns have active websites and which ones are currently using some form of social media. I’ve now visited every website for every Alabama municipality currently online. Some sites are extremely well done. Some are still testing the waters and have only gotten a few toes wet. Out of 462 incorporated municipalities, 235 do not have a website – just over 50 percent. From my research, there are 90 municipalities currently using some form of social media, with Facebook being the most popular, meaning just under 20 percent of Alabama’s municipalities are using a social media platform. Of those using social media, 11 municipalities have a Facebook page but not a website – which is actually a very good, *free* option if a municipality doesn’t have the budget and/or personnel for a website. When Facebook pages are added to the count, just over half of Alabama’s incorporated cities and towns have some sort of online presence spearheaded by the municipality.

Technology is radically changing not only how we communicate and do business, but how we *live*. From online banking and bill paying services, to information retrieval and purchasing options, we are a society thoroughly ensconced in the immediate convenience and virtually unlimited access provided by the Internet and specialized apps. The authors of the 2011 book *Race for Relevance: 5 Radical Changes for Associations* dedicate an entire chapter to bridging technology gaps and building frameworks for the future: “The adoption and exploitation of technology, particularly information and communication technologies, must become an integral component of the organization’s functioning and performance. Technology will fundamentally change the way associations deliver value. It will enhance or replace existing delivery systems. It will create new ways to add value that were not conceivable in the past.”

The same can be said for local governments. The constant expansion of broadband technology – and the ever increasing capability for people to access it – will eventually dictate how communities provide information and engage citizens.

One Alabama municipality currently blazing a trail in both website presence and social media use is Prattville. Teresa Lee, the city’s webmaster as well as the mayor’s executive assistant, is responsible for the Fountain City’s website and social media platforms. Be sure to read her article on page 9 for an in-depth review of how Prattville is taking advantage of online technology. The City of Tuscaloosa also effectively uses social media to communicate with constituents. Read Mayor Maddox’s President’s Report on page 5 for more on how Tuscaloosa has structured its social media platforms.

Of course, it’s not necessary to be a larger city to make good use of online technology and resources. While researching Alabama’s municipal websites, one of my most interesting discoveries was that the Town of Mooresville in North Alabama – *population 55* – has a very nice, simple website ([www.moorevilleal.com](http://www.moorevilleal.com)) and is active on both Facebook and Twitter. In fact, Mooresville established its Facebook page in February 2012 and currently has 1,353 “likes.” The tiny community also has 77 Twitter followers. Not bad for a town of less than 60 people.

*continued page 16*

# The President's Report

By Mayor Walt Maddox, Tuscaloosa



## Social Media Matters

On the morning of July 17, 2012, my phone rang at 12:46 a.m. It was Police Chief Steve Anderson. Even though it's impossible to become accustomed to being awakened during the middle of the night, most calls generally require minimum action. However, it was immediately evident in Chief Anderson's voice that this call was different.

Seventeen minutes earlier, a tragic event had unfolded in the heart of our Central City. After I heard we had six wounded and there would likely be more, my feet hit the floor and I got dressed to go downtown to the command center. Not surprisingly, when I arrived the media was already assembling – they had been monitoring social media and were following the various posts of witnesses.

Within minutes, Chief Anderson and I were reviewing video and pictures of a suspect who was now wanted for questioning. Who was he? Why did this happen? Will it happen again and where? We needed answers fast, but it was two o'clock in the morning.

Understanding the significance, we created a coordinated media strategy and immediately began posting information back to a public that was already on Twitter and Facebook discussing this terrifying event. At 5 a.m., we made the decision to put the suspect's picture on Twitter and Facebook. Within minutes, thanks

to the response of the public, we began to put the final pieces of the puzzle together. Within hours, we had the suspect in custody.

### Changing Times

When I was elected Mayor in 2005, I normally began my work day by scanning the newspaper. This ritual gave me an opportunity to see what the news of the day would be and then anticipate how my day might be shaped.

As I enter my third term in office, I now begin my work day by checking my Twitter feed along with my Facebook account. With various settings, I am able to have the news I want to read delivered to my iPhone. Even more importantly, I am able to directly and instantly connect with thousands of my constituents without working through the uncertainty and biases of traditional media.

According to a national survey conducted by Pew Research last fall, 67 percent of Americans use social media. Currently, the City of Tuscaloosa has more than 12,000 Twitter followers and about 10,000 Facebook fans. My personal Twitter and Facebook accounts add several thousand more followers who have a vested interest in their local government.

For mayors and councilmembers, being part of the social media landscape is an absolute necessity because it serves as an ongoing virtual town hall meeting where everybody has access. Social media, when used effectively, can help inform citizens of natural disasters, road closings, council meetings, criminal activity and numerous other events and updates in real time. Even better for your budget, to communicate directly to thousands of constituents you don't have to expend funds for a radio spot, newspaper advertisement, billboard or television commercial.

Clearly, from residents wanting services to a business looking to locate in your community, a municipality's reputation is now being shaped by social media – even if that municipality is not on online.

For Tuscaloosa, if we had failed to respond to the hundreds of Twitter and Facebook messages being generated in the pre-dawn hours of July 17, 2012, we would

*continued page 30*



**Walter Maddox**  
@WalterMaddox

I am staying in close contact with Chief Anderson regarding this morning's shooting - my thoughts and prayers are with the victims

7/17/12, 3:07 AM



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- Judge  
Alabama Court

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- Emma G., Defendant  
Florida State Court

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- Danny B., Defendant  
Marshall County, Alabama

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- Craig A., Defendant  
Foley, Alabama

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# Municipal Overview

By Ken Smith, Executive Director



## The Alabama League and the National League of Cities

I hope each of you will consider attending the National League of Cities' 2013 Congress of Cities at the Washington State Convention Center in Seattle, Washington, November 13 to 16. NLC's Congress of Cities showcases the dynamic ways cities are driving change and finding successful solutions to the most pressing challenges in local government. This event provides city officials and staff from across the country a unique opportunity to share best practices and learn strategies to promote local economic and financial health, improve the built and natural environment, and ensure quality of life for all city residents.

Created by state municipal leagues in 1924 as the American Municipal Association, the National League of Cities has served to strengthen and promote municipalities as centers of opportunity, leadership and governance for nearly 90 years. Since its inception, the Alabama League of Municipalities has had long-standing ties with the national organization – a relationship extending from the mid 1920s before the Alabama League formally organized in 1935 to the present day.

Although feeble attempts to organize Alabama's municipal officials were made during the first quarter of the 20th century, it wasn't until a June 1926 convention in Fairfield, attended by nearly 100 local government leaders, that a committee developed a formal constitution and by-laws, calling the organization the Alabama Municipal Association of Mayors and City Commissioners. Membership was limited to those who held the highest positions in their municipalities, although nonvoting associate memberships were allowed to "minor" employees. Pressing needs discussed at this gathering included the urgency for better recognition of municipalities by state government; longer terms for elected officials (who were confined to two-year terms at that time); the demand for uniformity in traffic laws; more effective tax collection; the importance of distributing news and general information to all cities and towns; the need to revise bond laws affecting municipalities; the demand to increase revenue for

municipalities to meet the ever-increasing needs of citizens; and the need for fellowship among those undertaking a common interest.

Two years later, during a 1928 convention in Selma, it was decided that the organization should be changed from one with a membership of municipal officials to one representing the actual units of government. An amendment to change the name to the Alabama League of Municipalities was approved, keeping the previous constitution and by-laws, except for dues. However, without a full-time leader to increase membership and direct its mission, the organization floundered.

In 1935, at a meeting in Montgomery, the Alabama League found its footing through the help of the national organization, the American Municipal Association (AMA). During this convention – which had the largest attendance to date – Clifford Ham of AMA addressed delegates, informing them of the important work of the 30 or so active Leagues around the country and impressing upon Alabama's officials the need for an aggressive and sound central organization. To that end, he offered financial aid through the AMA, enabling the Alabama League to hire its first executive director, Ed Reid, a dynamic, 25-year-old who was raised in Georgiana and was serving as Secretary to the Speaker of the Alabama House of Representatives and Consultant to the Legislative Recess Committee on Homestead Exemption and Ad Valorem Taxation.

A 1938 article written by Arnold Miles, Assistant Director of the AMA, and published in the Alabama Municipal News, describes the American Municipal Association as "the federation of the state leagues of municipalities" with active league organizations in 40 out of 48 states and a total membership of 7,300 cities, towns and villages. Miles wrote that the "one major purpose of the American Municipal Association is to assist cities individually and collectively in their relationship with the federal government." At that time, the AMA was headquartered in Chicago but maintained an office in Washington, D.C.

to keep leagues “informed of the status of all legislation in Congress affecting municipal interests in general.”

Miles further wrote that in addition to the inquiry and information services, the AMA “prepares and publishes bulletins and research reports on all manner of subjects of interest to municipal officials” and that “one of the AMA activities which city officials may have keenly appreciated is the field service. The Association has been fortunate in the last several years in securing special grants of funds for the purpose of taking the services of municipal leagues right out to the municipal official himself. This procedure not only helps the official solve some of his own problems, but makes the municipal league the actual servant of its members, the municipalities. In Alabama, for example, the AMA has made available \$960 out of its 1938 field service funds to assist the Alabama League of Municipalities in bringing its services closer to (the municipalities).” He also stressed that the AMA holds an annual convention providing an opportunity for federal, state and local officials to gather for three days at a “national forum for the discussion of municipal problems.”

Since officially organizing in 1935 with financial aid from the AMA and a three-year grant from the Rockefeller Foundation, the Alabama League of Municipalities has been an active member of the AMA and its successor, the National League of Cities. Ed Reid served three terms on the AMA’s board of directors and attended many national meetings hosted by AMA throughout his 30-year career with the League. In 1964, the AMA became the National League of Cities. When John Watkins was named executive director after Reid’s untimely death in 1965, he maintained Alabama’s strong ties with the national organization, increasing attendance of Alabama’s municipal officials at NLC conferences and serving two terms on NLC’s board.

Participation with NLC grew even stronger under the leadership of the League’s third executive director, Perry Roquemore, who was hired as the League’s staff attorney in 1974 and named director upon Watkins’ retirement in 1986. From the late 1980s forward, the Alabama League has consistently had one of the largest state delegations at NLC’s annual Congress of Cities as well as strong representation during the Congressional City Conferences hosted each year by NLC in Washington, D.C. Roquemore served two terms on NLC’s board as well as two terms on the NLC-RISC Board of Directors, a national organization of municipal self-insurance programs developed by NLC.

As the League’s fourth Executive Director, I have continued to maintain a strong working relationship with NLC, currently serving on the NLC board and as Chair of the NLC State League Steering Committee. Councilmember Jesse Matthews of Bessemer also serves on the NLC Board and Councilmember Robert Avery of Gadsden Chairs the NLC Finance, Administration and Intergovernmental Relations (FAIR) Committee.

In addition, several Alabama officials have served two-year terms on NLC’s board, including Mayor and League Past Presidents Al DuPont of Tuscaloosa, Jim Nix of Fairhope, Leon Smith of Oxford, Ted Jennings of Brewton, Jim Byard of Prattville; Mayor and League Vice President Jim Robinson of Montgomery; Mayors George Seibels, David Vann and Richard Arrington of Birmingham; and Councilmembers Cynthia McCollum of Madison and Debbie Quinn of Fairhope.

On December 9, 2006, during the Congress of Cities in Reno, Nevada, Alabama achieved a prestigious milestone when Councilmember Cynthia McCollum of Madison was elected First Vice President of the National League of Cities, making her the eighth woman and third African-American female in NLC’s history to hold that position. She became the first Alabama official to lead the national organization when she was elected NLC President at the November 2007 Congress of Cities in New Orleans.

Today, NLC represents 49 state leagues with more than 2,000 direct member cities, towns and villages. The Alabama League remains a strong voice within NLC and will continue to work in conjunction with the national association to advocate for municipal government throughout the country. For more information on the National League of Cities, visit [www.nlc.org](http://www.nlc.org). I hope you will join me at the NLC Congress of Cities next month in Seattle! ■



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# SOCIAL MEDIA IN THE FOUNTAIN CITY

BY TERESA LEE • CITY OF PRATTVILLE

In September 2009, as the City of Prattville's Webmaster, I attended the National Association of Government Webmasters conference in Galveston, Texas. The most useful information I gathered was how some municipalities were beginning to use social media to get information to their residents. It was at this conference that I realized you can no longer expect or require the public to visit your website. It has, in fact, become clear that you need to take the information to the places where your residents congregate, such as Facebook, Twitter, YouTube and, more recently, Pinterest.

Upon returning from the conference, I sold the idea of social media to then mayor Jim Byard. He authorized the use of Twitter and YouTube. It is significant to note that YouTube no longer grants Government-branded YouTube channels

to municipalities. Our channel was created to house press conferences and special event videos. I feel fortunate to have been awarded this privilege for the City of Prattville and that we continue to maintain it as a meaningful offering to our citizens. With current Mayor Bill Gillespie's blessing, I now use it to deliver all our public meetings, press conferences and advertisements for special events. This saves us storage space on our web server and also bandwidth on our Internet connection.

Twitter is used to make announcements, share website articles, severe weather updates, siren tests, events and photos of City activity. Citizens infrequently ask questions or report problems so it has served us well even though our Twitter following is not nearly as large our Facebook fan base. Prattville has 1,271 followers at present. I am currently evaluating how other cities are using their Twitter accounts to see if we're missing anything obvious. It is my opinion that we would probably have more followers if we followed more Twitter accounts. We updated our policy in 2011 to allow us to follow those agencies that we would feel comfortable promoting through Twitter, such as Autauga EMA, Alabama EMA, National League of Cities, the White House and a few



others. Prior to 2011, the City of Prattville's Twitter account did not follow anyone.

After much discussion and the help of then Special Events (now Parks & Recreation) Director Kellie Cook to convince him, Mayor Byard authorized the creation of a Facebook page for the City of Prattville in January 2010. The page went live on February 1, 2010. Facebook has become our most popular way to get out information and it also drives more traffic to our website than all local traditional media combined. I use Facebook to share events, articles on our website, severe weather updates, siren tests, changes in service schedules and any other pertinent information that needs to get out to our citizens. I also used Facebook to engage the citizen support that allowed Prattville to win the Coca-Cola "America is Your Park" \$100,000 grant challenge in 2012. In addition, our residents use this platform to ask questions, report problems and make suggestions. For a city of 34,000, we are very proud of our fan base of over 7,800.



In March 2012, Mayor Bill Gillespie authorized the creation of a Pinterest account. I sold this as a method to allow local photographers a space to showcase their photos of Prattville, which is not allowed on the City website due to copyright concerns. I have also created boards for best photo ops, special events, the great outdoors, grant opportunities



*continued page 19*



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# The Legal Viewpoint

By Lori Lein, General Counsel



## Paying Legal Expenses of Officers and Employees

From time to time the League receives questions concerning the payment of legal expenses for the defense of its officers or employees involved in civil suits or criminal actions. The officer or employee may be the subject of a suit by or against the municipality or may be defending a suit for actions rendered on behalf of the municipality. The officer or employee might be the subject of a criminal action for actions taken in his or her official position.

The overriding question is whether the council has the power to pay such legal expenses when requisitioned to do so by the officer or employee. Also, what are the steps or procedures involved to approve the payment of such legal expenses? And then there is always the question of whether the city must pay the expenses or whether the city has merely the discretion to pay such expenses.

These issues become very complicated when the officials being sued are members of the governing body that has to decide whether to pay the charges.

### The Three Part Test

This issue is first examined in the case of *City of Birmingham v. Wilkinson*, 194 So. 548 (Ala. 1940), where the question was raised of whether a city was obligated to employ an attorney to defend two members of the governing body against charges of fraud, corruption and graft. The charges were never proved and the complaint was dismissed at trial.

The Alabama Supreme Court set out a three-part test as to when a municipality can pay legal expenses. The court held that a municipal corporation has the implied power to employ counsel to render services in: (1) matters of proper corporate interest, including the prosecution or defense of suits by or against the corporation, (2) and the defense of suits against municipal officers or employees for acts done on behalf of the corporation (3) while in the honest discharge of their duties. *Id.* at 552.

The court stated that members of the governing body cannot employ legal counsel to shield themselves from the consequences of their own unlawful and corrupt acts. The city, however, has the power and the duty to defend the members of its governing body against unfounded and unsupported

charges of corruption and fraud. If a proper corporate interest is found and the officer or employee acts on behalf of a municipality in the line and scope of his or her duties and furthermore the duty was discharged in honest and good faith, then the city has the power and discretion to pay the legal expenses involved. *Id.*

The court in *City of Birmingham* pointed out that a difficult situation arises when the officials charged with fraud and corruption are members of the governing body who must decide whether to defend the suit at public expense while the suit is still pending. The court points out that while the suit is still pending, it is questionable whether the city can pay the legal fees. *Id.*

The officials being accused are called upon as members of the governing body to act on the propriety of defending the suit at public expense. Little guidance is provided by the court as to whether such fees can be paid while the suit is pending, so it puts the burden on municipalities to determine on their own the truthfulness of the accusations. Of course, where the suit ends favorably to the city and its officers – and the legal fees are then requisitioned – there is no problem with the city paying the expenses if it wishes to do so.

In the end, the *City of Birmingham* court casts doubt upon the payment of expenses while a suit is pending. It suggests that a city wait until the outcome of the suit to determine whether to pay the legal expenses. If a decision is favorable then the city has no problem paying the bill. But, the court never states that a city is prohibited from paying legal expenses while a suit is pending. Arguably, as long as there are matters of proper corporate interest involved and the officer or employee is being sued for actions done on behalf of the municipality while in the honest discharge of his or duty, a municipality can pay for legal counsel expenses while the case is still pending. *Id.*

Of course, it is a difficult task for a municipality to come to the conclusion of whether or not the allegations are true. But the governing body should make this determination as to the three-part test before any expenses are paid and such findings should be put into the minutes. Is the city, however, *required* to pay the expenses? What if the municipality

*continued page 13*

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determines there is a corporate interest involved, and the officer or employee is being sued for actions taken on behalf of the municipality while in the honest discharge of his or her duty? Nowhere does the *City of Birmingham* court state it is mandatory that the cities pay such expenses. Therefore, it should be remembered that a city retains the discretion to pay the expenses or not to pay them. If the city pays the bill, though, it must make sure that the three-part test set out by the *City of Birmingham* court is met.

## What Is Proper Corporate Interest?

The phrase “proper corporate interest” was interpreted in the case of *City of Montgomery v. Collins*, 355 So.2d 1111 (Ala. 1978). In that case, city taxpayers brought a class action to enjoin the city of Montgomery from expending municipal funds to defend city police officers indicted for perjury.

In looking at the issue, the Alabama Supreme Court had to decide whether it was in the proper corporate interest for the city to defend its police officers that were not only accused but indicted for the crime of perjury. The court held that it was in the proper corporate interest for the city to do so. *Id.* at 1114-5.

The initial charges against the police officers included a claim of conspiracy by the officers to violate the civil rights of the plaintiffs. The court reasoned that a claim of violation of civil rights might also later include the city as a defendant under agency principles. It would be within the reasonable scope of proper corporate interest for the municipality to then attempt to protect itself and its officers against future civil litigation brought under agency principles by defending their agents against criminal charges arising out of the same general circumstances in order to gain their acquittal. *Id.*

The city’s stake in gaining the officers’ acquittal was high, since a judgment of conviction in a criminal case against its officers could be later admissible in a civil action brought against the city based on the officers’ conduct on behalf of the city.

Therefore, the *City of Montgomery* court concluded that a matter of “proper corporate interest” might depend upon the existence of a risk of litigation against the city itself should the perjury prosecutions have proved successful. Moreover, the *City of Montgomery* court saw that the officials in charge of the administration of the city could reasonably conclude that defending the officers was necessary to the good morale of the police department or for recruitment and retention purposes. *Id.*

There may exist other equally compelling reasons that fall within the proper corporate interest. Even though the *City of Montgomery* court did not give a clear definition of the phrase “proper corporate interest,” it gave good examples of situations in which it considered the phrase applicable. *Id.*

## Even if Indicted?

The fact that the officer was indicted in the *City of Montgomery* case made no difference to the court. It held that an indictment casts not a single pebble of guilt in the scale against a criminal defendant. Its function is merely to inform the accused of the crime with which he is charged. *Id.* at 1115.

Since an indictment is merely informational, the court held that a city retains the discretion to determine whether the city’s interests required a defense to the charges against the officers. The court stated that whether the city’s decision is wrong in these types of cases is for their constituency to decide. The Attorney General’s officer has ruled along the same lines. *Id.*

In an Attorney General’s Opinion (AGO) to Hon. Willard Pienezza, February 1, 1978, that office decided that the city of Tallassee had the discretion to pay for the legal defense of an employee, the driver of a city ambulance, which crashed into and killed two women. That the driver was indicted in a criminal action arising from the crash made no difference in the opinion of the Attorney General. The opinion stated that the discretion to pay the legal expenses of the employee, as long as the three part test set out in the *City of Birmingham* is met, does not cease when city officials or employees are indicted for the commission of a crime.

## What Is Not Proper Corporate Interest?

In *Greenough v. Huffstutler*, 443 So.2d 886 (1983), the Alabama Supreme Court touched on the issue of proper corporate interest when it looked at a case in which a civil action was brought in order to determine the eligibility of two newly appointed board members to the personnel board of the city of Mobile. The suit sought to enjoin the personnel board from holding meetings or acting unless and until replacements were appointed.

The essential allegations charged a lack of legal qualification to hold the positions on the board. The trial court found that the two members lacked the qualifications to hold the positions and removed them from the board. When the board requisitioned the city of Mobile for the payment of expenses incurred in defending the two men, the city refused to pay. *Id.* at 890.

The court held that a municipality cannot provide funds for the defense of an official in a criminal action or even in a civil action where there is no benefit to the municipality. Thus, a city has no such interest in a suit exclusively directed against its officers, charging lack of legal qualifications to hold office. In fact, the *Greenough* court states that paying such expenses would not only be outside the power of the city to do, it would offend Section 94 of the Alabama Constitution

of 1901, which prohibits the grant of public funds for any individual purpose. *Id.*

So Section 94, which most city officials will recognize as a factor in many municipal problems, is also a factor to consider when deciding to pay legal expenses for officers and employees and should be a consideration in determining whether a proper corporate interest exists.

In AGO 2008-020, the Attorney General determined that public funds cannot be used to pay legal fees incurred by an elected official in the defense of an election. Since a candidate who is an incumbent is not acting in his official capacity when he runs for re-election, a city does not have a proper corporate interest in an election contest between an incumbent and his or her opposition.

### Other Decisions

In other situations the Attorney General's office has ruled that the payment of legal expenses is not within the proper corporate interest.

In an AGO to Hon. Perry C. Roquemore, January 11, 1978, the city of East Brewton attempted to dismiss the police chief. At the termination hearing, the police chief attended the hearing with his attorney and the council decided to retain the services of the chief. The city asked the Attorney General's office if it could pay the attorney's bill in the matter. That office replied that there is no authority for the expenditure of such funds in circumstances where the council institutes the action against which the officer or employee is to be defended.

In AGO 1992-073, the Pike County Commission asked whether it must pay the legal expenses for three Pike County commissioners who were sued by the county district attorney as a result of an overpayment of salary compensation. The Attorney General's opinion replied that no corporate interest could possibly be served by the county's payment of legal fees spent defending an action filed on behalf of the county.

In AGO 2001-210, a municipality was not required to pay the legal expenses incurred by an employee to appeal a disciplinary action to the personnel board; however, a municipality may pay the legal fees if the city council determines that: (1) the city has a proper corporate interest in the action; (2) the actions allegedly committed were done in the discharge of official duties; and (3) the official acted honestly in good faith. A city may also pay the legal expenses in anticipation of litigation if the city council determines that it is in the best interests of the city to settle the anticipated litigation. *See also*, AGO 2006-116.

AGO 2002-274 opined that a municipality may, but is not required to, reimburse the municipal clerk for legal fees incurred by the clerk when he or she is suspended without pay from his or her position, but is later restored and reimbursed for lost pay by the council.

### Conclusion

Municipal officials should be extraordinarily cautious before deciding to pay the legal expenses of its officers and employees. Not only is it difficult to decide whether allegations are true but whether the actions taken were in the line and scope of their duties or whether there is a proper corporate interest in paying the bills. This can be extremely difficult where allegations are against officials who are members of the governing body deciding whether to pay the bills.

It is important for officials making such determinations to remember the three part test outlined in *City of Birmingham*. A determination based upon the three-part test must be made by the council and put into the minutes. Since Section 94 is yet again a factor that must be considered in these types of problems, a council must make sure it is not just individual interests that are being served and that a proper corporate interest is found and written into the minutes.

As always, care must be taken in making these determinations as a council would not want the liability of making unauthorized expenditures coming back to haunt them. ■

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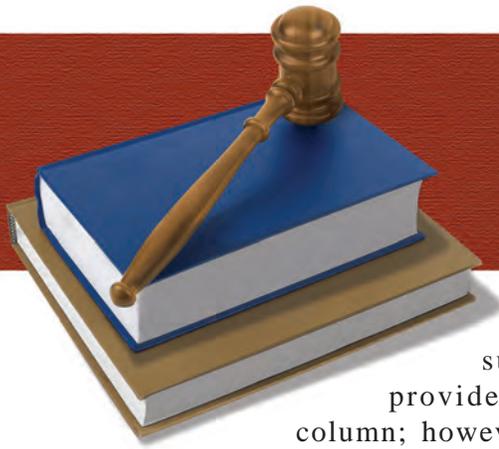
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# LEGAL CLEARINGHOUSE

**NOTE:** Legal summaries are provided within this column; however, additional background and/or pertinent information will be added to some of the decisions, thus calling your attention to the summaries we think are particularly significant. When trying to determine what Alabama law applies in a particular area or on a particular subject, it is often not enough to look at a single opinion or at a single provision of the Code of Alabama. A review of the Alabama Constitution, statutory law, local acts, administrative law, local ordinances and any relevant case-law may be necessary. We caution you *not* to rely solely on a summary, or any other legal information, found in this column. You should read each case in its entirety for a better understanding.

## ALABAMA COURT DECISIONS

**Courts:** When offered for the truth of the matter asserted, a non-testifying codefendant's statement to police implicating the accused in the crime is inadmissible against the accused. It does not fall within any recognized exception to the hearsay rule and it violates the accused's confrontation rights. *Turner v. State*, 115 So.3d 939 (Ala. Crim.App.2012)

**Legislation:** Public policy is primarily declared by the people and their representatives in their constitution and statutes. Public policy considerations cannot override constitutional mandates. *Ex parte Bentley*, 116 So.3d 201 (Ala.2012)

**Searches and Seizures:** So long as a police officer has properly seized the occupants of a car, the officer may order the driver or a passenger out of the car without violating the Fourth Amendment. Warrantless seizure of crack cocaine from floorboard of defendant's vehicle was proper under the plain-view doctrine. *State v. Moore*, 115 So.3d 187 (Ala.Crim.App.2012)

**Sex Offenders:** A military court conviction for a sex offense was equivalent to a federal court conviction and thus triggered the duty to register as a sex offender. *Billingsley v. State*, 115 So.3d 192 (Ala.Crim.App.2012)

**Utilities:** A plaintiff injured by contacting an electric line must prove that the utility had notice that the line was

hanging too low. *Black Warrior Elec. Membership Corp. v. McCarter*, 115 So.3d 158 (Ala.2012)

**Unemployment Compensation:** A trial court did not have discretion to waive a requirement that a disqualified claimant repay benefits received. The Director of Department of Industrial Relations, not the trial court while reviewing the final decision of the Department, had the discretion to waive the requirement that a disqualified claimant repay unemployment compensation benefits received, once it was demonstrated that she had received an overpayment. Courts of equity, in the absence of fraud or gross abuse, will not interfere with the exercise of discretion by administrative boards in the determination of the necessity and requirements of public accomplishment, much less control the judgment of such boards in respect to matters within the technical field of their duties and powers. *Alabama Dept. of Indus. Relations v. Frazier*, 115 So.3d 175 (Ala.Civ.App.2012)

## US COURT DECISIONS AFFECTING ALABAMA

**Courts:** Embodied in the Constitution's ban on cruel and unusual punishments is the precept of justice that punishment for crime should be graduated and proportioned to the offense. The judicial exercise of independent judgment requires consideration of the culpability of the offenders at issue in light of their crimes and characteristics, along with the severity of the punishment in question, as well as consideration of whether the challenged sentencing practice serves legitimate penological goals. An offender's age is relevant to the Eighth Amendment, and criminal procedure laws that fail to take defendants' youthfulness into account at all would be flawed. *Graham v. Florida*, 130 S.Ct. 2011 (U.S.2010)

**Discrimination:** The Age Discrimination in Employment Act (ADEA) did not validly abrogate the states' Eleventh Amendment immunity from suit by private individuals. Although the ADEA contained a clear statement of Congress's intent to abrogate the states' immunity, the abrogation exceeded Congress's authority under the enforcement clause of the Fourteenth Amendment. *Stroud v. McIntosh*, --- F.3d ---, 2013 WL 3790961 (11<sup>th</sup> Cir.2013) ■

The League’s website, [www.alalm.org](http://www.alalm.org), was launched in 1998 and houses everything from the League’s history, educational programs and staff bios to a plethora of resources including recent legal decisions affecting municipalities. We continuously add information and makes adjustments to keep the site fresh and user-friendly. In addition, the League provides a free, weekly e-newsletter, *This Week from the League*, every Tuesday morning with links to conferences, meetings and other information pertinent to municipal government. (You may subscribe to *This Week* by clicking on the red link near the top of our homepage that says “Sign up for our e-newsletters”. Simply fill out the information requested.) Our Facebook page was created last month. If you have a Facebook account (and, really, you *should* have a personal Facebook account!), please like our page at [www.facebook.com/ALALM](http://www.facebook.com/ALALM). We will be using this platform as another means to deliver information as well as a place to post pictures.

Social media platforms are growing exponentially and rapidly becoming a common means for people to seek information and participate in a larger dialogue. Conversations have grown from a few people in a room to thousands of people throughout the world. According to the Pew Research Center, 8% of online adults said they used social networking sites in February 2005. By August 2013, however, 72% of online adults reported using social networking sites. Of those, users 65 years and older have roughly tripled their presence on social networking sites in the last four years—from 13% in the spring of 2009 to 43% in 2013.

Facebook opened to everyone 13 and older with a valid email address on September 26, 2006, and had 12 million users by the end of the year. By March 2013, Facebook claimed 1.1 *billion* active monthly users and 665 million active daily users. YouTube was launched in February 2005 to upload, view and share videos. As of March 2013, YouTube was localized in 56 countries and across 61 languages with over one billion unique users each month. According to YouTube, 100 hours of video are uploaded *every minute*.

More and more, citizens are using social media platforms to express their political views and influence elections. According to a 2012 Pew Research study, “Internet & American Life Project,” 38% of those who use social networking sites use them to “like” or promote material related to politics or social issues that others have posted;

34% of social media users have posted their own thoughts or comments on political and social issues; 31% have used social media to encourage other people to take action on a political or social issue important to them; and 20% have used social media to follow elected officials and candidates for office. Those numbers have no doubt increased over the past year and will continue to grow.

A joint study released in May by the U.S. Department of Justice and the Police Executive Research Forum, a Washington, D.C.-based think tank for police chiefs, noted that in a recent survey of 800 law enforcement agencies, 88% reported using social media ranging from preventing crime and community policing to investigations and intelligence gathering. In addition, the expected launch of a law enforcement social media network at the International Association of Police Chiefs’ annual conference later this month is being touted as a site where officers can share their expertise, insight and information securely through video, instant messaging, video conferencing and screen share capabilities.

Just as computers overtook our offices and homes within two decades and smartphones became ubiquitous in less than five years, digital engagement is quickly becoming a standard and expected means of communication. In fact, according to a March 2013 report by eMarketer, 74.5% of Generation X-ers (born between 1965 and 1980) use social networking sites on at least a monthly basis and Millennials (born between 1981 and 2000) now make up more than half of all US Twitter users.

An August 2013 *Government Technology* article, “Building the Social Town Hall”, succinctly pointed out: “Our next generation of social networking will look at ways to renew the democratic fabric — deeply weaving the mined and curated community reactions through the social network into the daily functions for customer service, rule-making, prioritization, problem solving and ideation. When analyzed and combined with 311, 911 and stat program data, social media inputs from residents can unlock insights that make government more efficient and effective.”

I mostly agree with that sentiment except I believe change will not wait another generation. It’s happening now – and it’s happening fast.

Carrie



# Tis the Season...

# Be SAFE!



**T**he holiday season has arrived and it's now time to begin decorating our cities and towns. Unfortunately, many municipalities often use whatever equipment they have on hand to perform this task. This usually means personnel will be in the front bucket of a back-hoe or on the platform of a forklift while installing lights and decorations. This, of course, is an extremely unsafe practice that can lead to serious injury or death.

**Forklifts and front-end loaders are not designed to lift personnel or to be used as a work platform.** OSHA states that forklifts, front-end loaders and "similar pieces of equipment" shall not be used to support scaffold platforms unless specifically designed by the manufacturer for such use. Keep in mind that while OSHA guidelines may not be *required*, OSHA is still a reliable source of information for developing your public entity's best practices.

The Alabama League of Municipalities' Loss Control Department recommends that municipalities discontinue using front-end loaders and similar equipment when installing holiday decorations, lights and other such items. We recommend using a lift that is designed for passenger use and has been tested for such use. Often times such equipment can be found locally for rent at a reasonable cost.

Choosing to use the proper equipment provides a safer work area for your employees and can possibly save someone's life.

**Have a safe and happy holiday season!**

Will Strength  
Loss Control Representative  
AMIC/MWCF

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(that the public can participate in with the City) and the Mayor's Fitness Challenge. I'm proud of our 240 followers on Pinterest, especially since it is a new media. I'm especially pleased that Alabama Tourism, Bass Pro Shops Prattville, Super Southern Road Trips, This is Our South, Opelika Parks and the City of Salisbury, South Australia are following us.

I deliberately branded all Prattville's social media so it would be easy for our followers to find us – the extension PrattvilleALgov is used with all platforms. This is also our web address. When setting up social media accounts for your municipality, be sure your branding makes sense and that it's consistent.

The Prattville community has been very receptive to social media services – and they *are* services. Facebook requires a great deal of monitoring and can be a 24/7 job all on its own. However, in the end, I believe it's definitely worth the effort. I believe we provide more information, and, thus, engage more citizens, than many municipalities.

When used correctly, social media should drive traffic to a municipal website. To that end, hyperlinked logos to all Prattville's social media platforms are included on our homepage. Under those logos, visitors may click to a special "Social Media" page within our website that explains each of our platforms – how they are used and what they look like. Administrators for municipal social media platforms should include links in their posts on Facebook and Twitter to get the public interested in reading or learning more. For example, on Pinterest, link photos back to event pages or more information about that attraction. Our Mayor's Fitness Challenge board is a little different in that we link to fitness sites in order to give our residents more resources in changing their lifestyles.

Prattville's fan base seems to really enjoy photos. We get some of the highest feedback on posts that contain pictures. When a post/status update is text only, make it engaging, but brief. Use video clips whenever available. Those posts generally receive a higher number of likes and comments. A successful post is one that is shared by multiple people. The more a post is shared or re-tweeted, the greater the chance for increasing your audience.

According to Facebook Insights, 70 percent of Prattville's audience is female. Overall, 81 percent of our audience is comprised of ages 18-54. According to PeekAnalytics, 54 percent of our Twitter audience is male. Overall, 90 percent of our audience is comprised of ages 26-55. Of those, 75 percent of our female audience is aged 36-45 and 60 percent of our male audience is aged 26-35.

Facebook is updated every day. Twitter is used when there is a new article or announcement, so generally a few times per week. Pinterest is updated when a special event is

coming up, new photos are taken or when we have additions to the Fitness Challenge. YouTube is updated after every Council or other public meeting and after press events.

Social media is not social if you don't allow your constituents to carry on a conversation with your administrator. Yes, you will sometimes get comments you don't like. However, as long as you are polite and helpful, citizens will generally appreciate your responsiveness. Above all, find someone on your staff with the talent and personality to handle this task successfully. I also highly recommend implementing a good commenting policy for Facebook. Establish hours within which your employees will respond. For instance, I receive social media via my iPhone and respond whenever our fans/followers are active. If a response requires interaction with other employees, I simply tell them I'll get back to them during normal business



hours when I'm able to engage that department. Feel free to take a look at Prattville's "Comments Policy" on the notes section of our Facebook page at [www.facebook.com/PrattvilleALgov](http://www.facebook.com/PrattvilleALgov) to get an idea of what will work for your municipality. You can also learn more about our social media platforms by visiting our website at [www.prattvilleal.gov](http://www.prattvilleal.gov) and clicking on the link beneath the various social media logos to the left of the homepage.

I've no doubt Prattville's website and social media platforms add to the quality of life of our citizens – particularly now that social media is becoming a mainstream means for communication and engagement. It's not going away. In fact, it will only continue to grow. I encourage you to research how your municipality can best implement various social media platforms, and I'm happy to answer questions about Prattville's experience! ■

TERESA LEE HAS WORKED FOR THE CITY OF PRATTVILLE FOR 9.5 YEARS. SHE WAS HIRED AS THE CITY'S FIRST WEBMASTER. IN MARCH 2011, MAYOR BILL GILLESPIE, JR. MOVED TERESA OUT OF INFORMATION TECHNOLOGY AND PLACED HER POSITION IN THE MAYOR'S OFFICE. SHE CONTINUED IN THAT ROLE WHILE TAKING ON SOME OF THE EXECUTIVE ASSISTANT DUTIES UNTIL SEPTEMBER 30, 2012. ON OCTOBER 1, 2012, MAYOR GILLESPIE APPOINTED TERESA AS HIS EXECUTIVE ASSISTANT. SHE CONTINUES TO DO THE WEBMASTER'S JOB AS WELL, INCLUDING MANAGING ALL THE CITY'S SOCIAL MEDIA ACCOUNTS, AND IS GENERALLY RESPONSIBLE FOR ALL PUBLIC INFORMATION. TERESA GRADUATED FROM WAYLAND BAPTIST UNIVERSITY IN 1988 WITH A B.S. IN BUSINESS ADMINISTRATION AND HAS TWO GROWN CHILDREN WHO MAKE HER EXTREMELY PROUD. SHE CAN BE REACHED AT [TERESA.LEE@PRATTVILLEAL.GOV](mailto:TERESA.LEE@PRATTVILLEAL.GOV).

# Policy Committee Resource Advisor Reports

Krystle Bell • Member Services Assistant Director • ALM

During the months of August and September, the League's five policy committees met to discuss updates to the *Policies and Goals*. As a part of the policy development process, representatives from several state and federal agencies spoke on topics pertinent to each committee. Summaries of their remarks have been provided below.

## Committee on Community and Economic Development

Ronnie Davis with USDA Rural Development informed committee members that his agency represents every small town and rural community. USDA Rural Development forges partnerships with various groups by pooling financial resources to make things work for the people they serve. They finance programs such as single and multi-family housing, water/sewer systems and municipal buildings. Shabbir Olia with the Alabama Department of Economic and Community Affairs discussed the CDGB Program and stated that funds are available to municipalities in all 67 counties. The CDBG funds can be used to fund water and sewer lines. The grant money will be released in October/November, and 50 to 60 grants are funded throughout the year. Gary Faulkner with the Alabama Department of Commerce discussed the different tactics the agency uses for marketing, including consistent messaging, strong public relations, social media outreach and strategic print ads. In 2012, new business and expanding businesses totaled 433 companies – a \$5,423,045,149 investment – and 20,849 jobs. Greg Clark with the Central Regional Planning and Development Commission spoke about the Alabama Association of Regional Councils (AARC), a public, nonprofit organization that represents Alabama's municipalities and counties through 12 individual regional councils. Each council sets its own programs and promotes community and economic development. Mr. Clark also stated that Alabama is lacking in the areas of long range planning and capital improvement budgets. Hollis Wormsby with U.S. Housing and Urban Development informed the committee that HUD helps to revitalize rural areas, and there has been a 40 percent reduction in CDBG funds.

## Committee on Finance, Administration, and Intergovernmental Relations

Bob Young with Frazier Lanier Company reported that the biggest issues with municipal and corporate bonds are inflation and fear of inflation. He also explained that the Federal Reserve uses quantitative easing, a method where the

Federal Reserve can borrow at virtually zero and then buy assets that banks have. This method is a way to stimulate the economy. Will Martin with the Alabama Department of Revenue reiterated the importance of three statements in the *Policies and Goals*. FL 1.22 deals with the need for county officials to be adequately trained and qualified to appraise property for property tax purposes. Mr. Martin said the Alabama Department of Revenue, in conjunction with the Center for Government Services at Auburn University, offers a continuing education program for these individuals. He also stressed that it is very important for municipalities to notify the Alabama Department of Revenue of any amended or new municipal taxes as well as any changes as it relates to boundaries resulting from the annexation or deannexation of property as mentioned in FP-1.5 and FP-1.6, respectively. Angelo Trimble with the Alabama Coalition Against Domestic Violence informed the committee members about the importance of sharing municipal court documents. Joining him was Steve Searcy with One Place Family Justice Center who said family justice centers are important resources for municipalities and county commissions. He also informed the committee about the Protection Order Database, which provides uniformity, safety and accountability of protection orders. Bob Hill from the Alabama Alcoholic Beverage Control Board informed the committee that the ABC Board is in charge of monitoring the retail sale of alcohol and tobacco and issuing permits to municipalities. He also spoke about entertainment districts and the importance of letting the ABC Board know when an entertainment district is established within a municipality.

## Committee on Human Development

Neal Morrison with the Alabama Department of Senior Services reported that the fastest growing population segment

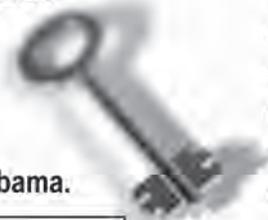


is individuals over age 60. He emphasized the importance of engaging seniors because physical activity helps reduce the rate of dementia and other health-related issues. The department provides 98 percent of its meals through senior centers or home delivery. Additional resources provided through the department include an elderly disabled waiver program and elderly abuse protection toolkit, which helps seniors catch Medicare and Medicaid fraud. Mr. Morrison also said it is important for seniors to have government-issued photo identification cards in order to vote. The department provides senior ID cards, which must include name, date of birth and address. Mr. Morrison also expressed interest in working with a group of elected municipal officials to discuss senior-related issues. Sherrill Parris with the Alabama Department of Education discussed Plan 2020, which emphasizes the importance of every child graduating and every graduate being prepared. Also, the next expectation is that every student learns. Jamey Durham with the Alabama Department of Public Health touched on several of the *Policies and Goals* as they relate to senior citizens and health care. He said the department is interested in passing legislation regarding prescription drug monitoring and that House Bill-152 regarding pain management will be introduced in the upcoming session. He further reported that SEIB insurance rates are going up 5 percent. Acquanetta Knight with the Alabama Department of

Mental Health talked about the closing of Searcy Hospital and Greil Memorial Psychiatric Hospital. She said the Alabama trend is to close facilities and for patients to be placed into communities. She also recommended that the League change the wording in its *Policies and Goals* from “intellectual” disabilities to “developmental” disabilities.

**Committee on Energy, Environment and Natural Resources**

ADEM’s General Counsel Vernon Barnett spoke about Senate Bill-12 which details windmill farm regulation. He said windmill farm regulation is outside the purview of what ADEM does. He also mentioned Senate Bill-20, which is a drought bill that will codify the governor’s drought powers. Corynella Price with the ADEM SRF Section discussed the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF). CWSRF and DWSRF are low interest loan programs designed to finance public wastewater and drinking water infrastructure improvements. These programs are only available to public entities, and the project must rank high on the priority list. These programs have a low interest rate of 2.45 percent with a twenty-year term. Lisa Cole with ADEM Air Division informed the committee about the air quality and stringent guidelines instituted by EPA with regard to ozone and particulate matter. Another issue discussed was nonattainment. If municipalities



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are located in nonattainment areas, they are considered to have unhealthy air and there will be obstacles in constructing new facilities or expanding existing facilities. Emily Anderson with ADEM Water Division/Municipal Section discussed an internet application that is designed for individuals to submit discharge monitoring reports and sanitary sewer overflow. Ms. Anderson also mentioned several common compliance issues such as effluent violations, discharge monitoring report errors and failure to submit/late submittals. In addition, she reported there will be some fee increases due to the budget. Dennis Harrison with the ADEM Drinking Water Division spoke about Electronic Drinking Water Reports (eDWR), which include chemical data, radiological data, bacterial data and consumer confidence reports. Eric Sanderson with the ADEM Land Division/Solid Waste discussed recycling grants available to municipalities. Four million dollars are given away for recycling grants with eligible items including equipment (balers, collection bins, carts, forklifts, etc.) and educational materials (signs, brochures, pens, pencils, etc.). Applications are due March 1<sup>st</sup>. Dave Bolin with the State Oil and Gas Board of Alabama informed the committee that there is a disparity between natural gas prices and oil prices. More drilling is taking place in South Alabama, and there is a decline in offshore drilling. There are continued low gas revenues and increasing oil production and revenues. Jeff Kitchens with ADEM Stormwater Management discussed Municipal Separate Storm Sewer Systems (MS4), which are owned by a public entity and used to collect storm water.

#### **Committee on Transportation, Public Safety and Communication**

Cecil Colson and Randy Stroup with the Alabama Department of Transportation discussed the Transportation Alternatives Program. Eligible activities include: pedestrian/bicycle facilities, projects to achieve compliance with ADA, Rails to Trails, turnouts, overlooks and viewing areas, rehabilitation of historic transportation facilities and environmental mitigation. Stan Cauthen with J.R. Wilburn and Associates, Inc. discussed the effort to update the Alabama Rail Plan. Currently, there is a lot of freight coming through and delivering in Alabama. The majority of the movement comes from coal. Yasamie August with the Alabama Emergency Agency explained that the agency coordinates disaster preparedness, response and recovery. She also mentioned the 2013 Great Central U.S. ShakeOut Earthquake Drill, which will take place on October 17<sup>th</sup> across several states. Municipalities are encouraged to participate. Ed Paulk with the State Fire Marshal's office discussed the importance of building codes and said buildings that are not compliant put volunteer fire fighters in danger. He also said water systems need to be code compliant in order for industries to move into the area. The State Fire Marshal's Office will introduce a bill that will allow a certified plumber to put a multipurpose system into a single family dwelling.

He also said it is important for firefighters to be trained and to use common sense. Maury Mitchell with the Alabama Criminal Justice Information Center reported that in 2012 there were 363,540 crime reports in the state of Alabama. He also demonstrated how to use the ALACOP website, which details crime statistics. Lyle Mitchell with the Alabama Law Enforcement Agency discussed the consolidation of several state agencies, explaining that the Alabama Department of Homeland Security and the Alabama Criminal Justice Information Center will now come under the Alabama Law Enforcement Agency. ■

The League thanks the following committee members for attending their policy meetings:

**Committee on Community and Economic Development:** Mayor Phil Segraves, Guin, Acting Chair; Councilmember Brentley Kendrick, Robertsdale; Mayor Mickey Murdock, Elba; Councilmember Michele Mizzell, Childersburg; Mayor Charles Gilchrist, Glencoe; Mayor Alberta McCrory, Hobson City; Councilmember Gwen Barber, Lincoln; Councilmember Richard "Dick" Key, Smiths Station; Councilmember Ben Reed, Gadsden; Mayor Donald Hall, Hartselle; Mayor Belinda McCain, Sipse; Mayor Troy Trulock, Madison; Councilmember Brent Miller, Scottsboro; Mayor Charles Webster, Clay; Councilmember Cris Nelson, Helena; Councilmember Rusty Barnes, Winfield; Councilmember Lonnie Murray, Sr., Brighton; Mayor Mike Grayson, Demopolis; Councilmember Johnny Davis, Greensboro; Councilmember Jocelyn Tubbs-Turner, Marion; Mayor Roberta Jordan, Pine Hill; Councilmember Frank Braxton, Uniontown

**Committee on Finance, Administration and Intergovernmental Relations:** Councilmember Adam Bourne, Chickasaw, Chair; Councilmember Charles Black, Priceville, Vice Chair; Councilmember John Lake, Daphne; Councilmember Veronica Hudson, Saraland; Councilmember Jason Bennett, Eufaula; Mayor Kelvin Lawrence, Hayneville; Mayor Fred McNab, Pinckard; Mayor Tony Wilkie, Centre; Councilmember Mickey Tarpley, Dadeville; Councilmember Jean Burk, Lincoln; Mayor Bud Kitchin, Lincoln; Mayor Leon Smith, Oxford; Mayor Ron Bashant, Waverly; Councilmember Robert Avery, Gadsden; Councilmember Dink Myers, Guntersville; Councilmember Carl Flemons, Somerville; Mayor William Marks, Athens; Mayor Earl Niven, Chelsea; Mayor Don Kyle, Decatur; Councilmember Steve Stanley, Sheffield; Councilmember Annie Woods, Brighton; Councilmember Shelia Smith, Eutaw; Councilmember N. Craig Sanderson, Irondale; Mayor Loxcil Tuck, Tarrant; Councilmember Charles Allen, Thomasville; and Councilmember Don Moore, Uniontown

**Committee on Human Development:** Mayor LaFaye Dellinger, Smiths Station, Chair; Councilmember Marva Gipson, Aliceville, Vice Chair; Councilmember Annette Johnson, Bayou La Batre; Mayor James Adams, Mount

Vernon; Mayor Howard Rubenstein, Saraland; Councilmember Thomas Williams, Satsuma; Councilmember Will Sconiers, Andalusia; Councilmember Gwendolyn Crittenden, Georgiana; Councilmember Clementine Pugh, Georgiana; Councilmember Dejerilyn Henderson, Troy; Councilmember Stanley Roberts, Lanett; Mayor Ed Mackey, Leesburg; Councilmember Sadie Britt, Lincoln; Councilmember Jennifer Smith, Jasper; Mayor Icie Wriley, Millport; Councilmember Tonya Rogers, Oneonta; Councilmember Larry Keenum, Rainbow City; Councilmember Tayna Rains, Dutton; Councilmember Mike Roberson, Hartselle; Councilmember Mary Stevens, Sheffield; Mayor Tom Henderson, Center Point; Councilmember Stan Hogeland, Gardendale; Councilmember Bridgette Jordan-Smith, Vincent; Councilmember Landy Warren, Brighton; Councilmember Wendy Bush, Coaling; and Mayor George Evans, Selma

**Committee on Energy, Environment and Natural Resources:** Mayor Rusty Jessup, Riverside, Chair; Councilmember Ralph Hellmich, Foley; Councilmember Vera Quaites, Foley; Councilmember Hazel Griffin, Andalusia; Councilmember Kenneth Mount, Andalusia; Councilmember Elliott Whitton, Columbia; Councilmember Jerry Sipper, Luverne; Councilmember Darrell Wilson, Tallassee; Councilmember Billy Pearson, Lincoln; Mayor Leigh Dollar, Guntersville; Councilmember Janice LeMay, Killen;

Mayor Tim Tubbs, Killen; Mayor Dennis Stripling, Brent; Councilmember Bobby Cook, Clanton; Councilmember Shannon Phillips, Lake View; Mayor Ray McAllister, Vincent; Mayor William Burkhalter, Coaling; and Councilmember Willie Jackson, Marion

**Committee on Transportation, Public Safety and Communication:** Mayor Gary Livingston, Eva, Chair; Mayor Kenneth Coachman, Fairfield, Vice Chair; Councilmember Fred Barton, Brewton; Mayor Tim Kant, Fairhope; Councilmember Roger Adkinson, Flomaton; Mayor Jonathan Grecu, Ashford; Councilmember Charlie Johnson, Luverne; Councilmember Fred Watts, Millbrook; Councilmember Jerry Parris, Jacksonville; Councilmember Michael Ellis, LaFayette; Mayor Allen Dunavant, Glen Allen; Mayor Melvin Duran, Priceville; Councilmember Donald Livingston, Priceville; Councilmember Michael Potter, Madison; Mayor David Bradford, Muscle Shoals; Councilmember Allen Noles, Muscle Shoals; Councilmember George Johnson, Sr., Tuscumbia; Mayor Paul Jennings, Argo; Mayor Billy Joe Drive, Clanton; Councilmember Sammy Wilson, Clanton; Councilmember Michael Hallman, Homewood; Councilmember Joe Powell, Eutaw; Mayor Jeff Laduron, Thomaston; Councilmember Alberta Dixon, Thomasville; Mayor Jamaal Hunter, Uniontown; and Mayor Gena Robbins, York.



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# F.A.Q.

Your Frequently Asked (Legal) Questions Answered  
by Assistant General Counsel Rob Johnston

## Procedure – Points of Order

### How does a councilmember raise an objection to a perceived error in the proceedings of a council meeting?

Alabama law requires that the council must determine the rules for its own proceedings. See Section 11-43-52, Code of Alabama 1975. Most municipal governing bodies in Alabama adopt *Robert's Rules of Order* as the rules of procedure for situations which cannot be resolved by council rules of procedure.

Points of order must relate to mistakes, errors or a failure to comply with the rules. Pursuant to *Robert's Rules of Order*, when a councilmember believes that a discussion or action by the body is procedurally incorrect, the member may raise a "point of order". A point of order does not require a second, since requests of the presiding officer do not require seconds, and it is not open to discussion or debate.

The point of order is directed at the chair and allows the councilmember to point out the perceived procedural mistake. The chair must respond with a ruling that the member is either correct or incorrect. This may be done by the chair alone or, upon request of the chair, by vote of the council.

If the chair rules that the member is correct, the chair must order the correct procedures be followed. If the chair rules that the member is incorrect, any councilmember may appeal from the ruling to the council. If this occurs, the decision as to what constitutes a proper procedure is decided by a vote of the council. A tie vote sustains the chair's ruling. ■

## Do you know what's happening *This Week*?

**We Do.**

Sign up for the League's weekly e-newsletter by clicking on the red subscription link near the top left of the home page at [www.alalm.org](http://www.alalm.org).

1 2 3 4 5  
**This Week**

From  
the  
League



# Call For Entries

## 2014 Municipal Quality of Life Awards

Information and entry form available online: [www.alalm.org](http://www.alalm.org)



### This awards program has three main objectives:

1. To recognize successful, innovative projects that improve the quality of life for citizens.
2. To share those projects with other municipalities.
3. To demonstrate the value of cities and towns.

### ONE winning entry and ONE honorable mention will be chosen from each of the three population categories:

- under 5,000
- 5,001 – 12,000
- over 12,001

### Entries for each population category should focus on one of four subject areas:

- Economic Development (community development and planning projects)
- Public Safety (includes emergency service projects)
- Public Works (includes infrastructure projects)
- Public Service (anything not covered in the three subject areas listed above)

### How Do I enter my municipality in the 2014 Quality of Life program?

1. Download and thoroughly read the Call For Entries Brochure ([www.alalm.org](http://www.alalm.org))
2. Complete the Entry Form (see next page or online)
3. Include all required information and materials (See requirements in the Call For Entries Brochure)
4. Mail your entry to: *Municipal Quality of Life Awards*  
*Alabama League of Municipalities*  
*P.O. Box 1270*  
*Montgomery, AL 36102*
5. Entries should be sent certified mail and must reach the League office by **November 1, 2013**. Please see Call For Entries Brochure for complete information regarding entries. **Projects MUST be completed. Projects still under development/construction are not eligible. For detailed entry information, visit [www.alalm.org](http://www.alalm.org)!**



**DEADLINE FOR ENTRIES: Friday, November 1, 2013**

# 2014 Municipal Quality of Life Awards



**DEADLINE: Nov. 1, 2013 • Late entries not accepted.**

Population Category (select one)  under 5,000  5,001-12,000  over 12,001

*For more information, contact Carrie Banks at 334-262-2566 or via email at [carrieb@alalm.org](mailto:carrieb@alalm.org).*

Municipality

Address

Mayor's Signature\*

Mayor's Printed Name

Clerk's Signature\*\*

Clerk's Printed Name

Contact Person (*main contact for any questions, as well as setting up the video shoot should the project win*)

Contact's Telephone Number

Email Address

Title of Project

\* *The mayor's signature indicates his/her commitment to attend or appoint a representative to attend the League's Municipal Award Ceremony during the 2014 League Convention in Mobile should your municipality win an award.*

\*\* *The clerk's signature is his/her certification that the entry submitted was approved by the city council and meets all the entry requirements.*

## Remember to include:

- 1,200-word or less typed narrative, double-spaced on white 8.5"x 11" paper. (Include word count at the end).
- Answers to the three questions listed under Entry Requirements. (Typed, 100 words or less per answer.)
- At least three (3) photos depicting the project in your supportive material (see next bullet).
- Up to 10 pages of supportive information such as newspaper clippings, photos, letters from constituents or other items that help document the program submitted on 8.5"x 11" paper, single-sided. Please **DO NOT** spiral bind your entries or use presentation folders.
- One original entry packet and five (5) copies (including supportive information). Include a copy of this form with each of the additional copies.

Entries should be sent **certified mail** and **must** reach the League office by **Friday, November 1, 2013**.

Hand-delivered entries must be received in the League's office by 4:00 p.m., Friday, November 1, 2013.

**Entries received after November 1, regardless of postdate, will be deemed ineligible.**

## Mail Entries to:

**Municipal Quality of Life Awards • Alabama League of Municipalities • PO Box 1270 • Montgomery, AL 36102**

# Summary of Requirements for Municipalities under New Firearms Law (Act 2013-283)

Except as provided below or otherwise prohibited by state or federal law, open carry of a firearm is permitted and concealed carry of a firearm is authorized for those with a proper permit. (See Section 7 of Act 2013-283)

1. Section 11-45-1.1 of the Code of Alabama is repealed and the regulation of firearms by local governments is further restricted as follows:

- a. Except as otherwise provided in Act 2013-283, or as expressly authorized by Alabama statute, the regulation of firearms ammunition and firearms accessories is reserved to the State Legislature. (See Section 7 of Act 2013-283)
  - b. The authority of a political subdivision to regulate firearms, ammunition, or firearm accessories shall not be inferred from its proprietary authority, home rule status, or any other inherent or general power.
  - c. Any existing orders, ordinances, or rules promulgated or enforced contrary to the terms of Section 7 of Act 2013-283 are null and void and any future order, ordinance, or rules shall comply with this section.
2. Employers may impose policies regulating or prohibiting an employee's carrying or possession of firearms, firearm accessories, or ammunition during and in the course of the employee's official duties. (See Section 4 of Act 2013-283)
- a. An employer may not generally restrict or prohibit the transportation or storage of a lawfully possessed firearm or ammunition in an employee's privately owned vehicle while parked in a public or private parking area if the employee satisfies the conditions listed in Section 4(b) of Act 2013-283.
  - b. If the employer reasonably believes that the employee presents a risk of harm to himself or others, the employer may inquire as to whether the employee has a firearm in his vehicle and whether he is in compliance with Act 2013-283.

**3. If the municipality has not granted express permission for possession of firearms in the following locations a municipality shall post signs at the public entrance of the following premises or buildings alerting those entering that firearms are prohibited.**

(See Section 6 of Act 2013-283)

- a. Inside the building of any police department.
- b. Inside the premises of any jail or any correctional or detention facility including a community corrections facility.
- c. Inside a courthouse or courthouse annex or any building in which a city council is currently holding a regularly scheduled or specially called meeting.
- d. Inside any facility hosting a school or professional sporting event (that doesn't involve firearms) unless the person has a permit.
- e. Inside any municipally-owned building or facility that the municipality wishes to restrict access with a firearm without permission, **if** access of unauthorized persons and prohibited articles is limited by (1) the continuous posting of guards **and** (2) the use of security devices such as scanning devices, key cards, turnstiles or other physical barriers to entrance.
- f. Except as otherwise provided any firearm on the premises of a facility listed above must be kept from ordinary view and locked within a compartment or inside the interior of the person's motor vehicle or in a compartment securely affixed to the motor vehicle.



The new Alabama Firearms Law, Act 2013-283, went into effect August 1, 2013. For a copy of the law, visit:

<http://www.arc-sos.state.al.us/PAC/SOSACPDE.001/A0009908.PDF>

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have created a vacuum where rumor and doubt would have led to chaos as people awoke to the horrible news of 17 wounded and a suspect still at large.

Juxtapose the potential scenario above with the City using the power of social media to provide information directly to citizens and to traditional media outlets. Harnessing its power, we ensured that the community had enough information to move forward that morning. Instead of being hunkered down because of a suspected gunman still at-large, businesses opened, schools were in session and the life of a vibrant City continued unabated. Considering the circumstances facing Tuscaloosa, achieving normalcy was quite an accomplishment – made in large part thanks to effective communication on Twitter and Facebook.

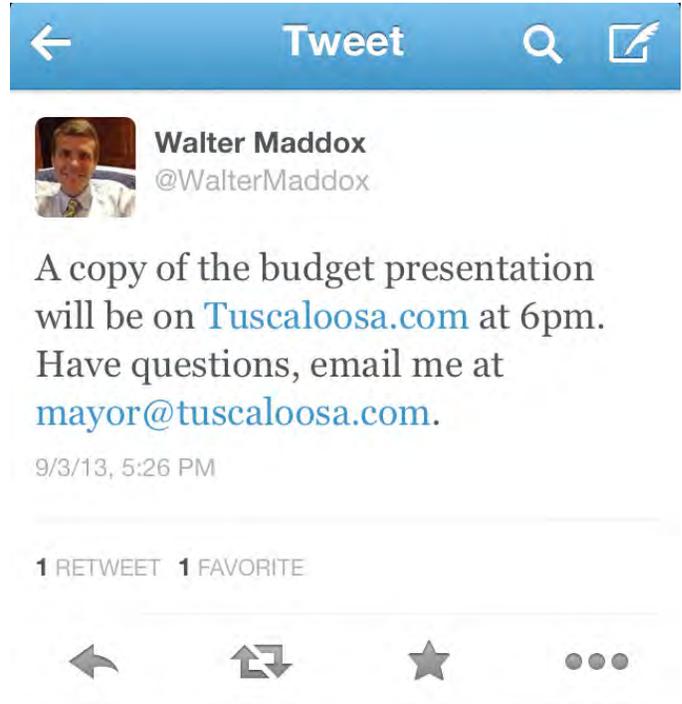
### Your City Can Do This

When confronted about opportunities to improve our communities, in too many cases we ultimately hit a snag which dampens our enthusiasm – funding! The great news about social media is that it is inexpensive, simple and direct.

As with any endeavor, it requires practice and awareness of potential land mines. In addition, once you implement it, you must be committed to ensuring its relevancy. In other words, the inability to post timely information and/or the unwillingness to respond to concerned citizens will ensure failure. Again, there must be training and total commitment to this effort. Here is the good news: *It is worth it!*

The ability to enhance communication with our citizens and vastly improve governmental services is worth the risks and investment of time.

In this edition of the *Journal*, you are going to read about the great things going on in Prattville with social media. Hopefully, we will soon be reading about your municipality! ■



## Fall CMO Sessions Will Feature Special “Listening” Element



We want your input on how the League should move forward and how we can best shape services that will enhance our ability to make local government efficient and effective. Sign up for one of the Fall CMO sessions. **Bring your ideas. The staff will be listening!**

### Fall CMO Session Schedule

October 9, 2013	Huntsville	Embassy Suites
October 10, 2013	Tuscaloosa	Hotel Capstone

Contact Cindy Price at [cindyp@alalm.org](mailto:cindyp@alalm.org) for information about these sessions, or go to [www.alalm.org/CMOUcomingTraining.html](http://www.alalm.org/CMOUcomingTraining.html)

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