

# The Alabama Municipal JOURNAL

September/October 2014

Volume 72, Number 2

Alabama  
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# The Alabama Municipal JOURNAL

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## On the Cover:

This issue looks closely at digital technology – specifically, web development, social media, cyber security and how Alabama's municipalities are navigating cyberspace (or not). *Original cover art by Karl Franklin*

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# Why is Digital Technology Important?

>> A Message from the Editor <<

**W**e're talking digital technology in this issue – specifically, web development, social media, cyber security and how Alabama's municipalities are navigating cyberspace (or not). Of course, those of you who know me know I'm a proponent of digital engagement, especially social media, so I will once again encourage you to "like" the League's Facebook page ([www.facebook.com/ALALM](http://www.facebook.com/ALALM)) to receive timely information about ALM's legislative endeavors; League events such as upcoming CMO sessions, policy committee meetings, annual convention and national conferences; and articles of interest for municipal officials and employees. We've also added several League photo albums, including nearly 60 images from our 2014 CMO Graduation Ceremony that was held in Montgomery on August 12<sup>th</sup>. That being said, however, Facebook is just a very small piece of the technological pie.

**Why is digital technology important?** If you're having trouble answering that question, how about this: Why is economic development important? Now *that* question hits close to home, eh? In order to provide the quality-of-life services your citizens expect and demand; in order for your community to not only remain relevant but to *grow*; in order to maintain an effective dialogue with residents, your municipality must be able to communicate *and* listen. Websites and social media platforms expand local government's scope – not only to your citizens but to business and industry that might be interested in relocating to your area. League President Mayor Wally Burns of Southside shares his thoughts on the importance of technology in his column on p. 5.

We are now a full-fledged digital society that seeks information online and regularly uses social networking sites. According to the Pew Research Center, 74 percent of all Internet users also use social media – and neither education nor income level make any significant difference in that usage. In other words, most of the people in your community are probably online at some point during the day – and a significant portion of those visit a social media site such as Facebook, Pinterest, Instagram, YouTube or Twitter when they're surfing the web.

Is your municipality accessible to them online? Do you have a website? A Facebook page? If not, why not? What businesses, industries and interested parties are bypassing your community because your city doesn't have an Internet presence? What important information are your citizens missing because they don't know how to find it? Yes, investing in a website requires effort and some expense – although not as much as you might think. See "Demystifying Website Construction" on page 29 written by the League's own outstanding webmaster, Karl Franklin. He explains that the League's website was designed on a Joomla platform, which was – ahem – FREE. That's right. We have a lot of sweat equity and staff time (Karl's) invested in [alalm.org](http://alalm.org), but we didn't have to pay for the software or the platform. Karl's article also explains how to begin the research for a simple, low cost site that will bring your municipality into the 21<sup>st</sup> Century.

As of September 2013, just over half of Alabama's municipalities did not have a website, which means they are essentially invisible not only to their residents but to the outside world. Wendy Hassett and Douglas Watson have written an interesting piece about how Alabama's cities and towns are navigating cyberspace (or not). Their article, "Cities in Cyberspace: Alabama Municipalities on the Internet," found on page 11, explores website content, trends and best practices, online government services, citizen interaction and social networking.

Of course, technology is not without its weaknesses. Security is always a concern. From digital transactions to identity theft, liability risks are present for any user of technology hardware and software. In his article, "Cyber Security Consideration for Municipalities" on page 17, Jason Nieman, Claim and Litigation Manager with the Illinois Municipal League Risk Management Association, provides a snapshot of how to prepare and protect your information, and ALM Executive Director Ken Smith discusses Payment Card Industry (PCI) compliance and requirements in his column on page 7.

Just as computers overtook our offices and homes within two decades and mobile devices became ubiquitous in less than five years following the 2007 launch of the first iPhone, digital engagement has rapidly become a standard, *expected* means of communication. In fact, a 2013 study commissioned by Western Union found that 21 percent of "Gen Y-ers" (17 to 34-year-olds) have *never* written a physical check to pay a bill; instead, they rely on digital technology to handle such transactions, including viewing bills and setting up automatic, recurring payments. The majority of these folks are also old enough to care about what their cities and towns have to offer – and they're old enough to vote. So keep that in mind when considering why digital technology is important.

Carrie

# The President's Report

By Mayor Wally Burns, Southside



## How a City Website and Social Media Benefit My Community

Since taking office as Mayor of the City of Southside in 1999, I've seen many changes in the day-to-day operations of managing our city. The most significant change has been in the advancement of technology. The rise of the Internet has transformed the way we communicate with the outside world. Keeping members of our community in the loop no longer requires the long process of writing, printing and mailing. With a few clicks of a button, information can reach thousands of residents within minutes without incurring extra cost.

Regardless of city size – Southside's population is around 8,500 – a well-designed website and social media platform are instrumental in providing a means to communicate valuable information to the residents of your community as well as businesses located within your city. Choosing a company to develop and host your municipal website is vital to its success. For the City of Southside, Ingenuity, Inc. provided a platform that fit our needs and the knowledge and experience to ensure we reached our goals in relaying important information to the

community. Our web address is [www.cityofsouthside.com](http://www.cityofsouthside.com). By using a content management platform, making changes is simple and easy – even for non-technical users. Our website is browser based, which requires no special software and can be accessed from any Internet-connected computer. Technical support is provided when needed; however, we have a designated staff IT person who manages all updates to our website. The annual cost to Ingenuity, Inc. for providing web hosting is relatively inexpensive at a cost of less than one thousand per year. This includes up to 10 e-mail accounts as well as spam filtering. As an added benefit, Ingenuity, Inc. also included the use of social media with our package.

Since launching in March 2011, our website has been a valuable tool in communicating information to our residents. Along with a brief history and general information about Southside, visitors to our website can easily access city departments, a calendar of events, links to local business and schools, current news and an action center allowing citizens to request or report various problems and concerns relating to our community. It's convenient and accessible 24 hours a day. It's also useful and informative and many questions can be answered in a matter of seconds. An added bonus is that Southside's website provides an opportunity to showcase our city to others outside the community, which can be an important part of our economic development efforts.

In addition to our website, social media has provided a quick platform in which to communicate with members of our community. Once information is posted to Southside's Facebook page, users then re-post and share with their friends and our updates spread quickly. A post on Facebook regarding a road closure, for example, can reach hundreds of users in a short period of time – sometimes within minutes. This social media platform can also be used to notify our community regarding holiday closings, city events, council meetings and disasters or emergencies within our community as well as used to direct people to our city website.

Southside launched its Facebook page ([facebook.com/CityofSouthsideAL](https://www.facebook.com/CityofSouthsideAL)) in October 2013 and we now have more than 1150 "likes". Our Facebook presence has helped to build a stronger social connection to our residents – at no cost to the city. It can do the same for yours! ■



Screen shot of Southside's homepage: [www.cityofsouthside.com](http://www.cityofsouthside.com).



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# Municipal Overview

By Ken Smith, Executive Director



## PCI Compliance: A Brief Overview

**B**y now, most of us are aware of the many dangers presented by the use of credit or debit cards. Each time we present these cards for payment, we open the door to the potential theft of our identity. The recent exposure of a weakness in Target's card security was only the poster-child for a rapidly developing issue facing all of us.

Exposure to card liability is nothing new. From the days before debit cards – when credit cards required carbon copies – until to today, when many transactions take place without the physical presence of a card and require only the card number, using cards for payment opened the user to potential misuse of his or her information.

What about the other side of the issue? Does your municipality take any form of credit card payments? While we often wonder about our personal exposure, how many of us accept credit and debit cards as payment for municipal services and debts without a second thought about steps we should take to secure user information?

If your municipality accepts payment cards, you need to be aware of a new set of recently-updated credit card industry standards that are designed to maintain a secure environment for the processing, transmittal and maintenance of payment card information. These standards, which were designed by the Payment Card Industry Security Standards Council, address requirements necessary to reduce credit card fraud.

The Payment Card Industry Security Standards Council was created in 2006 by five global payment brands – American Express, Discover Financial Services, JCB International, MasterCard and Visa Inc. – and is responsible for development, management, education and awareness of Payment Card Industry (PCI) Security Standards. The Third Edition of the PCI Security Standards was released in 2013 and the League wants to make sure that our members are aware of the need to examine their systems for compliance. These standards will be active from January 1, 2014, through December 31, 2016.

### Who is subject to the PCI requirements?

First, it is important to keep in mind that these standards are developed by the industry itself and not a

governmental agency. In other words, these are compliance standards that a card company is going to use to determine whether your municipality is taking the steps it deems necessary to protect the card-user's personal information. Ultimately, however, compliance may determine whether the card companies allow you to accept their cards for payment.

That said, essentially any organization or merchant who accepts credit or debit card payments is subject to the PCI requirements. These standards apply to local governments as well. The validation actions you must take and the validation process applicable to you depends on your level of card usage. If you handle payments directly, rather than through a third-party, compliance will obviously require more work on your part. However, you should also be aware that you remain responsible for compliance even if you use a third-party. Therefore, even if you contract for card payment services, the PCI standards require you to have a written agreement from the third-party verifying that it is and will remain compliant with PCI requirements.

### What are the requirements?

According the PCI Security Standards Council website: "The PCI Data Security Standard is a multifaceted security



standard that includes requirements for security management, policies, procedures, network architecture, software design and other critical protective measures. The PCI Data Security Standard is comprised of 12 general requirements designed to: Build and maintain a secure network; Protect cardholder data; Ensure the maintenance of vulnerability management programs; Implement strong access control measures; Regularly monitor and test networks; and Ensure the maintenance of information security policies.” (www.pcisecuritystandards.org/faq/) The twelve general requirements for compliance are:

**Build and Maintain a Secure Network**

- Requirement 1: Install and maintain a firewall configuration to protect cardholder data
- Requirement 2: Do not use vendor-supplied defaults for system passwords and other security parameters

**Protect Cardholder Data**

- Requirement 3: Protect stored cardholder data
- Requirement 4: Encrypt transmission of cardholder data across open, public networks

**Maintain a Vulnerability Management Program**

- Requirement 5: Use and regularly update anti-virus software
- Requirement 6: Develop and maintain secure systems and applications

**Implement Strong Access Control Measures**

- Requirement 7: Restrict access to cardholder data by business need-to-know
- Requirement 8: Assign a unique ID to each person with computer access
- Requirement 9: Restrict physical access to cardholder data

**Regularly Monitor and Test Networks**

- Requirement 10: Track and monitor all access to network resources and cardholder data
- Requirement 11: Regularly test security systems and processes

**Maintain an Information Security Policy**

- Requirement 12: Maintain a policy that addresses information security

*continued on page 42*

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# The Legal Viewpoint

By Lori Lein, General Counsel



## Municipal Debt Financing

Every municipality, from time to time, must borrow money for various municipal uses. This article will give officials a general knowledge of the legal authority for municipal financing; however, it should not be construed as specific instructions in this field. Municipalities should always seek the advice of municipal financing professionals, such as bond counsel, when looking for specific guidance and assistance with financing.

The threshold question municipalities must answer is who will borrow the money and issue the securities? Will the municipality do it directly or will it work through a separate public agency, authority or corporation? Once it is determined who will borrow the money, it is then necessary to determine what legal authority there is to borrow the money and what, if any, limitations exist.

### Authority to Finance: Municipalities

Section 11-81-51, Code of Alabama 1975, begins with the following language: "All municipalities shall have full and continuing power and authority within the limits of the Constitution now in effect or that may be hereafter provided to issue and sell bonds ... for the following named purposes ..." The purposes enumerated (herein greatly condensed) are for work on public buildings, sanitary and storm sewers, streets, alleys, bridges, schools; or for building or purchasing utility systems; purchasing needed real estate; equipping and furnishing buildings; building garbage and disposal plants; building hospitals, prisons and police stations; providing for marketplaces, auditoriums, water works, lighting plants, cemeteries, libraries, public baths, wharves and levees, parks, fire houses and equipment, water storage facilities, and abattoirs.

Under this statute, the Legislature gave municipalities a broad and almost all-inclusive range of public projects, which could be financed through the issuance of bonds. This statute should be examined carefully to ensure that the contemplated use is included. Section 11-81-51, Code of Alabama 1975.

Sections 11-81-3 and 11-81-4, Code of Alabama 1975, authorize municipalities to issue, without an election, securities to fund or refund outstanding certificates of

indebtedness, warrants or notes of such municipality issued under the provisions of Article 5 of Chapter 81 of Title 11, as amended, or a predecessor statute or combination thereof, whether the same are due at the time of such funding or refunding or at a later date. Such securities may also be issued to refund or discharge any judgment or judgments based upon such obligation. Such securities shall mature at the time or times as the governing body may determine, not exceeding 30 years from the respective dates of issuance. Taxes, licenses or certain other revenues may be pledged to payment of same.

Under the provisions of Section 11-47-1, municipalities have the right to borrow money and may issue notes or non-negotiable warrants. These debts must be payable within 12 months of issue and may be renewed. Section 11-47-1, Code of Alabama 1975. License taxes, ad valorem taxes or other revenues due or to become due within 12 months from the date of the note or warrant, may be pledged to secure their payment. Section 11-47-1, Code of Alabama 1975.

Alabama law provides that money may be borrowed for temporary or any other lawful purpose or use. Sections 11-47-1 and 11-47-2, Code of Alabama 1975. Warrants and notes may be issued as evidence of such indebtedness under the provisions of Sections 11-47-2 and 11-47-3, Code of Alabama 1975. These loans must not be for a period of time exceeding 30 years. Section 11-47-2, Code of Alabama 1975. A municipality may agree to levy annually any special tax or license authorized to be levied and to apply the proceeds of same to the payment of the notes or warrants. Section 11-47-2, Code of Alabama 1975.

The city council may also contract for the construction, extension or repair of municipal buildings, water and electric plants or systems, execute notes and warrants secured by mortgages or deeds of trust on the buildings or systems. No election is required. Section 11-47-3, Code of Alabama 1975. Warrants issued under Sections 11-47-2 and 11-47-3 may be general obligations or they may be payable solely from the rents or revenues of the project financed or improved. *State v. Mobile*, 229 Ala. 93, 155 So. 872 (Ala. 1934).

*continued on page 25*



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- Court Clerk  
Large Municipal Court

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- Court Clerk  
Large Municipal Court

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- Judge  
Alabama Court

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- Emma G., Defendant  
Florida State Court

"...thank you for getting me into a treatment program. I'm loving my sobriety. It's a wonderful life. It does work One Day At A Time."

- Danny B., Defendant  
Marshall County, Alabama

"Thank you for everything. Even though you did not have to do it, you did it anyway and it was much appreciated. You kept me out of jail."

- Craig A., Defendant  
Foley, Alabama

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# CITIES IN CYBER SPACE

## ALABAMA MUNICIPALITIES ON THE INTERNET

WENDY L. HASSETT, PH.D. AND DOUGLAS J. WATSON, PH.D.



For some time, public officials and citizens have wanted governments to be more open and accessible. Increasingly, technology is recognized as the tool to accomplish these goals. Specifically, there is recognition among long-time local government officials that technology has revolutionized the way in which they communicate with citizens. While public meetings and face-to-face communication are still necessary for city officials, municipal websites have assumed great importance by fundamentally reforming how cities connect with residents, visitors and businesses.

This change has been triggered by public demand. For example, the City of Auburn recently reported that it had over 500,000 unique visitors to its website in 2013 (Buston 2014). City websites are increasingly being studied by practitioners and academics because they are likely the most important vehicle for staying in touch with residents and serve “as the home base for information on the government” (Schultz 2013, 5). According to one study, there is no more essential and effective tool “to inform the public, create efficiencies in the provision of public services, and engage residents” (Monmouth University 2013, 1). In the first part of this article, a brief overview of that study will be presented. Alabama cities, like municipalities across the country, rely on their websites for numerous tasks, and many of them utilize best practices in creating and maintaining their websites. Therefore, in the second part of this article, the authors will use the categories from the Monmouth study to present some of the “best practices and trends” that emerge from an examination of the websites of Alabama’s largest cities.

A recent Pew Research Center study showed that all age groups in our cities are going online, and many of them very often (Smith 2014). Seniors still lag behind younger Americans in the adoption of modern technology, but are still significant users. Eighty-six percent of all Americans over the age of 18 are regular Internet users, while 59 percent of those over 65 years are regular users. According to the Pew Research Center, there are two groups of senior citizens when it comes to use of

the Internet. Younger, more affluent seniors use the Internet at a greater rate than do those who are less affluent and over the age of seventy-five. However, even among those over 80, more than one-third are online often. Younger Americans use the Internet at even greater rates, as one would expect. Ninety-four percent of 18 to 29-year-olds are on the Internet at least three to five times per week. It is safe to assume that these very high percentages will increase for older age groups in future years as this population becomes comfortable with the Internet as it grows older.

While there is not a large body of research readily available on the topic, studies that have been done conclude that citizens are at least as likely to visit their city’s website as they are to visit city hall. In 2011, a poll by Monmouth University (2013, 1) found that “municipal websites are the first place (*residents*) go for information about their hometowns.” Some states recognize the importance of city websites and require cities to place certain information on them, such as budgets. The expectation is that public sector transparency will lead to greater public trust in government and facilitate a sense of openness between local government and its citizens. Some cities in Alabama, such as Auburn, place the budget, financial statements, and other essential information that citizens otherwise rarely see, on their websites. While the Alabama Legislature has not required cities to post information, or even to have websites, it is not out of the question that it will follow the lead of other states and turn its attention to this important area in the future.

### Website Content

In 2011, Monmouth University attempted to define what content a city should have on its website, and identified more than 100 items of information and online activities that were determined important. In its study of New Jersey cities, Monmouth researchers chose to study 86 of the 100 items based on best practices in E-government research and examples from highly-regarded community websites from across the country. The researchers recognized that some items were more important

than others and assigned greater weight to them. They organized the 86 content items into four categories: Information for Citizens, Citizen Interaction, Online Government Services and Social Networking.

**Information for Citizens** included basic information that should be readily available to citizens. For example, contact information for elected and appointed officials, city council meeting schedules and agendas, city budgets and tax and license information were considered essential. Other items, such as planning commission members' contact information and meeting schedules, ordinances/codes, public utilities and recreation activity schedules, were also important, but less so, according to the researchers. Of course, the highest ranked websites included all of the items identified by the Monmouth researchers.

**Citizen Interaction** gauged the extent to which citizens had the opportunity "to engage in government by posting information about citizen advisory committees or professional positions, allowing direct email contact with key officials and staff, emergency alert sign-up, publication of bidding opportunities, and the provision of a website search function" (Monmouth 2013, 2). While the first category determines the degree to which a city government makes information available on its website, this second category evaluates whether the website allows for different types of civic engagement.

**Online Government Services** evaluated the ability of

citizens to conduct online transactions, such as downloading forms, paying utility bills, parking tickets, and taxes or making public records requests.

The final category was **Social Networking**. The researchers attempted to learn the extent cities used social networking tools such as Twitter and Facebook. A progressive user of social networking in Alabama is the City of Prattville, as described in the October 2013 edition of this *Journal*. Teresa Lee, webmaster for Prattville, described how the city uses Facebook, Twitter, YouTube and Pinterest to inform and interact with its citizens. Importantly, Lee pointed out: "Social media is not social if you don't allow your constituents to carry on a conversation with your administrator ... 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" (Lee 2013, 19).

The Alabama League of Municipalities reported that of 462 Alabama municipalities, approximately one-half of them have websites and 20 percent use social media (*Alabama Municipal Journal* 2013, 4). While there are smaller cities in the state effectively using websites and social media to inform and communicate with their citizens, this study looked closely at the websites of Alabama's larger cities. Furthermore, one of the key findings of the Monmouth study was that the amount of information provided on a city's website significantly correlated to the city's population (Monmouth, 5).

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On occasion, the Public Affairs Research Council of Alabama (PARCA) evaluates the finances of the 20 cities in the state with populations above 20,000. Since cities of that size have the financial and staff capacity to support use of technology and social media, this study examines best practices and trends of Alabama's largest cities using the Monmouth categories of *Information for Citizens*, *Citizen Interaction*, *Online Government Services* and *Social Networking*.

### Best Practices and Trends in Alabama's Largest Cities

Alabama cities are increasingly utilizing their websites in new and innovative ways to enhance transparency, civic engagement and the provision of governmental information. This improved level of website usage is gradually redefining the relationship between Alabama residents and their local governments. Across the country, municipal websites are now providing a much different type and level of communication than in the past, and Alabama cities are very much a part of that evolution.

### Information for Citizens

Alabama residents are turning to their city websites more and more for municipal information, and cities are responding with increasingly informative websites. In addition to including basic information from press releases, city council meetings, FAQs and community calendars, cities are providing blogs, employment opportunities, interactive mapping functions, financial data, long-term and strategic plans and search mechanisms for municipal resolutions and ordinances, to name a few.

**Mobile Website.** Increasingly, society is using personal mobile devices (including smartphones, tablets and e-readers) for access to the Internet, and a growing number of websites offer a more user-friendly website for mobile devices. "Mobile" versions of websites generally feature slightly less data which allow for information to be conveniently accessed on a smaller screen that scrolls vertically. In recognition of this trend, the cities of Homewood and Mountain Brook are two of the Alabama cities studied that boast a mobile version of their respective websites.

**Mapping.** Geographic Information System (GIS) is a technology used to organize, analyze and share spatial data. GIS technology essentially allows users to create customized maps based on specific types of geographic data. Cities have used GIS mapping for years, and, as GIS capabilities grow in popularity and utility, cities are increasingly sharing this capability through their websites. While many cities offer PDF maps that can be printed and used, Auburn, Birmingham, Mobile and Tuscaloosa are among those cities that stand out in terms of the interactive online mapping capabilities they provide on their respective websites.

**Video.** While a number of municipal websites include informational video at some level, a few cities use it as the centerpiece of their homepages. For example, the cities of Enterprise and Mobile prominently display video on their websites as a way to share city-related information in a user-friendly way. Birmingham integrates video at a higher level by providing live feeds and video archives of its city council

meetings. The cities of Anniston and Opelika place links to a number of video virtual tours on their home pages. City departments are also using video to disseminate information. One example is Birmingham's police department webpage that includes video-based crime stopper information in the "Chief's Corner."

### Citizen Interaction

Citizen interaction is increasingly taking place among Alabama's municipal websites. Citizens across the state are able to go to their city's home page and sign up for customizable notifications about local events, press releases and alerts. In many ways, Dothan's website is a leader in this area by placing a "Citizen Help Center" prominently on its web page where citizens can pay bills online, sign up for text and email notifications, report a concern and perform some customization.

**Alerts and Notifications.** Connecting with citizens has taken on new meaning with technological advancements. Citizens can now receive personal emails and alerts directly to their smartphones, and Alabama cities are building this capability into their websites. For example, Gadsden, Hoover, Auburn and Madison offer a "Notify Me" function where residents can customize their notification subscription to text or email alerts for a wide variety of items, including general emergency alerts, police Be On Look Out (BOLO) alerts, bid postings, employment opportunities, news and more. Athens (population 22,020),

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one of the smallest cities in this group, offers a free email/text alert for emergency arts, public safety notifications and general community information through a service called Nixle, a third party vendor used by cities and schools across the country to provide zip code-specific alerts. Decatur also uses Nixle for provision of timely information to its citizens.

*Feedback.* A number of cities are using their websites as a way to solicit suggestions and general feedback. For example, the City of Decatur’s homepage allows citizens to take a short “citizen and visitor feedback survey” to gauge its customer service quality and website utility. Homewood also allows citizens to offer suggestions to improve its website. Vestavia Hills has partnered with GovQA to facilitate communication between citizens and the city government. Through its “Action Center,” citizens can engage with city staff to ask questions or report problems.

*Reporting Systems.* While a growing number of cities have instituted a web-based system for citizens to report problems, not all of those systems allow residents to track reports to stay up-to-date on the status of their request or complaint. However, a few cities stand out in this regard. Madison prominently displays its “Let Us Know” feature where citizens are encouraged to submit problems or concerns directly through the city’s website and offers an option to receive notifications about the status of those reports. The City of Huntsville allows residents to report graffiti, potholes, broken parking meters and illegal dumping through its web-based HSV Connect. This system uses SeeClickFix software

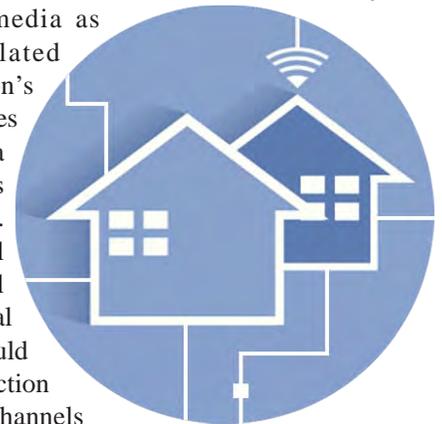
to allow residents not only to report these problems, but also to track their service requests via the web or a mobile application.

### Online Government Services

In terms of online services, a growing number of cities, including Tuscaloosa, Phenix City and Florence, offer e-services or the online payment option on the city’s home page for things such as utility bills and business licenses. Not all cities studied offered this option and other cities require citizens or business owners to seek out those options with less ease. However, it is clear that Alabama’s largest cities are making important strides in this area.

### Social Networking

While a growing number of Alabama cities have some kind of social media presence, not all cities in this study have embraced social media as a way to share city-related news and events. Anniston’s webpage, for example, does not indicate a social media presence, and the city is not alone in that approach. The management of social media is a mission-critical job, and engaging with social media is a decision that should not be taken lightly. To function effectively, social media channels



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require a steady flow of news and accurate information. The challenge for local governments is heightened even more because residents' postings on social media often necessitate an official response. The city coordinator assigned to this task must ensure the information placed on social media outlets is accurate and consistent, possibly requiring daily reviews of postings as well as intensive technology support. This is no small task.

Those cities that do have a social media presence are doing so at very different levels and in very different ways. Among the 20 cities studied, this category showed the most diversity in terms of managerial approach. Some Alabama cities allow individual city departments to manage their own social media presence, while others maintain a unified city-wide presence on social media. For example, Birmingham, Florence and Gadsden have links on their respective home pages to allow residents to connect with the city or city departments individually via Facebook, Twitter, YouTube and other types of social media. Hoover offers a number of different ways citizens can connect via Facebook, offering both a "City Hall" page as well as departmental Facebook pages. Athens, Auburn, Dothan, Enterprise and Opelika are among those cities that take a unified approach by placing a link to the city's Facebook page and/or Twitter feed on the city's home page. In addition to Facebook and Twitter, some cities have an expanded social media presence. For example, Tuscaloosa is one of the few cities with a presence on Instagram, and Mobile has an expanded social media presence on Flickr and Foursquare.

## Conclusion

It is important to note that a municipal website should not be static; it should be constantly updated, enhanced and restructured to take on new features and functions. In fact, during this study, the City of Montgomery's website was in the process of being redesigned, scheduled to be unveiled in Fall 2014. Each technology upgrade should be carefully considered in order to balance the tradeoffs among increasing the costs and opportunities for citizen engagement, financial investments and staff involvement.

In terms of the advancements in website content, it is important to note the distinction between one-way communication and two-way communication. While citizen communication begins as one-way communication by the city sending out a press release or a citizen reporting a pothole, it becomes two-way when the system provides the option for a response or a push notification to the recipient (Schultz 2013). It is this two-way communication that is the most promising for the future of government responsiveness and civic engagement, and will likely be seen as a future trend among the more progressive Alabama cities.

One of the most exciting developments over recent years in terms of website management is the expansion of vendors who support the unique needs of local governments. Cities are

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increasingly partnering with third-party vendors to leverage their limited technology resources. This is particularly important for smaller cities that have modest in-house technology staffs.

The era of electronic communication is here, and with it comes new challenges for elected officials and government managers. What is posted online has not only political and managerial implications, but quite possibly also legal implications. As a result, a growing number of cities are adopting formal electronic communication policies that include provisions such as the following: 1) the role of individual departments in terms of the overall governmental web presence and other types of city-wide electronic communication; 2) the role of elected officials in the city's electronic communication and web presence; 3) who is responsible for the city's online presence and information distribution; and 4) who is responsible for addressing electronic input from the public. In this ever-changing era of e-government, policymakers are wise to carefully consider these important questions within the context of official city policy.

In spite of all the technological advancements, one objective has remained constant for local governments: the desire to engage residents in meaningful ways (Schultz 2013). As Alabama's municipal websites strive for enhanced interactivity, utility and performance, the categories of information, citizen interaction, online services and social networking will continue to undergird the future of civic engagement. ■

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# Cyber Security Considerations for Municipalities

< By Jason Nieman, MBA, CPCU, SCLA, ARM />  
< Claim and Litigation Manager, Illinois Municipal League Risk Management Association />

These days, it is hard to open a newspaper, surf the web, or watch television without hearing another tale of cyber security or privacy breach. Whether it be for individuals, businesses, or municipal entities, there are substantial physical, financial, data-based, and liability risks that are present for any user of technology hardware and software. The good news is that there are also many techniques and tools available to abate such risks.

## The Nature of The Environment

These days, technology is everywhere. Almost everyone (even children) has a “smart phone” and mobile tablets, which are more powerful computers than those that sat on most desktops just a few years ago. Personal information is stored on these devices, and is also shared or acquired by virtue of multiple aspects of daily life in industrialized societies. Almost everyone uses the Internet, at least occasionally. Online banking participation has been steadily increasing, and now mobile payments, including transactions by way of “smart phones” appear to be on the verge of becoming commonplace in most modern societies.

Unfortunately, as these devices and conveniences contribute to daily life for organizations and consumers, there are increasingly sophisticated groups and individuals who are constantly working to take advantage of such systems and information for a profit, or in support of other nefarious agendas. The recent Target Corporation breach has sent new shockwaves through the business and information system worlds as we are reminded of just how much privacy and financial damage dedicated persons can cause. Worse still, the technology that is believed to have allowed this massive data breach is said to have been available on the black market for several years, and may have been purchased or acquired by somewhat less sophisticated hackers. The ability of even the novice to cause expert level damage by way of easy acquisition of malicious code, greatly increases the overall level of risk.

Additionally, the old ways of stealing information and valuable hardware remain.

Smart phones and tablets are attractive targets for theft, as are laptop computers and similar equipment. Where these items contain personal and private information as to the user or others (identity, medical, financial, etc.) the damage caused can be severe. Additionally, state and federal laws exist that require self-reporting of such privacy breaches. There are substantial costs and burdens faced as to notification of such events to affected parties, including common obligations to provide credit monitoring or other services.

## Preparation and Protection

While the risks are substantial, there are defenses. Some are high tech, but many are simple common-sense based. High tech strategies include use of Internet security software (anti-virus, anti-malware/spyware, firewall), use of passwords on smartphones, tablets, computers, and hard drives. Lower tech strategies include using strong passwords (with alphanumeric and special character contents), keeping passwords in secure locations, changing passwords often, and locking up or securing hardware in locked storage, or at least out of sight. Valuable electronics represent valuable targets for theft from vehicles, offices, or even one’s hands. There are a large number of people who still use default passwords like “test” or “password” or

*continued on page 23*



# Legal Clearinghouse

Rob Johnston, Assistant General Counsel

**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

**Tort Liability – Immunity:** Donations made by a city to a volunteer fire department did not alter its status as a volunteer fire department. The Volunteer Services Act in Section 6-5-336, Code of Alabama 1975, immunizes volunteer firefighters from liability and as a result, protects the city from vicarious liability for the firefighters' negligent acts. *Ex Parte Labbe*, --- So.3d ---, 2014 WL 2535344 (Ala.2014)

**Tort Liability – Immunity:** City's police officers were "peace officers" for the purposes of state-agent immunity under Section 6-5-338(a) and their alleged misconduct occurred while in performance of a discretionary function within the line and scope of their law enforcement duties. The city was immune to the claims as to which the officers were entitled to state-agent immunity. The city failed to establish immunity on the claim of negligent training and supervision, since it did not identify the individual or individuals specifically charged with training and supervision of the police officers. *Ex Parte City of Midfield*, --- So.3d ---, 2014 WL 2619862 (Ala.2014)

**Ordinances – State Offenses:** City failed to prove a requisite element of its case for violation of municipal harassment ordinance, where the city failed to introduce the ordinance adopting the applicable state offense. *Bailey v. City of Ragland*, 136 So.3d 498 (Ala.Crim.App.2013)

**Search and Seizure:** While a warrantless patdown search is designed to secure the officers' safety and discover any weapons or other tools that could harm the arresting officer, if, during the patdown, an officer plainly views an item of contraband or discovers an item of contraband through plain feel, the officer may investigate and seize that item so long as it turns out actually to be contraband. *Nix v. State*, 136 So.3d 1101 (Ala.Crim.App.2013)

**Employees:** The statute governing the personnel system for Class 4 municipalities was not applicable to an employee's

appeal from the termination decision of a city, which was Class 7 municipality, and thus, the employee's appeal was governed by city's Civil Service Act and not by the statute. *City of Northport v. Sledge*, 137 So.3d 924 (Ala.Civ.App.2013)

**Property Forfeiture:** A default judgment in a federal forfeiture proceeding where the federal district court first exercised jurisdiction over property seized in an "equitable sharing" of seizure between the city and the DEA, and where the search warrant was issued by a state circuit judge, was not void. *Ervin v. City of Birmingham*, 137 So.3d 901 (Ala.2013)

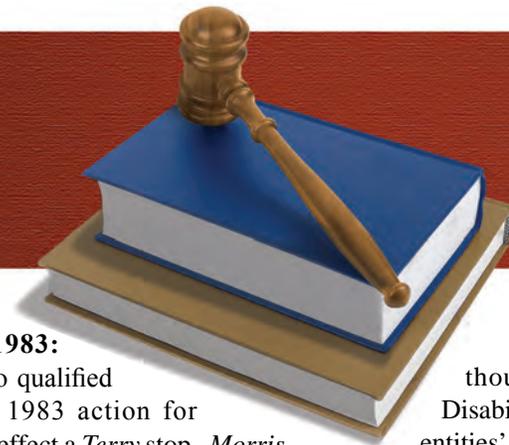
**Employees – Reduction in Force:** Conclusions by a hearing officer that city's board of education had not proven that it had a legitimate need to terminate mechanic's employment specifically as part of reduction in force (RIF) plan and that the outsourcing of the duties performed by the mechanics did not result in a savings were outside the scope of the question to be considered by the hearing officer when considering an appeal from a termination resulting from the implementation of a RIF plan. The only pertinent inquiry to be made by the hearing officer was whether the board had proven a justification for decreasing the number of jobs in the system at the time the board determined that a RIF plan should be instituted. *Huntsville City Bd. of Educ. v. Sharp*, 137 So.3d 917 (Ala.Civ.App.2013)

**Property forfeiture:** City, as successor-in-title to forfeited property following federal district court forfeiture judgment, was entitled to res judicata benefit of the federal judgment in an in rem action filed in state court by individual from whom property had been seized, even if the state court had exercised preexisting in rem jurisdiction over the property by virtue of its having issued the warrant for the search whose execution resulting in the seizure. *City of Montgomery v. Vaughn*, 138 So.3d 996 (Ala.Civ.App.2013).

## UNITED STATES COURT DECISIONS AFFECTING ALABAMA

**Employees:** A municipal employee's subpoenaed testimony regarding fraudulent activity by another employee is inherently citizen speech protected by the First Amendment. *Lane v. Franks*, --- S.Ct. ---, 2014 WL 2765285 U.S. 2014

**Searches and Seizures:** Police generally must get a warrant before searching digital information on a mobile phone seized from an arrestee. Government interest in protecting officers' safety did not justify dispensing with warrant requirement for searches of cell phone data, and government interest in preventing destruction of evidence did not justify dispensing with warrant requirement for searches of cell phone data. *Riley v. California*, --- S.Ct. ---, 2014 WL 2864483 U.S. 2014



**Tort Liability – Section 1983:**

Police officers were not entitled to qualified immunity in a homeowner’s § 1983 action for unreasonably entering his home to effect a *Terry* stop. *Morris v. Town of Lexington Alabama*, 748 F.3d 1316 (C.A.11 Ala. 2014)

**Tort Liability – Section 1983:** City council’s actions in voting to suspend or revoke contractor’s building permit to refurbish a Confederate memorial located in city cemetery, considered in conjunction with the actions of city police chief in threatening to arrest contractor’s employees if they resumed work on the memorial, could be said to constitute a “deprivation” through interference with contractor’s use of the building permit, as required to satisfy element of § 1983 procedural due process claim. *KTK Min. of Virginia, LLC v. City of Selma, Ala.*, 984 F.Supp.2d 1209 (S.D.Ala.2013)

**Tort Liability – Section 1983:** City police department’s standard operating procedure (SOP), which allegedly did not contain written procedures for use of force when interacting with mentally ill persons, was not a custom or practice of deliberate indifference to the right of mentally ill van passenger to be free from excessive force that could serve as basis for § 1983 claim against city, where city police officers had not used excessive force against other mentally ill persons, such that city would have been aware of alleged inadequacy of its SOP. Even if a cause of action against a municipality for a supervisor’s negligent training or supervision of a subordinate existed under Alabama law, city and police chief were protected by state-agent immunity in mentally ill van passenger’s negligent supervision action based on allegedly excessive use of force by police officer. *Howard v. City of Demopolis, Ala.*, 984 F.Supp.2d 1245 (S.D.Ala.2013)

**DECISIONS FROM OTHER JURISDICTIONS**

**First Amendment - Speech:** City’s licensing scheme for tour guides requiring applicants to pass an examination testing knowledge of the historical, cultural and sociological developments and points of interest was content neutral, for purposes of guides’ action alleging scheme violated their right to free speech under First Amendment. The scheme in its requirements for license had no effect whatsoever on content of what tour guides said, and those who had license could speak as they pleased. City’s licensing scheme for tour guides requiring guides not be felons and pass drug test furthered city’s substantial interests in protecting city’s tourism industry and protecting public from fraud and crime, and therefore, did not violate guides’ free speech rights under First Amendment. *Kagan v. City of New Orleans, La.*, --- F.3d ----, 2014 WL 2460495 (C.A.5 La. 2014)

**Americans with Disabilities Act:** Even though a city complied with Americans with Disabilities Act (ADA) regulations governing public entities’ obligations when modifying existing facilities and constructing new facilities to achieve ADA compliance, it did not preclude a Title II ADA action brought by a pedestrian who required a cane for mobility, alleging that the city denied him access to public sidewalk by permitting a private vendor’s display to completely block one existing curb ramp. *Cohen v. City of Culver City*, ---F.3d---, 2014 WL 2535329 (C.A.9 Cal. 2014)

**Ordinances - Due Process:** City ordinance prohibiting use of vehicle “as living quarters either overnight, day-by-day, or otherwise” where ordinance did not define “living quarters,” or specify how long, or when, was “otherwise,” was void for vagueness, in violation of Due Process Clause, despite city’s contention that its enforcement goals were motivated by legitimate health and safety concerns. The ordinance was broad enough to cover any driver in city who ate food or transported personal belongings in his or her vehicle, and members of city police department interpreted ordinance in different ways. *Desertrain v. City of Los Angeles*, --- F.3d ----, 2014 WL 2766541 (C.A.9 Cal. 2014)

**First Amendment – Speech:** A city’s ordinances prohibiting “aggressive” panhandling including “obviously threatening behavior” and prohibiting the use of traffic islands and roadways for purposes other than crossing roads, entering or exiting vehicles, or “other lawful purposes” were content-neutral and targeting behavior and circumstances that the city may be concerned about even if the behavior was largely associated with certain sorts of messages. *Thayer v. City of Worcester*, --- F.3d ----, 2014 WL 2782178 (C.A.1 Mass. 2014)

**First Amendment – Speech:** A city’s ordinance prohibiting persons from remaining in a public square between the hours of 10:00 p.m. and 5:00 a.m. without a permit did not violate the First Amendment guarantee of free speech. The ordinance was content-neutral, since it applied to all persons regardless of their message or activities, advanced the significant government interests of protecting the safety of those wishing to use the square after hours and protecting the city’s investment in that property, it was narrowly tailored, since it allowed unfettered and unrestricted access when the curfew was not in effect; and it left open alternative avenues of communication because it excluded adjacent streets, sidewalks, and bus shelters. *Cleveland v. McCardle*, --- N.E.3d ----, 2014 WL 2210652 (Ohio 2014)

**Discrimination:** A city and county may be engaging in unlawful sex discrimination under Title VII of the 1964

*continued on next page*

# Prayer at Public Meetings Upheld by US Supreme Court

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*Town of Greece, N.Y. v. Galloway*, 134 S. Ct. 1811, 188 L. Ed. 2d 835 (2014), was summarized in the Legal Clearinghouse of the last issue of the *Journal*. Due to the importance of this decision, however, more information is being provided to assist municipal officials in understanding the current law with regard to Legislative prayer.

In February 2008, two men sued the Town of Greece, NY, arguing that the town's practice of praying before council meetings violated the Establishment Clause of the First Amendment by preferring Christianity over other faiths. At issue was whether the Town of Greece imposed an impermissible establishment of religion by opening its council meetings with prayer. This case is significant to municipalities because many local governing boards across the nation have similar customary invocation practices that include opening meetings with prayer by local faith leaders.

On May 5, 2014, the Court held, in a 5 to 4 decision, that local governments may, indeed, open their meetings with prayers that are explicitly religious. Legislative prayer, while religious in nature, has long been understood as compatible with the Establishment Clause. The Court further held that, as long as the town maintains a policy of nondiscrimination, the Constitution does not require it to search beyond its borders for non-Christian prayer givers in an effort to achieve religious balancing. The town of Greece's prayer practice did not violate the Establishment Clause because it did not compel its citizens to engage in a religious observance. The municipal prayers in this case bore no resemblance to the coercive state establishments that existed at the founding, which exercised government power in order to exact financial support of the church, compel religious observance or control religious doctrine. *Town of Greece, N.Y. v. Galloway*, 134 S. Ct. at 1837.

This landmark decision applies to all legislative prayers, including those before Congress, state legislatures and local governments. *Town of Greece v. Galloway* carries broad implications, that will likely influence future decisions on faith-based speech or displays in government beyond prayer. The biggest immediate takeaway for municipalities, however, is that governing boards may continue to begin public meetings with prayer led by local faith leaders. For a copy of the case or more information, please contact ALM's Legal Department at 334-262-2566. ■

Civil Rights Act by barring male deputies from supervising female inmates in county jails. *Ambat v. City & Cnty. Of San Francisco*, --- F.3d ----, 2014 WL 2959634 (C.A.9 Cal. 2014)

## ATTORNEY GENERAL'S OPINIONS

**Appropriations:** A city may appropriate funds to a private property owner where damage to the property resulted from city work on a drainage easement. The city utilities board may make a similar expenditure if the Board determines it is within its corporate powers to make the expenditure. AGO 2014-062

**Compensation of Officers:** The increased salaries of the mayor and city council members of a city will become effective after the next general municipal election where the ordinance establishing the salaries was adopted six months before that election. AGO 2014-065

**Sales Tax – Exemptions:** The Birmingham-Jefferson Civic Center is a governmental entity as defined in Act 2013-205, which is codified in section 40-9-14.1 of the Code of Alabama and is exempt from paying sales and use tax for construction projects. AGO 2014-066

**Courts:** There is no authority to remit restitution owed by a criminal defendant for serving time in prison and/or jail for nonpayment. Rule 26.11(i)(1)(i) of the Alabama Rules of Criminal Procedure is limited solely to fines. AGO 2014-067

**Public Records:** Training profiles, standard operating procedures, use-of-force policies, discharge-of-firearm policies, and reporting-of-incidents policies are public writings as contemplated by section 36-12-40 of the Code of Alabama. Although training profiles, standard operating procedures, use-of-force policies, discharge-of-firearm policies, and reporting-of-incidents policies are public writings, some information therein may be exempt from disclosure and redacted if the municipality determines that disclosure thereof could reasonably be expected to be detrimental to the public safety or welfare or otherwise be detrimental to the best interests of the public. AGO 2014-068

**Boards:** An individual is required to be a qualified elector and a property owner within the city to be eligible to be a member of a municipal water and sewer board incorporated under section 11-50-310, *et seq.*, of the Code of Alabama. AGO 2014-069

**Resolutions:** Whether a proposed resolution is consistent with the authority granted to municipalities in section 11-45-1 of the Code of Alabama is a factual determination to be made by the city, reviewable only by the courts as to whether it is unreasonable, arbitrary, or capricious. AGO 2014-071

**Elections:** Petitions for referendum elections do not require a petitioner to have actually voted in the last general election. Instead, the law requires that a petitioner be a qualified elector

of the municipality and that the number of valid signatures must equal the specified percentage of the number of qualified voters who voted in the last general municipal election. AGO 2014-073

**Elections:** The county commission does not have the authority to prohibit firearms at all polling places. The designation of a location as a polling place does not transform the location into a courthouse annex for purposes of section 13A-11-61.2 of the Code of Alabama. Whether firearms may be prohibited in polling places depends on the nature of the location. Private property owners or their authorized representative may prohibit firearms on private property being utilized as a polling place. AGO 2014-074

**Conflicts of Interest:** A town may sell real property to a company that has a councilman as a member of that company, if the councilman does not participate in the discussion of the consideration of the sale by the town council, for an amount determined by the council to be adequate consideration. The best public policy is to sell such property by competitive bidding. AGO 2014-076

**Contracts:** A town may not contract with a private entity to provide extra police protection to property owned by the private entity. AGO 2014-077 ■

# Have we answered your F.A.Q.?

Since 2011, the League has maintained an archive of the F.A.Q.s featured in the *Journal*. If you have a question for the Legal team, it may have already been answered. Check our Resources page under the Legal Services tab on our website:

[www.alalm.org](http://www.alalm.org)

# F.A.Q.

Your Frequently Asked (Legal) Questions Answered  
by Assistant General Counsel Teneé Frazier

## Public Records

### What municipal public records must be kept permanently and what is the disposition schedule for non-permanent records?

Alabama law establishes a Local Government Records Commission with the responsibility of determining which county, municipal and other local government records must be permanently maintained and which records may be destroyed after being microfilmed. The Local Government Records Commission issues regulations classifying public records and prescribes the period for which records in each class must be maintained. Further, the Alabama law states that any public record, book, paper, newspaper, file, manuscript or tape which is determined to have no significance or value may be destroyed or disposed of upon the recommendation of the local records custodian and the consent and advice of the Local Government Records Commission.

For assistance or to obtain a copy of the records disposition requirements established by the Records Disposition Authority and approved by the Local Government Records Commission, please check the links listed on the League's website at <http://www.alalm.org/links.html>. Additionally, the Alabama Department of Archives and History Government Records Division website has extensive information available at [www.archives.alabama.gov](http://www.archives.alabama.gov) or you may contact the department via phone at (334) 242-4452. ■



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“12345” on equipment, increasing vulnerability. Portable devices like smartphones and tablets may also have utilities or applications (“apps”) available which allow the item to be located by GPS, or shutdown (render useless) the item in the case of theft, by way of a remote command placed by the authorized user.

Software security suite solutions have also never been easier. Such software can be purchased for multiple devices, subject to periodic renewal or upgrade, usually on an annual basis. Many of these programs automatically update virus and other definitions and run scans every few days, or more frequently, depending upon user or default settings. Software can generally be downloaded from Internet retailers, as opposed to purchasing physical software, if desired.

The level of security in place also varies by organization. Some entities set passwords at the BIOS or hardware level on laptop and desktop computers and may encrypt or password protect system hard drives. This should theoretically prevent an unauthorized user from accessing data if a device is stolen, even with a disk or alternate hard drive.

It is also true that we are sometimes our own worst enemies when it comes to cyber security. One of the most common ways hackers use to gain authorized access is by way of “phishing” attacks. Using a telephone call or e-mail under false pretenses, the hacker will try to get the recipient to surrender valuable or private information that can be used to compromise identity, privacy, or security. Most of us are bombarded with “spam” or junk e-mail, which often contains links, attachments, or other similar items that are used for such purposes. Recently, hackers have improved their techniques by using names of accounts or persons that are familiar to you, hoping that you won’t verify the actual identity of the sender before opening attachments or following links. (Placing your cursor over the sender’s name at the top of the e-mail will often reveal the actual sender’s e-mail address).

Related to security issues are those of data protection. A surprising number of personal and organizational users do not back up data frequently. Computer hard drives and other memory devices are fairly vulnerable to losses such as theft, fire, water, electrical current, lightning, or similar perils. The costs of restoring lost data can represent thousands of dollars or hours. Fortunately, portable hard drives of large capacity have dropped substantially in price in the past several years. A portable plug-in (USB) hard drive of 1 Terabyte (one trillion usable characters of data) can be purchased for \$100 or less. Such devices can easily be used as backup devices using system or aftermarket utilities, and the devices can be stored off site after hours to ensure that data (or even an “image” or copy

of the system in question) can be very quickly restored in the event of damage or loss.

For those who have wireless internet networks, most devices have strong encryption systems built in. But in order to be effective, the encryption must be activated and passwords must be strong. (“Guest” access can also be granted with many of these devices, with simple passwords but without administrator access which could allow the user to make device or security changes).

## Conclusion

While technology and information risks are ever-present in modern society, one can take steps from a personal and organizational standpoint to reduce such risks. In the event of a loss from intrusion, theft or physical loss, such preparations can also greatly reduce damages, and shorten recovery and restoration periods. ■

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## Constitutional Debt Limit

Amendment 268 (Section 225) of the Alabama Constitution of 1901, states that no municipality shall become indebted in an amount, including present indebtedness, exceeding 20 percent of the assessed value of the property therein. The amendment exempts from the debt limit those obligations issued for certain specified purposes. Additional exemptions from the debt limit are found in Amendments 107 (Section 222.01 - revenue bonds), 108 (Section 222.02 - bonds issued by incorporated municipal boards), 126 (Section 225.01 - utilities in municipalities with less than 6,000 people), and 228 (Section 224.04 - industrial development). Amendment 268 (Section 225) Alabama Constitution, 1901. If the securities to be issued are chargeable to the debt limit, an investigation is required to determine if the new debt will fall within allowable constitutional limits.

Education warrants issued by the county to fund a grant program for local school districts to fund capital improvements or retire debt were not chargeable against the county's constitutional debt limit, where the county secured the warrants with a pledge of education taxes, which was a new source of funding that was not available to the general

fund. School buildings that were to be acquired with proceeds of the education warrants were "public facilities" within the meaning of the statute authorizing counties to issue warrants for acquisition of public facilities, even if the county did not ultimately own the buildings. The Legislature included school buildings in the definition of public facilities, the legislature knew that school buildings were operated by local school boards, and the statute permitted the county to acquire public facilities not only for itself, but also for general benefit of the public. *Chism v. Jefferson County*, 954 So.2d 1058 (Ala. 2006).

Although this opinion was issued to a county, the ruling would apply to municipalities as well. Bonds issued by a municipality of six thousand or more for the construction of a school building do not count against the municipality's debt limit. AGO 1998-181.

## Necessity for Election

In certain cases, an election must be held to authorize the issuance of securities. Section 222 and Amendment 107 (Section 222.01) and various special and local amendments to the Alabama Constitution of 1901, control. Generally,

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all general obligation bonds, other than assessment and refunding bonds, must be voted upon, whereas most revenue bonds do not require prior approval by the electorate. Warrants, as distinguished from bonds, do not require approval by election. *See, Littlejohn v. Littlejohn*, 195 Ala. 614, 71 So. 448 (Ala. 1916) and *O'Grady v. Hoover*, 519 So.2d 1292 (Ala. 1987), for distinctions and definitions of warrants and bonds.

### **Election Procedures**

All elections, other than those held in Class 1 municipalities, whether regular or special, are conducted pursuant to the general municipal election laws codified at Sections 11-46-20 through 11-46-74, Code of Alabama 1975, as amended. Section 11-46-22, states that special elections shall be held on the second or fourth Tuesday of any month. The mayor is required to publish notice of any such special election at least two months prior to the date of the election in any municipality organized under the mayor-council form of government. In *Bouldin v. Homewood*, 174 So.2d 306 (1965), the Alabama Supreme Court held that the notice provisions of Sections 11-46-22 and 11-46-93, must be given primacy and full effect in considering whether proper notice was given of any municipal election, notwithstanding other Code provisions.

Municipal bond elections should, as much as possible, conform to municipal election laws found in Chapter 46 of Title 11, Code of Alabama 1975, and to the election provisions relating to the issuance of bonds found at Sections 11-81-50 through 11-81-68, Code of Alabama 1975. The Attorney General reached a similar conclusion in AGO to Hon. W. M. Bouldin, dated May 3, 1968.

### **Revenues**

The city council must also consider the availability of funds needed to pay and retire the bonded debt as installments become due. Always an individual local problem, this decision requires planning by responsible officials. Naturally, the availability of funds, the certainty of collecting such funds and the amount which can be devoted to debt retirement are among the factors considered when deciding upon the amount of money to be borrowed.

### **Bonds or Warrants?**

Bonds are negotiable promises to pay which may be sued upon directly. Warrants are nonnegotiable orders upon the city treasury. Generally, a general obligation bond issue must be approved by municipal voters. Warrants and revenue bonds are not subject to voter approval as a general rule. Both general obligation bonds and warrants are chargeable against the municipal debt limit.

If bonds are issued they may be sold at public or private sale as the governing body determines. If the bonds are sold

at public sale, the public sale shall be either by sealed bids or at auction. The notice of the public sale must recite the proposed method of sale, the amounts to be sold, maturities, data on interest, etc. *See, Section 11-81-11, Code of Alabama 1975*, for details on the contents of notice and the manner of publication. Other exceptions may be found in specific enabling statutes authorizing the issuance of bonds for specified purposes.

Specific statutory requirements as to maturities are found in Section 11-81-6, Code of Alabama 1975. Generally, bonds, with the exception of those dealing with revenue, must be payable in 30 years. Revenue bonds must be payable in 50 years. If bonds are issued to acquire property or to make improvements, then the last installment shall be payable within the period of usefulness of the improvement.

Generally, the interest rate on bonds will be more favorable to a municipality than if the financing is done through the sale of warrants.

Warrants may be issued under the authority of Sections 11-47-1 through 11-47-4 and Section 11-81-4, Code of Alabama 1975. Warrants may be sold at a negotiated price without meeting the statutory requirements of a public sale. The maturity of warrants sold under provisions of Sections 11-47-2 and 11-47-3 is 30 years. The maturity of refunding warrants authorized by Section 11-81-4 is limited to 30 years.

### **Temporary Financing**

Municipalities are authorized under Section 11-47-1 through 11-47-4, Code of Alabama 1975, to borrow money for temporary use. The purpose of the loan and the size of the municipality determines whether the debt is chargeable to the debt limit. *See, Amendments 268 (Section 225) and 126 (Section 225.01), Alabama Constitution, 1901*. If the loan is for 12 months or less and on a promissory note, no election is required. If the evidence of the loan is in the form of a warrant, no election is required. Bond attorneys recommend that all temporary loans be evidenced by warrants instead of a note if due dates exceed 12 months.

Frequently, municipalities will borrow money on a temporary basis and, before repaying all of it, will issue refunding warrants maturing over a period of time. No election is required for this type of financing. The chargeability of such debts against the debt limit is determined by the constitutional provisions mentioned before.

### **Bond Anticipation Notes**

After bonds have been favorably approved, the governing body may issue negotiable notes for the purpose for which the bonds were authorized but not exceeding the maximum authorized amounts of the bonds. Such notes shall be general obligations and shall be payable in 12 months.

The notes may be refunded by the issue of new negotiable notes as long as the final date of payment shall not be longer than three years from the date of the original borrowing. The notes may be sold at public or private sale and such notes may be repaid out of the proceeds of the sale of the bonds. Authority for such notes is found in Section 11-81-28, Code of Alabama 1975.

### **Authority to Finance: Public Agencies, Authorities or Corporations**

The governing body may decide to finance through one of the local public agencies which has statutory power to issue securities. Many municipalities have already organized such agencies, but if none exists, then the initial step is to organize the agency. Statutory provisions exist for the organization of municipal utility boards, municipal public housing authorities, municipal industrial development boards, municipal public building authorities, hospitals, libraries, medical clinic boards, recreation boards and other similar incorporated entities. See the article titled “Municipal Boards in Alabama” in this publication for information on procedures for forming boards and authorities in Alabama.

### **Effect on Constitutional Debt Limit**

Amendment 108 (Section 222.02) of the Alabama Constitution states that each public authority organized by any municipality shall, for the purposes of Sections 225, 222 and 224 of the Alabama Constitution, be deemed a separate entity and bonds issued shall not be deemed to constitute an indebtedness of the municipality. Thus bonds issued by incorporated municipal boards generally do not have to be voted upon and are not chargeable to the debt limit of the parent municipality.

### **Advantages and Disadvantages**

Clearly, avoiding the depletion of a city’s borrowing capacity is a major advantage of using a public agency to finance needed projects. Management may be selected for special talents and on a nonpolitical basis. The governing body can be insulated, to an extent, from the responsibility of making unpopular decisions. That being said, a governing body cannot exercise complete control and surplus reserves are not unconditionally available for general municipal use. Also interest rates may be higher under this system of financing.

### **Plan of Financing**

The authority, not the town or city, issues the securities and builds the project. If the project is a utility such as a water, gas, sewer or electric system, the authority will own and operate the system. If the project is a public building, the authority may lease the project to the “parent” city or lease

it to authorized lessees other than the parent city. Leases to the parent city are on an annual basis but may be renewed. Lease rentals are fixed in an amount sufficient to retire the bonds. The bonds do not have to be voted on and may be sold at negotiated sale without offering the bonds for public sale.

### **Tax-Exempt Status**

Whether financing is done by the municipality or by another public agency, it is important to remember that after the Tax Reform Act of 1986, private activity bonds are no longer exempt from the federal income tax, except when the proceeds are utilized to finance an industrial activity. Congress created two classes of bonds in the Tax Reform Act:

- public purpose bonds, which are still tax-exempt; and
- private activity bonds, which are tax-exempt provided that no more than 10 percent of the bond issue is used for a private activity.

In addition, bonds for certain activities are declared to be tax-exempt in the act. The constitutionality of congressional authority to tax the interest on publicly-offered long term bonds was upheld in *South Carolina v. Baker*, 485 U.S. 505 (1988).

### **Securities in Registered Form**

Congress has adopted legislation to require that all tax exempt or municipal securities be issued in registered form. Section 41-1-7, Code of Alabama 1975, states that public entities which are authorized by law to issue bonds, warrants, notes, certificates of indebtedness or other securities are fully authorized to issue any such securities in fully registered form without coupons.

### **Conclusion**

This article has hopefully provided municipal officials with a general knowledge of the existing legal authority under Alabama law relating to financing options available to municipalities. While it provides a broad overview, it is by no means a “how to manual” for financing. If your municipality is in need of financing, whether to finance capital improvement or infrastructure projects, purchase needed vehicles or equipment, or refinance existing debt, you are advised and encouraged to seek the advice of financial professionals who have experience working with Alabama municipalities. The Alabama League of Municipalities has established the AMFund program ([www.amfund.com](http://www.amfund.com)) to assist Alabama’s municipalities with needed financing. For more information contact Greg Cochran, AMFund President, at 334-386-8130 or [gregc@alalm.org](mailto:gregc@alalm.org). ■

# Trussville City Clerk Lynn Porter Named 2014 Clerk of the Year

Peggy Shadix, MMC, Town of Sylvan Springs, Chairperson/Clerk of the Year Committee

Ms. Lynn Porter, City of Trussville, was named 2014 Clerk of the Year by the Alabama Association of Municipal Clerks and Administrators at its Summer Conference held in Opelika, AL, June 19-20. Lynn began her career with the City of Trussville in 1982 where she served as Assistant Clerk for four years before becoming City Clerk, a position she's held for 28 years. She has been active in the Clerks Association and recently served as President of AAMCA. She has served as group facilitator and presenter at many AAMCA meetings. In addition, Lynn has worked with the staff of the Alabama League of Municipalities on election training and has been a mentor to many clerks over the years. In her letter of nomination, District XIII (Jefferson County Clerks Association) President Tameeka Vann said: "Lynn eagerly shares the wealth of knowledge she has gained over 28 years as clerk. She loves people, works hard and always tries to lift the spirits of those around her."

Each year the Alabama Association of Municipal Clerks and Administrators recognizes a city clerk whose past accomplishments have made a significant contribution to the municipal clerk's profession as well as improvement of municipal government in the state and/or their own community. The Clerk of the Year Award was first presented in 1982. ■



2014 Clerk of the Year nominees pictured left to right: Jill Bright, City of Boaz; Rita Lee, City of Hartselle; Lynn Porter, City of Trussville (2014 Clerk of the Year); Denise Jernigan-Bush, City of Saraland; and Kay Ray, Town of Wilsonville.  
Not pictured: nominees Sylvia Rouse, Town of Coaling and Oletha Miller, City of Camden.

# Demystifying Website Construction

"Please, Can You tell me? Where is the on-ramp for the information superhighway?"

Karl Franklin, Graphic Artist, Web Administrator  
Alabama League of Municipalities

**Y**ou may have noticed that the League's website, [www.alalm.org](http://www.alalm.org), has been through a few changes recently. The redesigned site, which was unveiled in January 2014, is now responsive to tablet and mobile formats to increase its usability for our members. While perhaps not the most noticeable enhancement, the access this feature allows is quite substantial regarding the level of service across platforms we now provide our members.

Our previous website consisted of static HTML (a standard language used for webpage creation) pages designed in Dreamweaver and hosted on the League's in-house server. ("Hosting" allows individuals and organizations to make their websites accessible via the Internet through space on a server owned or leased by clients.) The League's current website is another animal entirely. It was created using a template platform though Joomla and is hosted by an outside provider.

Stay with me here. You may be ready to turn the page, thinking this is going to be a technical article. I assure you it will not be that at all! The challenges and roadblocks we faced during the transition from one website format to another provides the League with an opportunity to inform and educate our members. Therefore, I want to share some of those experiences here in the hope they will aid those municipalities in need of a website but are unsure of where to begin.

## Why Have a Website?

Before discussing the nuts and bolts, let's first establish why a municipal website is important. All cities and towns have a need – a responsibility – to communicate with their residents. Information regarding any number of events or situations – council meetings, changes in garbage pickup, concert in the park rain plans, etc. – must be distributed throughout the week. One of most effective and economical, ways to do this is to have a municipal website. In fact, maintaining a website is becoming less of a luxury and more of a necessity in today's world.

Unfortunately, however, many cities and towns in Alabama do not have a website and, therefore, cannot communicate this way. As of last September, 233 of Alabama's 463 municipalities were without websites.

The Internet as we know it turned 25 years old this year. It has grown from a tool used by a handful of scientists into a digital forum for everyone and for every subject under the sun. It truly is the standard marketplace of ideas and information, not just a great place to watch cute cat videos. Internet access has become so ingrained in our everyday lives that website names have become verbs – "Google it"! The first place a person will seek information today is the Internet – not the library or a phonebook or an encyclopedia (all those items are now online). Searching for information has become extremely easy thanks to the unprecedented and ever increasing access we have to the Internet. According to Pew Research Center, as of February 2014, 87 percent of Americans have Internet access in their homes. A March 2014 comSource Report found that just over half the U.S. population owns a smartphone. If the information is not online, some will assume it doesn't exist! Many of your citizens could be missing critical information, not to mention the concert in the park, if you cannot communicate with them. If you have something to say to your residents,



you need a way to communicate with them via the Internet.

### A Quick Note on Social Media Sites

Social media sites such as Facebook have filled part of the communication gap between municipalities and residents. On September 26, 2006, Facebook launched to everyone 13 and older with a valid email address. Within three months it had 12 million users. Eight years after going live, Facebook boasts more than *1 billion* active monthly mobile users! (Source: Facebook, Inc.) Unfortunately, many of Alabama's municipalities are not taking advantage of this free resource. A current Facebook page can keep citizens apprised of recent developments. In fact, for timeliness, Facebook is hard to beat, and, since it's *free*, it is a good place to start if you don't already have an online presence. However, Facebook doesn't replace a website and, for a citizen wanting to find something that happened at the council meeting last year or a form to request city services, it's not as useful. A Facebook page uses a stream of information in chronological order, so searching for something that is not recent can be difficult. On the flip side, Facebook is a great way to steer folks to your website – something the League does frequently via its Facebook page ([www.facebook.com/ALALM](http://www.facebook.com/ALALM)) by posting

links to upcoming meetings, conferences and articles found on the League's website ([www.alalm.org](http://www.alalm.org)). Our website also offers you a quick link via the homepage to access our Facebook page.

### Demystifying Website Construction

A comprehensive, updated website is the best vehicle to convey your municipality's information and messages to the world. A website can be a brochure or a book, a pamphlet or a library, a molehill or a mountain depending on the amount of information you need to have available for your residents and potential visitors (remember, it is the *World Wide Web*). Of course, while it's easy to identify the need for a website, it can be a daunting task to try to stake a homestead on the digital plains. Hopefully, this article will ease your mind and help you find ways to make your website a reality.

The Internet can be intimidating. It's one thing to sit back and surf the Internet, flowing from site to site like a leaf on the wind, it's quite another to try and establish your own place. The sheer number of ways to establish your online presence can be paralyzing. The landmarks are unfamiliar, the landscape is alien and the language is indecipherable – PHP, SQL, Apache, HTML, XML, HTML5, JavaScript ...

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It can make you feel like Country Mouse in Grand Central Station! There are more than 100 different programs to write (or code) content for a website and the software cost ranges from free to thousands of dollars – and then once you finally do create a website, where do you turn if you have questions? (Believe me, you *will* have questions.) These are all daunting tasks that can (and often do) make many would-be website creators turn back in frustration.

One of the hurdles most municipalities face when considering a website is cost. Budgets are already tight and another expense is usually not a welcome prospect. As I pointed out above, the cost for website development range from nothing (although time and sweat equity aren't really *nothing*) up to thousands of dollars. I know you've heard it said 'You get what you pay for,' so you may be tempted to dismiss the "free" programs before investigating them fully. However, Joomla, which the League's website is built with, is one such "free" program, although a more accurate descriptor is to say it's an "open-source" platform. Open-source is a movement embraced by the creators of Joomla (and several other companies) that drives their software development. It means anyone can download the source code (the basic building blocks of the software) and then change it, modify it and improve it with the intention of helping the community at large. Therefore, open-source code is typically a collaborative effort where programmers improve the source code and share the changes within the community so that other members can help improve it further. An advantage to this approach and the worldwide use of Joomla is that many problems I encountered when setting up the League's original Dreamweaver website had already been tamed. When we decided to redesign the site and change platforms, Joomla's group usability and broad available resources made it the right choice for the League's purposes. The fact that it was free was just icing on the cake. A few open-source programs that have some of the same qualities as Joomla are Wordpress, Drupal and DotNetNuke.

Another reason we chose Joomla for the League's website was that it was already in use very close by. Teresa Lee, the webmaster from the City of Prattville and a contributor to the *Alabama Municipal Journal*, had an outstanding Joomla site up and running. I happened to find prattvilleal.gov as a featured link on the Joomla.org website. She very graciously allowed me to sit and peer over her shoulder for an hour or so to see the inner workings of a Joomla website. I was hooked! Teresa is an extremely detail-oriented person and her work on the city's website shows it. The website is very comprehensive – you can find everything from trash pickup dates to your Senator and Representative's contact information. In fact,

for the sake of transparency, the City even posts the financial information from its special and enterprise funds on the site. Teresa's vision for the website was put into action by BWS Technologies, a local company on Main Street in Prattville – proof that you don't always have to look far from home to find what you need. There are a number of consultants around the state who can provide you with the design services to help you get your site up and running. In fact, the Alabama Municipal Insurance Corporation (AMIC) is in the process of transferring its website to a Joomla platform through an area consultant who designs Joomla sites.

A second hurdle to most municipalities developing their own website is *skill*. It most definitely takes a different skillset to run a town than it does to design and upload a website. Thankfully, Joomla's open-source platform (as well as others) has certain advantages, particularly the availability of templates. A template provides a viable starting place for those whose skills do not include design, coding and web development. However, that's not to say that there's absolutely no learning curve. Think of a template as a costume for an actor – the person is the same but they look different. A template does not change your information, it only changes how the information is presented. For open-source programs like Joomla, Wordpress and Drupal there are thousands of different templates. That can be a big help to those of us who are unsure of what we want until we see it! Of course, it can also be a time consuming information overload headache, which is why some organizations choose to use a consultant for the initial design and setup. Once a template is in place, the rest of the information can be added in much the same way as creating Word documents and organizing them in folders.

Another important consideration when initially designing a website is to appoint or assign *one* person to the design, care and maintenance of the site. Like Teresa in Prattville, a website is only as strong or as current as the webmaster is





willing to make it. Once the site is established, some duties can be shared among staff. That is yet another convenient feature of Joomla, the ability to apportion certain pages to individuals and give them permission to edit the content. The load can be then spread across departments, making each responsible for keeping that department's information current. Even so, a single webmaster who is responsible for administration of the entire website is essential for it to run smoothly.

Templates do make the possibility of a municipal website much more approachable. They make the transition from wanting a website to having a website less of a giant leap. However, some skills do still need to be learned. Thankfully, there is a great deal of training available online – such that

almost anyone can learn the necessary skills from his or her desk. One such training outlet is Lynda.com. It has a library of more than 2,500 video presentations on all the major software packages, not just web design. The cost for this is very low – another money-saving boon for cities and towns with tight budgets. OStraining.com is another great site for training videos and tutorials. Training and support is even offered through some web hosting providers. Cloudaccess.net hosts free Joomla and Wordpress demos – one you can play with online and another offers a 30-day free trial to really get your feet wet and see if Joomla or Wordpress

suits your needs. The training truly makes all the difference. As with any prospective purchase or investment, research is the key. It is better to find out if you can use something *before* you buy it than to buy it and discover that you can't make it work.

### Conclusion

I hope this short article has helped to alleviate some of the anxiety associated with creating an Internet presence. It's definitely not as hard as it used to be and it's probably not as hard as you are worried it might be! Research the possibilities. Stake your claim on the vast digital information plain. Start today building your municipality's presence online. Build a venue where your residents and visitors can see what your community has to offer, a place where they can go to get information – and a place where you can make your municipality shine! ■

## Website Resources:

### Joomla

<http://www.joomla.org/>

### Wordpress

<https://wordpress.com/>

### DotNetNuke

<http://www.dnnsoftware.com/>

### Cloudaccess (Free Joomla and Wordpress Trials) –

<http://www.cloudaccess.net/>

### Lynda Online Training and Tutorials

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### OS Training Online Training and Tutorials

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### More about Open Source Software:

<http://opensource.matters.org/>

[http://en.wikipedia.org/wiki/Open-source\\_software](http://en.wikipedia.org/wiki/Open-source_software)

### City of Prattville (Joomla site)

<http://www.prattvilleal.gov/>

Teresa Lee: [Teresa.Lee@prattvilleal.gov](mailto:Teresa.Lee@prattvilleal.gov)

# CMO Sessions Scheduled for September and October!

Registration forms are available at [www.alalm.org](http://www.alalm.org).

**Questions?** Contact Krystle Bell at 334-262-2566 or [krystleb@alalm.org](mailto:krystleb@alalm.org)



## CMO Session 44: Municipal Legal Overview and Checklist

The Municipal Legal Overview and Checklist is a pilot program of the Alabama League of Municipalities designed to determine the feasibility and interest of providing on-site training in new regions of the state. This session will be conducted in two locations: Monday, September 29<sup>th</sup>, in Southside and Tuesday, September 30<sup>th</sup>, in Florence and has been approved for 2 Basic, Advanced or Continuing hours in the Certified Municipal Officials Program. Any municipal employee may register, but only elected officials will be awarded credit hours in the CMO Program.

### Topics will include:

- What is a Municipality?
- The Extent of Municipal Power
- Police Jurisdiction
- Appropriations
- The Division of Duties Between Elected Officials
- Council Meetings
- Relationships with Boards

### Who Should Attend?

- Any mayor or councilmember who was unable to attend the 2012 Orientation Conference
- Any mayor or councilmember elected or appointed official since the 2012 Municipal Election
- Officials wanting a refresher course on municipal basics
- Mayors or councilmembers who have never attended a League training session

### Southside

Monday, September 29

#### Southside Community Center

2142 Highway 77, Southside, AL 35907

- 12:30-1:00 pm – Registration
- 1:00 pm – Program Begins
- 3:30 pm – Adjournment

### Florence

Tuesday, September 30

#### City Council Auditorium

103 South Pine Street, Florence, AL 35630

- 8:30-9:00 am – Registration
- 9:00 am – Program Begins
- 11:30 am – Adjournment

## CMO Session 45: Fall Regional Training

The League will conduct CMO Session 45 in four locations across the state on the dates listed below. Topics, times and exact locations are posted online as well as registration information: [www.alalm.org](http://www.alalm.org).

**September 22**  
**Loxley**

**October 8**  
**Montgomery**

**October 15**  
**Birmingham**

**October 16**  
**Huntsville**

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League Law will also allow you to access PDFs of two critical publications: *Selected Readings for the Municipal Official* and *Handbook for Mayors and Councilmembers*.

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# 2014 Policy Committee Resource Advisor Reports

By Krystle Bell, Member Services Assistant Director

During the months of June and July, 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 state and federal agencies spoke on topics pertinent to each committee. Summaries of each meeting and their resource advisors' remarks have been provided below. The complete Policies and Goals are posted at [www.alalm.org](http://www.alalm.org).

## Committee on Finance, Administration and Intergovernmental Relations (FAIR)

FAIR met on Tuesday, June 17, 2014. FAIR reviews and develops policy on fiscal matters affecting municipalities, including municipal administration, intergovernmental mandates, personnel policies, liability, public records retention/destruction, workers and unemployment compensation and revenues and finance. The Committee also reviews trends relating to consolidation of jurisdictions and redirecting functions that threaten the integrity of local government. The chair and vice chair of FAIR are Councilmember Charles Black and Mayor Bud Kitchin, respectively.

John Mazcyk, Senior Vice President of Frazier Lanier Company, informed the committee members about developments in public finances. He stated that interest rates are low and will remain low. Long term interest rates will go up at some point. According to Standard and Poor, it is important to disclose the terms of your bank loan or they will cancel your rate. Mr. Mazyck also informed the committee the importance of posting audits to the Electronic Municipal Market Access (EMMA).

Shelley Tice, State Land Agent with the Alabama Department of Revenue (ADOR), highlighted statements in the Policies and Goals that focus on revenue. First, she mentioned that with regards to FL-1.21 ADOR partners with the Auburn University Center for Governmental Services to offer courses to certify appraisers so they are able to sit for the certification exam. FP-1.5 focuses on the importance of notifying ADOR about changes to millage rates. Ms. Tice mentioned abatements on property taxes serve as incentives to companies who may want to come to a municipality. FP-8.1 is important with regards to collection of property because municipalities need to make sure they are getting the revenue they are required to receive.

Bob Martin, Attorney with the Alabama Alcoholic Beverage Control (ABC) Board, began by informing the committee members that Jefferson, Shelby, Montgomery, Mobile and Baldwin counties have franchise laws for wine. Mr. Martin also cited several Policies and Goals statements. Under FL-1.19, the ABC Board is opposed



*Tom Turley with the Alabama Department of Archives and History spoke to FAIR committee members about public records.*

to removing the ABC Board’s authority to sell alcoholic beverages at retail. The ABC Board collected \$14.8 million that went to municipalities with a total of \$200 million collected statewide. The ABC Board is in support of FL-1.6 and FL-1.53; however, opposed to FL-1.52. The Board would prefer having alcohol license applicants file their applications with the ABC Board first instead of local jurisdictions. Tom Turley, Local Government Section Head with the Alabama Department of Archives and History, began by stating the definition of public records has changed over the years. Public records consist of not only written, typed or printed books, papers, letters, documents and maps, but of audio tapes, video tapes, email and microfilm. There is a presumption that records are open to the public; however, many government records, such as adoptions, commitments, personal tax records, 9-1-1 recordings and student grade information, are restricted from public access. Municipalities can restrict public access of records, but they must have a legally defensible reason for denying access. They can also put into place reasonable response times for retrieving records and charge reasonable copying fees.

The following committee members were present: Councilmember Charles Black, Priceville, Chair; Mayor

Bud Kitchin, Lincoln, Vice Chair; Councilmember Annette Johnson, Bayou La Batre; Councilmember John Lake, Daphne; Mayor Charles Murphy, Robertsdale; Councilmember Terry Powell, Andalusia; Councilmember Ralph Wells, Andalusia; Mayor Fred McNab, Pinckard; Councilmember Lisa Sconiers, Slocomb; Mayor Tony Wilkie, Centre; Councilmember Mickey Tarpley, Dadeville; Councilmember Jean Burk, Lincoln; Councilmember Jenny Folsom, Cullman; Mayor Elmo Robinson, Double Springs; Councilmember Robert Avery, Gadsden; Councilmember Wayne Whitt, Hokes Bluff; Mayor William Marks, Athens; Mayor Don Kyle, Decatur; Mayor Richard Herston, Rogersville; Councilmember Colby Tucker, Rogersville; Councilmember Steve Stanley, Sheffield; Councilmember Karyl Rice, Pelham; Councilmember Sheila Smith, Eutaw; Councilmember Darnell Gardner, Fairfield; Councilmember Craig Sanderson, Irondale; Mayor Louvenia Lumpkin, Orrville; Mayor Loxcil Tuck, Tarrant; and Councilmember Charles Allen, Thomasville.

**Committee on Community and Economic Development (CED)**

CED met on Thursday, June 26, 2014. CED reviews and develops policy on factors affecting the physical

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development of cities and towns, including community, industrial and economic development; tourism and recreation; housing; planning and zoning; code enforcement; enterprise zone development and regulation; and downtown redevelopment. The chair and vice chair of CED are Mayor Alberta McCrory and Mayor Mike Grayson, respectively.

Ronnie Davis, State Director of USDA Rural Development, informed the committee members that the agency's programs finance and support community and economic growth in rural communities and towns. They have also been instrumental in assisting with water projects, specifically in West Alabama. Mr. Davis said municipalities must have an acceptable permit from the Alabama Department of Environmental Management before USDA Rural Development will fund a water project. Shabbir Olia, CED Programs Manager with ADECA, discussed programs such as the Community Development Block Grant Program, HOME Program, Emergency Solutions Grant and the Housing Opportunities for Persons with AIDS (HOPWA). The CDBG Program is used for projects related to water improvement, senior centers and parks and playgrounds. The HOME Program is designed to create home ownership opportunities for low income Americans.

The Emergency Solutions Grant assists the homeless. A total of \$2.5 million from this program is used to assist nonprofits to help them stay in business. The HOPWA is a program that provides affordable housing opportunities for individuals living with AIDS.

Hilda Lockhart, Director of International Trade with the Alabama Department of Commerce, explained that the agency drives economic development in the State of Alabama and that exports are important to the local economic development engine of a community. She also said she would like to see a policy statement in the Policies and Goals that encourages helping companies gain international markets. Jim Searcy, Executive Director of the Economic Development Association of Alabama explained that the organization is a membership trade association for economic developments. They have 485 members consisting of associate members, construction companies and elected officials just to name a few. The association has two professional conferences as well as one-day seminars to train economic developers. Hollis Wormsby, Field Office Director Liaison with the U.S. Housing and Urban Development, said HUD administers long-term recovery money and is instrumental in rebuilding disaster resistant housing. Funding has been cut; therefore, developing

partnerships with all funding agencies is very important.

The following committee members were present: Mayor Alberta McCrory, Hobson City, Chair; Mayor Mike Grayson, Demopolis, Vice Chair; Councilmember Terry Allums, Abbeville; Mayor Mickey Murdock, Elba; Councilmember Percy Gill, Wetumpka; Councilmember Michele Mizzell, Childersburg; Mayor Charles Gilchrist, Glencoe; Councilmember Chris Lee, Tuskegee; Mayor Phil Segraves, Guin; Mayor Donald Hall, Hartselle; Mayor Mickey Haddock, Florence; Mayor Troy Trulock, Madison; Mayor Billy Shoemaker, Tuscumbia; Councilmember Jay Roberson, Birmingham, Mayor Charles Webster, Clay; Councilmember Cris Nelson, Helena; Mayor Alberto "Butch" Zaragoza, Jr., Vestavia Hills; Councilmember Lonnie Murry, Sr., Brighton; Councilmember Jocelyn Tubbs-Turner, Marion; Councilmember James Prestage, Pennington; Mayor Roberta Jordan, Pine Hill; Councilmember Frank Braxton, Uniontown.

### **Committee on Human Development (HD)**

HD met on Tuesday, July 22, 2014. HD reviews and develops policy on social service and educational issues affecting municipalities. The Committee also reviews ways municipalities may improve the local environment for health care, mental health programs, juvenile and senior citizen programs, developing training and employment opportunities, welfare reform, Medicare and Medicaid programs, education and library services. The chair and vice chair of HD are Mayor LaFaye Dellinger and Councilmember Marva Gipson, respectively.

Ken Hollingsworth, State Workforce Initiatives Coordinator with ADECA, began by discussing the Workforce Investment Act though which employers are engaged, have the ability to earn and learn and regional partnerships are developed. After January 1, 2015, this Act will be replaced with the Workforce Initiatives and Operations Act. He also discussed the need for character education classes as well as classes that emphasize work ethic. He said libraries can be instrumental in offering such classes as well as job fairs, computer access and resume writing. He discussed the Alabama Community Partnership for Recovery and Reentry, a network designed to help individuals who are transitioning from correctional facilities to communities. Jamey Durham, Director of Bureau of Professional and Support Services with the Alabama Department of Public Health, began by highlighting several items in the Policies and Goals. HL-1.9 discusses the need for the Alabama Legislature and the Governor to fund the Medicaid Program. Mr. Durham said this statement is being met through the Regional Care Organizations. HL-1.10 discusses the need to appropriate sufficient funds to control West Nile and H1N1 virus. He indicated the best way to

combat West Nile is to spray DEET on the body's exposed skin. He also said flu season is coming and the vaccines will be ordered by September 1<sup>st</sup>.

Margaret Whatley, Director of Government Relations with the Alabama Hospital Association, spoke about Medicaid expansion. Currently, there are about 1 million individuals enrolled in the Medicaid program. An individual must make at least a \$4,300 salary in order to receive benefits; childless adults are not eligible to receive benefits. She said an Alabama Medicaid expansion would generate \$28 billion dollars and create 30,000 new jobs. Jim Smith, Consultant with the Alabama Public Library Service (APLS), gave an overview of the services the organization provides. APLS supports more than 200 public libraries. These facilities offer free services, such as workforce recovery, job search and resume assistance. APLS provides direct federal grants to public libraries: \$1,228,190 in FY 2013. APLS also provide services such as interlibrary loans, electronic resources in the Alabama Virtual Library and Homework Alabama. Dennis Coe, Division Director of the Office of Supporting Programs with Alabama Department of Education, gave the committee recommendations to the Policies and Goals. He suggested modifying HL-1.5 to keep the public two year colleges under one board and said proration prevention is in place due to the

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Education Rolling Reserve Act of 2011 so HP-3.8 (b) is no longer needed. He also highlighted HP-3.17, which coincides with the Health Hunger-Free Kids Act. Communities with high poverty schools can provide breakfast and lunch to all students without collected applications. Students who are eligible to receive free meals without an application are students who live in households that participate in SNAP, TANF, FDPIR and Medicaid, are in foster care and Head Start or are migrant or homeless.

The following committee members were present: Mayor LaFaye Dellinger, Smiths Station, Chair; Councilmember Marva Gipson, Aliceville, Vice Chair; Mayor James Adams, Mount Vernon; Mayor Howard Rubenstein, Saraland; Councilmember Thomas Williams, Satsuma; Councilmember Will Sconiers, Andalusia; Councilmember Rolanda Jones, Elba; Councilmember Gwendolyn Crittenden, Georgiana; Councilmember Clementine Pugh, Georgiana; Councilmember Dejerilyn Henderson, Troy; Councilmember Truman Norred, Jacksonville; Councilmember Stanley Roberts, Lanett; Councilmember Mack Bell, Roanoke, Councilmember Tammi Holley; Councilmember Kathy Alexander, Guin; Mayor Icie Wriley, Millport; 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; Mayor Hollie Cost, Montevallo; Councilmember Bridgette Jordan Smith, Vincent; Councilmember Landy Warren, Brighton; Mayor Jason Ward, Lisman; and Mayor George Evans, Selma.

**Committee on Energy, Environment and Natural Resources (EENR)**

EENR met on Tuesday, July 29, 2014. EENR reviews and develops policy on environmental issues, energy initiatives and quality of life considerations, including water and air quality, solid waste, hazardous/toxic wastes and pollution control. The Committee also reviews Alabama trends relating to hazardous and solid waste disposal and air and water pollution as well as garbage disposal methods, regional disposal areas, incineration, land fill and rodent and vector control. The chair and vice chair of EENR are Councilmember Hermon Graham and Mayor Leigh Dollar, respectively.

Shea Jones-Johnson, State and Local Government Coordinator with EPA, began by informing the committee that one of the agency's themes is launching an era of state, local and tribal partnerships. EPA will engage with other agencies to further EPA's mission. She also discussed proposed rules of farm worker protection, waters of the U.S. and the clean power plan. Ms. Jones-Johnson said her agency is working on a toolkit for local government

officials. Ann Arnold, Geologist with the State Oil and Gas Board, discussed oil and gas production in the state plus revenues generated from offshore protection. Oil and gas generate about \$2 billion per year. She also gave an update on the minerals that are mined in the state. Limestone creates 950 jobs and sand and gravel create 500 jobs. Vernon Barnett, ADEM General Counsel, informed the committee that there is an approximate \$150 million hole in the state's budget. ADEM will not present any legislation for 2015, but will move forward in the stormwater area. George Cox with ADEM Drinking Water Division stated that there is high compliance in drinking water according the Electronic Drinking Water Report. It is also important for officials to pay attention to public notices.

Gavin Adams, Chief of ADEM Materials Management Section, gave an update on the discarded tire program. Currently, 50 out of 67 counties are participating in the program with reimbursements totaling more than \$2.2 billion. He also gave an update on the recycling program through which more than \$10 million in recycling grants have been awarded since 2009. Also, if a municipality has a liquor license in the state, it is required to have a recycling program. Jeff Kitchens, Chief of ADEM Stormwater Management Branch, discussed the Phase

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I and Phase II MS4 permittees. There are currently 36 Phase I permittees and 45 Phase II permittees statewide. Both phases have certain requirements, and MS4s continue to be one of EPA's initiatives. Emily Anderson, Chief of ADEM Municipal Section discussed the electronic reports known as discharge monitoring reports (DMRs) and sanitary sewer overflow reports (SSORs). DMRs are required with all new permits, reissued permits and administrative reports; however, SSORs are voluntary. Ms. Anderson also highlighted compliance issues such as Effluent Violations, DMR errors, Failure to Submit/Late Submittals, Unpermitted Discharges, Best Management Practices, Failure to Monitor Properly, Failure to Respond, Failure to Comply with Orders and Failure to Properly Report SSOs. Also, fees have increased by 50 percent. Lastly, Lisa Hicks with ADEM Air Division gave an update on air quality standards. The primary standards are in place to protect public health; secondary standards are in place to protect public welfare. An area that does not meet a standard is known as a nonattainment area. If an area has a nonattainment status, it is considered to have unhealthy air and this will create obstacles to the growth of new large industries.

The following committee members were present: Councilmember Hermon Graham, Florence, Chair; Mayor Leigh Dollar, Guntersville, Vice Chair; Councilmember George McCall, Jr., Prichard; Councilmember Elliot Whitton, Columbia; Councilmember Jerry Sipper, Luverne; Mayor Terri Carter, Repton; Councilmember Darrell Wilson, Tallassee; Mayor Johnny Smith, Jacksonville;

Councilmember Rebecca Looser, Lanett; Councilmember Billy Pearson, Lincoln; Councilmember Jill Oakley, Albertville; Councilmember Jerry Welch, Priceville; Councilmember Joseph Pampinto, Muscle Shoals; Mayor Dennis Stripling, Brent; Councilmember Vivian Bean, Lake View; Councilmember Shannon Phillips, Lake View; Mayor Rusty Jessup, Riverside; Mayor Ray McAllister, Vincent; Councilmember Willie Jackson, Marion.

### **Committee on Transportation, Public Safety and Communication (TPSC)**

TPSC met on Thursday, July 31, 2014. TPSC reviews and develops policy on transportation programs and their revenue sources and allocations; public works programs, particularly those related to infrastructure development; public and private utilities, including telecommunications; and public safety issues, including crime prevention, law enforcement, fire prevention and protection, emergency medical services, emergency management and response, motor vehicle safety and animal control. The chair and vice chair of TPSC are Mayor Kenneth Coachman and Mayor Melton Potter, respectively.

Waymon Benifield, Safety Administrator with the Alabama Department of Transportation, reported that one of the department's goals is to reduce the number of fatalities by 50 percent over the next 25 years. Key components in trying to realize this goal is changing driver behavior and focusing on enforcement. There are many stakeholders involved in the process such as federal, state and local government; law enforcement agencies; and



*More than 120 people attended the League's five policy committee meetings at ALM Headquarters in Montgomery this past June and July.*

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educational professionals. The department has a safety calendar including events designed to educate organizations about the importance of safe driving. Billy McFarland, Commissioner with the Southern Rail Commission (SRC), said the mission of the organization is to engage and inform public and private rail interests to support and influence Southeast rail initiatives. SRC is currently working on reestablishing the Birmingham to Mobile route. SRC has also applied for a federal TIGER grant to develop a passage rail plan east of New Orleans. The matching funds for the grant came from city and county governments, and SRC is half-way to the match point. Hal Taylor with the Alabama Law Enforcement Agency (ALEA), said 12 agencies were merged under ALEA and that \$235 million was saved with the consolidation. Mr. Taylor also reported there will be 50 more troopers on the road by January 2015. Scott Pilgreen, Assistant Fire Marshal with the Alabama State Fire Marshal's Office, explained that his office is in charge of arson investigation and investigation of explosives as well as code enforcement and regulation. He informed committee members of the importance of having someone enforce the fire codes and reported there's been an increase in fire related deaths. There were 81 fire

related deaths in 2013. Thus far, there have been 65 fire related deaths in 2014.

The following committee members were present: Mayor Kenneth Coachman, Fairfield, Chair; Mayor Melton Potter, Scottsboro, Vice Chair; Councilmember Fred Barton, Brewton; Mayor Tim Kant, Fairhope; Councilmember Roger Adkinson, Flomaton; Councilmember Lorenzo Martin, Sr., Prichard; Mayor Jonathan Grecu, Ashford; Councilmember Charlie Johnson, Luverne; Councilmember Fred Watts, Millbrook; Councilmember Steve Gantt, Wetumpka; Mayor Rudy Rooks, Heflin; Councilmember Jerry Parris, Jacksonville; Councilmember Michael Ellis, LaFayette; Councilmember John Hatley, Southside; Mayor Gary Livingston, Eva; Mayor Allen Dunavant, Glen Allen; Mayor Melvin Duran, Priceville; Councilmember Tommy Perry, Priceville; Councilmember Rusty Barnes, Winfield; Councilmember Michael Potter, Madison; Councilmember Allen Noles, Muscle Shoals; Mayor Paul Jennings, Argo; Councilmember Kimberly Rafferty, Birmingham; Mayor Billy Joe Driver, Clanton; Councilmember Sammy Wilson, Clanton; Councilmember Michael Hallman, Homewood; Mayor Joe Lancaster, Carrollton; Councilmember Alberta Dixon, Thomasville. ■

Although a full examination of the PCI requirements is beyond the scope of this article, there is a great deal of information online regarding PCI compliance. Additionally, there are many qualified consultants who can help you (for a fee, of course) determine whether you are in compliance with the standards and, if not, guide you into compliance. At a minimum, there are numerous online checklists and self-assessment tools that can help you determine if you have a problem.

You must protect any cardholder data as defined by the standards. Cardholder data is any personally identifiable data associated with a cardholder. This could be an account number, expiration date, name, address, social security number, etc. All personally identifiable information associated with the cardholder that is stored, processed or transmitted is also considered cardholder data.

PCI compliance extends beyond electronic records and includes paper documents and files as well. If you receive and preserve records containing card information, you must take steps to protect that information from the time a transaction is initiated (when you receive the covered data), through the final storage, whether that is in a file cabinet, vault or otherwise.

### How will the requirements be enforced?

While the Security Standards Council sets the standards, it does not enforce compliance. Instead, the card brands themselves (Visa, Mastercard, Discover, American Express and so on) enforce compliance for all transactions conducted with their cards. They accomplish this through policy enforcement with their member

banks (acquirers). The member banks, in turn, enforce compliance with merchants.

There are four levels of PCI Compliance, depending on the number of card transactions you have or whether you have been the source of a breach. Level One is the most stringent and Level Four is the least stringent. It is generally the acquiring bank's responsibility to identify the merchant level. Level One applies automatically to merchants who have suffered an attack that compromised account data.

The brands may, at their discretion, fine an acquiring bank \$5,000 to \$100,000 per month for PCI compliance violations. The banks will most likely pass this fine along to you, acting as the merchant. Additionally, the bank may go further and terminate your relationship or raise your transaction fees.

The possibility of liability should be enough to make most municipalities who accept payment cards examine their compliance with PCI standards.

### Conclusion

The goal of this article is to simply make you aware of the PCI Compliance Standards, not to explain how your municipality can come into compliance. These standards have taken many years to develop and will likely continue to evolve as technology develops to allow more and different methods of accepting card payments. Compliance can be a complex and potentially expensive proposition, depending on the number of transactions your municipality conducts. The League urges you to examine your procedure for accepting, processing and storing credit and debit card information and work to reduce your potential exposure. ■



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