


The Alabama Municipal JOURNAL

November/December 2016

Volume 74, Number 3



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On the Cover:

The Alabama League of Municipalities was formed in 1935. In 1946, the League signed a lease on a small, five-room, shotgun style building located at 14 S. Hull Street in downtown Montgomery. The offices would remain at this location for the next 24 years – until the permanent League headquarters building was completed in 1970 at 535 Adams Avenue, within walking distance of both the Alabama Capitol and the Alabama State House. Pictured: League President Frank Livingston of Tuscaloosa (left) and League Executive Director Ed Reid (right), October 1946.

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A Message from the Editor

Approximately 32 percent of the mayors and councilmembers who began their four-year terms on November 7th have never held public office. For those of you in that category, this issue of the *Journal* should prove especially helpful and interesting. On the opposite page is a historical overview of *your* League and beginning on page 31 is a historical timeline. On page 9, League Executive Director Ken Smith discusses in more detail the services and structure of the League and on page 17, League General Counsel Lori Lein has provided an overview of the duties of the mayor and council. Articles on the League's advocacy and communications functions as well as how to use the League's Legal Department are also included.

The League staff welcomes you and looks forward to working with you and your colleagues over the next four years. We hope you will take an active role in the League and encourage you to sign up for our Certified Municipal Official (CMO) program, which consists of a series of continuing education sessions designed specifically for elected municipal officials who voluntarily wish to receive formal training in municipal government. Officials who complete 40 hours of training are awarded the professional designation of Certified Municipal Official. With an additional 40 credit hours, participants earn the Advanced Certified Municipal Officials designation (visit alalm.org for more information).

Many of you earned your first five hours towards your 40-hour Basic certification when you attended one of our four Orientation Conferences for Elected Officials held throughout the state in early November. These one-day conferences are held every four years following the municipal elections, and, this year, nearly 1,000 officials and personnel were introduced to the League's role in local government; received highlights on the League's



Capacity crowd at the Orientation Conference for Elected Officials in Montgomery on November 3.

special programs and services; and were instructed on best governing practices from Alabama's top legal and administrative authorities on municipal government.

Since 1935, the League has worked to strengthen municipal government through advocacy, training and the advancement of effective local leadership. As the recognized voice of Alabama's cities and towns, ALM's nearly 450 member municipalities benefit from a variety of member programs and services. However, we also rely heavily on *you* – our local officials – to support our legislative efforts. Whenever the Legislature is in session, we publish a weekly e-newsletter, *Statehouse Advocate*, which is emailed every Monday afternoon to our elected officials and key municipal staff. Each issue of *Statehouse Advocate* reviews what happened the previous week, highlights committee meetings for the upcoming week, provides an overview for bills that will affect municipal government and includes specific instructions for how we need *you* to engage in the process. Therefore, it is very important that we have your correct email address on file. While we try very hard not to overwhelm you with messages from our office, email is how we reach out to you when we need your help. It's also how we communicate with you regarding your CMO hours and upcoming training opportunities.

In addition, please take the opportunity to familiarize yourself with our website – www.alalm.org. There you will find information on the League's history, structure, staff and policy committees as well as notices about upcoming training, our Annual Convention (which will be held May 20-23 in Birmingham) and a variety of legislative and legal information vital to municipal government. We also encourage you to like us on Facebook: www.facebook.com/ALALM/

Remember: the Alabama League of Municipalities is *your* organization. Our goal is to provide you with the resources and tools necessary to best serve your community. Please don't hesitate to contact us. We look forward to working with you.

Carrie

ATTENTION!

Please make sure we have your **correct email address on file!**

This is how we will communicate with you regarding CMO training and credit hours as well as how you will receive our legislative e-newsletter and critical e-blasts!



81 Years Strong and Growing

By: Lee Anna Maynard, PhD

Alabama's municipal leaders had made fitful attempts to formally commiserate and strategize starting as early as 1914 when several individuals, including Commissioner James Wheatley of Birmingham and Dean George Jacob Davis, Jr. of the faculty of the University of Alabama, met in Tuscaloosa and discussed such subjects as constitutional limitations on debt and taxation and the city manager plan of government.

In 1926, the Alabama Association of Mayors and City Commissioners was formed when nearly 100 municipal officials met in Fairfield and elected Mayor Sidney J. Reaves of Anniston as its first president. Gestures toward organization basically amounted to collecting dues of \$5.00 and meeting annually at a hotel to "chew the fat and discuss administrative problems," as Louis P. Mullins, a charter member, remembered. Since membership was rather modest and the war chest was nonexistent, no efforts were made to lobby the state legislature.

Despite urging prospective members to "be present without fail" at meetings in order to, as the organization's charter hopefully outlined, "develop a cooperative approach to all Municipal problems of Statewide import" and "secure the enactment of legislation that will enable all the Towns and Cities of the State to perform their functions more efficiently," early attempts to organize sputtered out before any significant headway was made. By the mid-1930s, however, a small cadre of participating mayors was driven to desperation by their sense of being "kicked around the Legislature by the State and county government leaders" and resolved to create an organization that would become a true force to be reckoned with.

Ed Reid Era

In 1935, upon the recommendation of Governor Bibb Graves, the newly formed Alabama League of Municipalities retained the services of Ed Reid, a charismatic, energetic young man with a background in journalism and government, as its first salaried director. Reid, only 25 years old, was born in Evergreen, had grown up in Georgiana, attended the University of Alabama, edited a newspaper in Flomaton, and embarked on a political career in the state capitol of Montgomery, serving as private secretary to the Speaker of the House. Louis Mullins, former mayor of Elba, recalled Governor Graves' labeling Reid a "ball of fire" and a "go-getter" when he recommended Reid to the 24 members of the fledgling organization.

Defined by his unbridled energy, dynamic personality and political savvy, Reid made lasting impressions on all who met him, quickly revising the opinions of those who might have dismissed him based on his relative youth and diminutive stature. In a region full of larger-than-life political figures, Reid still managed to cut a distinctive figure through his confidence, competence and ambition, quickly endearing himself to the municipal officials he represented. He aggressively and



In 1946, the League signed a lease on a small, seven-room, shot-gun style building at 14 S. Hull Street in downtown Montgomery. The offices would remain at that location for the next 24 years, until the League purchased land and built a permanent headquarters at 535 Adams Avenue, within walking distance of the Capitol and State House.

single-mindedly pursued the interests of the League, garnering respect at both the state and national levels.

The League's meager bank account – not even breaking four figures – motivated its new director to seek outside funding, and Reid was awarded a grant from the Rockefeller Foundation that covered his salary and provided a modest travel budget for a few years, enough time for him to recruit significantly more members for the League and funnel their membership fees into creating the infrastructure those municipal members would soon find indispensable. Within four years, Reid cultivated a nearly 350 percent increase in the League's roster of member municipalities, from the original 24 to 107.

Efficiency, modernity, and consistency were clearly watchwords for the new League, and the collecting and disseminating of information was not only critical to accomplishing these goals but also a natural fit for Reid, the former newspaper editor. His gift for communication and promotion aided him as he traveled throughout the state meeting and virtually requisitioning local political leaders into League membership and as he began regularly publishing the organization's goals, findings, and accomplishments in the *Alabama Municipal News*. In the inaugural issue, distributed October 1937, Reid's publication named the League's current officers, explained the phenomenon of "pressure groups" and their impact on legislative processes, explored the hidden costs of some legislative proposals, and educated readers on the ins and outs of fire insurance for municipal properties. His goal was to provide accurate information, informed opinions and pragmatic advice for running towns and cities – the principal that still guides the League's official publication, *The Alabama Municipal Journal*.

Through the late 1940s and first part of the 1950s, under the leadership of Ed Reid, the Alabama League of Municipalities focused on helping their member towns and cities create more stable, solvent, and seamless operations while influencing key legislation that made Alabama's highway department financially responsible for maintaining state and federal roadways that passed through municipalities; increased the scope of decisions local governments could make without consulting state lawmakers; enhanced municipalities' abilities to levy and collect taxes; and established improved compensation and benefits structures for mayors, commissioners, and other elected officials in cities and towns. Just as importantly, the League facilitated quick, reliable communication and interaction between municipal officials and state and federal lawmakers.

Within 15 years of its inception, the Alabama League would rate in the top five in the nation and Reid was cited by the national association as one of the five "best possible sources of information" on local government.



Ed Reid was the League's first executive director and served in that capacity from 1935 until his death from cancer in 1965. The Montgomery Advertiser succinctly described Reid and the League in a circa 1955 article: "The Alabama League of Municipalities, you might say, is Alabama's 10th Congressional District and its congressman is its director, Ed E. Reid. As Mohammedans to Mecca, politicians at all levels make pilgrimages to the little red brick office building of the League on a Hull Street incline. There, Reid, short, dapper and given to alternating blasts of amiable mimicry and barking truculence, presides. He is one of the remarkable figures on the Alabama scene. Because of his influence over the mayor-members of his organization and his encyclopedic knowledge of practical politics, all politicians crave his help."

As the preponderance of the population of Alabama began shifting from rural to urban dwellings during the post-war years, thus drawing more and more heavily on the infrastructures of towns and cities, municipalities of all sizes depended on the League's legislative and administrative efforts. The League's efforts in the ten years immediately after victory was declared for the Allies focused primarily on helping municipalities develop and expand with as few growing pains as possible, and the organizational and educational work accomplished during this time of relative stability was to be tested by the turmoil accompanying the push for civil rights.

As local unrest reached a fever pitch, the guiding light of the Alabama League of Municipalities, the man who, for many, *was* the League, died. With Ed Reid's death from cancer in July of 1965, John Watkins, the League's Legal Counsel, became the new Executive Director. Watkins had impressive shoes to fill: Reid had not only built the League

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The President's Report

By Dr. Howard Rubenstein, Mayor, Saraland



Congratulations on Your Election! The League is here for us ...

Following the October 4th municipal runoff elections, I found myself in the unexpected position of transitioning from League Vice President to President. Mayor Phil Segraves was actively involved with the League for more than two decades. Throughout his tenure, he was a vocal advocate of local government as well as a dedicated ambassador for his community. Serving as Vice President alongside Phil was truly an honor and I, along with the League's leadership and the entire staff, sincerely thank Phil for his outstanding commitment to the League.

I was first elected to municipal office in 1996 as a councilmember for the City of Saraland and was chosen as Saraland's first council president in 2008. I have served as mayor since 2011; however, I've been involved with our Alabama League of Municipalities since first entering elected office. Now, as President of our fine organization, I congratulate each of you on a successful election cycle and welcome our newly elected officials into the municipal fold. If you are new to municipal government, I urge you to become active in the League. If you are a returning official, I thank you for your continued support of our organization.

As many of you well know, the League – our League – was created in 1935 to provide Alabama's cities and towns with a voice at the Alabama Legislature. Over the past eight decades, the League has morphed into an organization that provides a number of outstanding professional services including workers comp and liability insurance; debt recovery and low-cost financing options; and many additional invaluable resources; however, the League's first and foremost role is legislative advocacy. Since its inception, the League has functioned as the major lobbying organization – both statewide and nationally – of all our municipalities. But for the Alabama League of Municipalities, municipal government would have very limited, if any, influence in the legislative process and would certainly not benefit from the current levels of "home rule" we continue to aggressively protect and defend during every legislative cycle.

In addition to advocacy, the League offers legal advice to all elected officials through a talented full-time staff of three attorneys who are well versed in municipal law and are readily available for confidential phone consultation and advice.

(Of course, this service should be used to complement, not replace, the services that are performed by your city or town attorney.) Equally important are the many educational opportunities and programs offered year-round via training sessions and conferences, the League's Annual Convention (which will be in Birmingham this May) and online courses designed specifically for municipal officials. Becoming educated on multiple municipal laws, procedures and strategies is extremely valuable for all mayors and councilmembers. The League is your exclusive resource to this training and also offers you the opportunity for certification as a Basic, Advanced or Emeritus Certified Municipal Official (CMO) with the completion of designated education programs and/

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During the November 1st Orientation Conference for Elected Officials and Municipal Personnel in Mobile, Mayor Howard Rubenstein of Saraland presented outgoing League President Mayor Phil Segraves of Guin with a proclamation thanking him for his outstanding service to both the League and his community.

from the ground up, but he had also turned it into an efficient organization recognized nationally as a powerhouse of influence, organization, and communication. He had attended every legislative session from 1935-1965 and was voted “Most Effective Lobbyist in the Legislature” five times. In the words of Leonard Beard, a mayor of Sheffield and the 1956 president of the Alabama League of Municipalities, no other League in the country had a better reputation for “*getting things done* both at the state and national level” or for conducting research, disseminating information, and handling an incredibly high volume of daily inquires from constituent municipalities.

Reid’s early fame as a “go-getter” never diminished – up until his death, municipal officials who had benefitted from the League’s efforts under his administration touted his organization’s service and even-handed representation of cities and towns of all sizes. The trailblazer from Evergreen earned a nationwide reputation for his expertise in local government matters and – more importantly for the people of Alabama and the officials who served them – he showed municipal leaders that *they* mattered.

John Watkins Era

For almost ten years before becoming its executive director, John Watkins had been an integral part of the Alabama League of Municipalities. As League Counsel and Staff Attorney, he learned firsthand about the growing and changing needs of the towns and cities the League represented, and when he assumed the duties of Executive Director following the death of Ed Reid in 1965, the administrative and leadership experience he had earlier gained as Prattville’s City Manager and a municipal judge served him well.

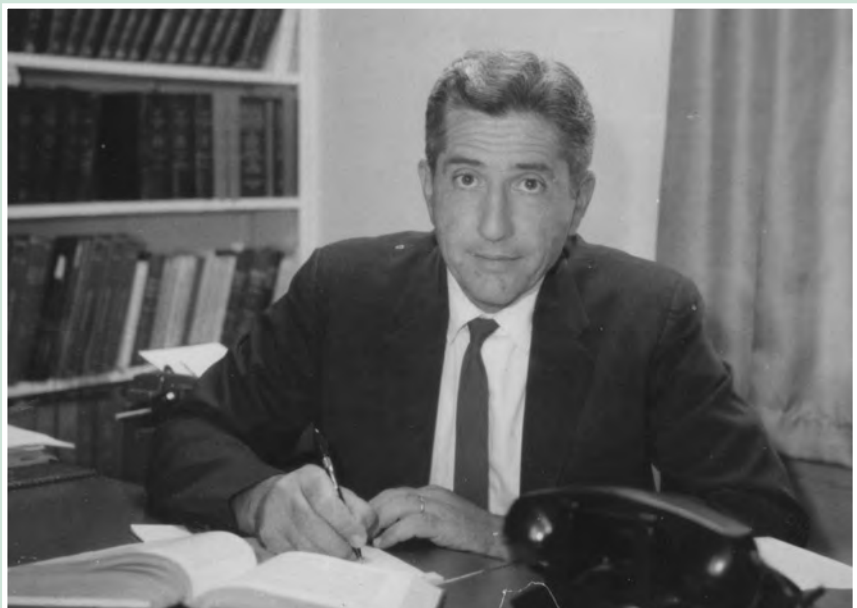
Born in Faunsdale, Alabama, in 1919, Watkins experienced small-town life prior to embarking on an ambitious course, graduating from Sewanee Military Academy in Sewanee, Tennessee and studying at the University of the South and the University of Alabama before entering the Naval Air Force upon his college graduation in 1941. Following active duty during World War II, Watkins returned to the University of Alabama in 1945 and earned his law degree. After receiving his juris doctor, he practiced law in Prattville for five years before becoming a judge.

In 1965, Watkins swept into his new role as Executive Director of the League of Municipalities on a tide of good feeling from the League’s constituents, as he had been the lead architect of recently-passed legislation that would streamline and standardize what he called the “real hodgepodge” of laws

bedeviling municipal elections. The changes Watkins helped implement have saved Alabama’s towns and cities thousands upon thousands of dollars in the almost fifty years since the Legislature passed the reform bills, as the costs of processing write-in ballots and running elections in uncontested races have been eliminated. Watkins’ quiet demeanor and soft-spoken gentility would steer the League successfully through times of progress, upheaval, and alteration.

Dr. James Hardwick, Mayor of Talladega and outgoing President of the League, exhorted his fellow League members to “build the cathedral” at the 1965 convention. Mayor Guthrie Smith of Fayette, Hardwick’s successor, heeded this call for construction and began to work in earnest to raise support and funds for the construction of an impressive building that would be not just a base of operations for the League but a tribute to the foundational importance of municipalities in the state. In September of 1968, Watkins purchased Lots 37 and 38 in the New Philadelphia Subdivision of Montgomery County, on the corner of Adams Avenue and Bainbridge Street, in shouting distance from the Alabama capitol building. For \$60,000, the League had made the first step toward creating a facility equal to the demands of an increasingly urbanized state. The South Hull Street headquarters, home to the League for more than two decades, could not house sufficient staff to provide the level of member service and support of which the League could be capable. Unlike the modest, low-slung brick building the League currently leased, the new design by Montgomery architecture firm Tom Kirkland and Associates would speak to the aesthetic sensibilities

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Staff Attorney **John Watkins** was named the League’s second executive director during the 1965 Annual Convention. He retired in 1986.

Municipal Overview

By Ken Smith, Executive Director



What is the League?

This article appears in the 2016 edition of Selected Readings for the Municipal Official.

One of our distinguished past presidents very aptly described the Alabama League of Municipalities as this state's "Community of Communities." In a very real sense, the community spirit that vitalizes each city and town in Alabama finds expression in the structure and the activities of our municipal organization. The League is a composite of the concerns, problems and goals of all of its 446 municipalities. It has demonstrated repeatedly throughout its more than 80-year history that the unified voices and the collective actions of dedicated municipal officials, working through the League, are a compelling force in articulating the concerns, solving the problems and achieving the goals of its individual member municipalities.

The League was organized in 1935 as a voluntary association of about 100 member municipalities. Through the years, its voluntary membership has more than quadrupled. Its staff operation has become vastly more capable of meeting the ever-growing needs of municipal officials and personnel for legal and technical assistance and for information services during a period of revolutionary urban growth and change. Still, the League has retained the same basic objectives that motivated its founding more than 80 years ago:

- To conduct continuing studies of the legislative, administrative and operational needs, problems and functions of Alabama's municipal governments and to publish the results of these studies for the benefit of member cities and towns.
- To maintain a staff capable of finding answers to legal and administrative questions asked by elected officials and personnel of member municipalities.
- To hold conferences and meetings at which views and experiences of municipal officials and personnel may be exchanged.
- To encourage in the people of Alabama a sympathetic appreciation of the duties, responsibilities and rights of both municipal government and its citizens.
- To work to secure enactment of legislation, at both the state and federal levels, that will enable all cities and towns to perform their functions more efficiently and effectively.

Organization of the League

The League organization consists of the president, vice president

and the executive committee, which is composed of five elected municipal officials from each of the state's seven congressional districts, the active past presidents and the executive director. League officers and members of the executive committee are elected by the voting delegates at the annual convention.

In addition, six standing committees are charged with the review and development of League policies and goals which encompass a broad spectrum of issues affecting municipal government. The chair and vice chair of each of these standing committees are also elected annually at the convention. Committee members are selected by the respective committee chairs to provide representation from each congressional district and to ensure representation of cities and towns of all sizes on each committee.

Besides developing policies and goals for the Alabama League, the standing committees are responsible for reviewing national municipal policy developed by the National League of Cities. Committee members, through our League representatives on NLC committees, may suggest amendments to the national policy during the annual Congress of Cities.

Standing Committees

The League's six standing committees are: State and Federal Legislation, which also serves as a resolutions and screening committee; Finance, Administration and Intergovernmental Relations; Energy, Environment and Natural Resources; Community and Economic Development; Transportation, Public Safety and Communication; and Human Development

These committees meet annually with resource advisors to review existing League policy and the national policy and to adopt revised goals and recommendations in the respective areas of each committee. The Committee on State and Federal Legislation meets before each Regular Session of the Alabama Legislature to consider the recommendations of the standing committees and to develop the League's legislative program.

The Committee on State and Federal Legislation also carefully studies proposed legislation which may prove harmful to municipal government. While the legislature is in session, the committee may meet to assess the progress of the League program and to review potentially dangerous legislation. The committee has the additional duty of meeting at the annual League convention to review resolutions prepared for submission at the annual business session and to receive suggested resolutions from individual delegates.

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of the time, embracing a more streamlined modernity and bringing added light, air, and space to the staff. Members of the League's many committees were present as ground was broken on November 20, 1969, and the staff of the League moved into their new quarters 21 months later, only one week shy of the expiration of the organization's long-standing lease for 24 South Hull Street.

While overseeing the construction and opening of the League's new headquarters, Watkins was also shepherding important legislation for the growth of municipalities through the Alabama House and Senate: in 1967, cities and towns were constitutionally enabled to increase their debt limits substantially; two years later, municipalities were allowed to adopt true sales taxes; in 1971, municipalities were invested with the authority to annex property to their municipal limits (when given unanimous consent by property owners). Put together, these measures meant that Alabama's towns and cities could more easily fund expansions of their services and increase their square mileage to keep pace with their climbing populations. These League legislative victories become even more impressive in the context of the radically altering political terrain of Alabama that began in the mid-1960s with the election of several Republican congressmen in what had been – for decades – a solidly one-party state. Instead of focusing on lobbying for particular issues and causes, League representatives now had to navigate political parties, too. With its forthrightly non-partisan agenda, the League disdained making financial contributions to political campaigns (a policy still in effect today), and therefore its legislative success had to stem from effectively and persuasively communicating with lawmakers.

With the introduction of the Municipal Workers Compensation Fund in 1976, Watkins and his team found another way to fortify Alabama's towns and cities. The League-sponsored insurance pool offered municipalities of all sizes affordable alternatives to the steeply increasing rates – and sometimes denied coverage – of private insurance carriers. The Texas League of Municipalities introduced this concept, and the Alabama League became the second in the nation to provide peace of mind (at a manageable cost) to its constituent municipalities. Executive Director Watkins would serve as the Fund's General Manager for its critical first decade.

As the 1970s came to a close, the League continued to crusade for municipalities' financial security and self-determining capabilities. When the Alabama Supreme Court opened the door for unlimited damages to be sought in lawsuits waged against towns and cities, the League effectively closed and deadbolted it, crafting legislation passed in 1977 that capped liability in the low hundreds of thousands of dollars, protecting municipalities and their taxpaying citizens from potentially bankrupting awards. Thanks to the League's efforts, in 1980, municipal governing

bodies were finally empowered to determine their officials' salaries rather than having to entrust the state legislature with the task, ensuring that qualified candidates for municipal office could better afford to pursue public service. In the early 1980s, Alabama's voters ratified a constitutional amendment that socked away revenues and royalties from offshore oil and natural-gas drilling into an irrevocable trust fund, the interest of which was to be controlled by the state legislature. Working cooperatively with the Association of County Commissions of Alabama, the League successfully secured a piece of the trust-fund pie for Alabama's towns and cities: when the total interest on the fund exceeded \$60 million in any given year, municipalities could access 10 percent of that interest for use on capitol improvements.

On that victorious note, Watkins retired from the League of Municipalities in May 1986 after 30 years of service. During his tenure as Executive Director, he had written what became standard primers and reference books for Alabama's municipal officials, *The Handbook for Mayors and Councilmembers* and *Selected Readings for Municipal Officials*, and he served two terms on the Board of Directors of the National League of Cities. He passed the reins of the League to Perry Roquemore, Jr., whom he had hand-selected from the 1973 University of Alabama School of Law graduating class to be the League's new Staff Attorney. During the twelve years they worked together, Watkins became an influential mentor for Roquemore, both professionally and personally.

Watkins' quiet competence and graciousness made him a popular figure with the League and municipal officials long after his formal retirement – in fact, for the 17 years until his death in July 2003, he maintained active involvement with the organization and its members.

Perry Roquemore Era

From the moment he sat in front of a quietly humming electric typewriter in the nearly-new downtown Montgomery headquarters building to record his thoughts on the 1975 legislative session for the *Legislative Bulletin*, Perry Roquemore was plugged-in to the needs of the League's member municipalities. A Montgomery native who returned home after his higher education in Tuscaloosa to accept the Staff Attorney position offered by Executive Director John Watkins and the Alabama League of Municipalities, Roquemore became not only an expert with an encyclopedic knowledge of municipal law but an effective and loyal advocate of towns' and cities' interests. Like his mentor John Watkins, Roquemore found that preparedness, professionalism, and a genuine stake in the fortunes and fates of the League's cities and towns made his a voice that was heard and heeded by the Alabama Legislature.

When Roquemore assumed command in the mid 1980s following Watkins' retirement, he faced a state and nation

considerably different from what his predecessors had encountered. Alabama's cities and towns faced dangers from within, including unreasonable (and unfunded) legislative demands and the dilemma of providing insurance coverage for their municipal employees. Unfunded state and federal mandates, approved by Congress and the Legislature, were requiring ever more from municipalities without providing any revenue to pay for the added requirements, duties, or services. In 1988, the League of Municipalities successfully promoted a constitutional amendment that restricted the Alabama Legislature's authority to force unfunded mandates onto towns and cities. Municipal governments, their hands already full from coping with the increasing number of federal and state mandates that altered their operations, faced the further complication in the 1980s – a time when obtaining liability insurance proved elusive. To resolve the problem, Roquemore, along with former mayor of Pine Hill and past League President Harold Swearingen and several other municipal officials, founded the Alabama Municipal Insurance Corporation (AMIC). To this day, AMIC provides competitively-priced coverage to many of the League's member municipalities. The revenue generated by AMIC (as well as MWCF) has funded the extension and expansion of the League of Municipalities' member services.

Reinvesting revenues from the AMIC and MWCF programs into the League generated an even higher and more efficient level of member assistance. Upon Roquemore's advice, the League's Board of Directors voted in the early 1990s to triple the size of the headquarters, from 7500 square feet to 22,000. The building expansion was completed in 1992, and its additional office space has since allowed for hiring more employees and accommodating updated technology that facilitates easy and speedy communication with the Capitol and member municipalities.

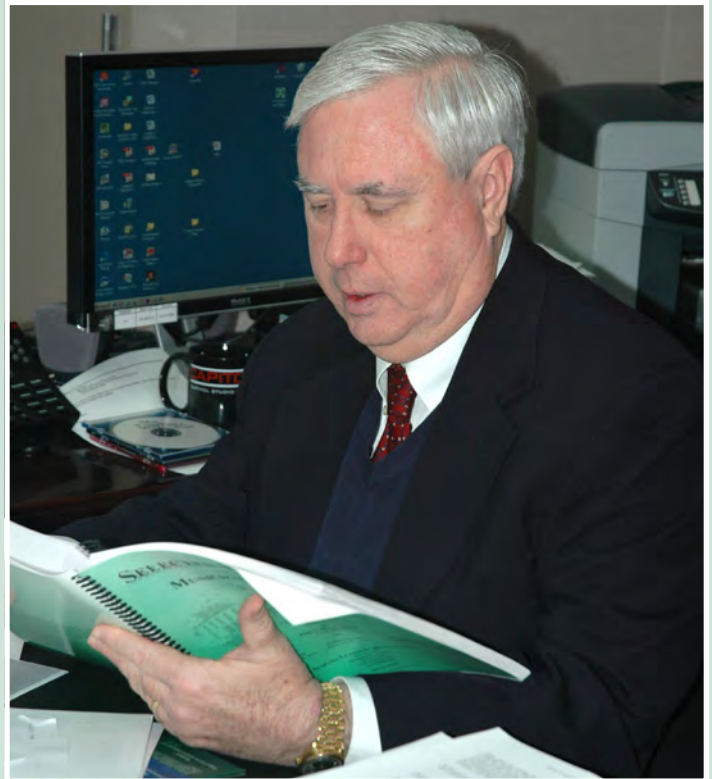
Another way Roquemore aimed to save his member municipalities time and money was by aiding in the creation of more effectual municipal leaders. Under his leadership, the League expanded and extended its voluntary training programs, offering not only annual windows for professional growth at the League convention but frequent long- and short-term educational opportunities with curricula virtually guaranteed to improve efficiency. The League's Certified Municipal Official training program (CMO) took off in 1994, and the response was so great that the League later implemented Advanced Certified Municipal Official training. Learning about the expectations, restrictions, and possibilities of municipal office has now equipped more than 3,300 local government leaders to make more effective use of their time in office. The League's extremely successful CMO program, the second such in the United States, has cultivated future League leaders as well as better-educated local municipal leaders. In addition, it has served as a model program for sister organizations throughout the country.

In the late 1990s, the groundwork laid by the League in the early '80s to secure municipalities' fair share of oil trust-fund revenues was jeopardized when the Legislature realized that, for the first time, the interest on the funds was going to exceed \$60 million and they would have to deliver on their promise to Alabama's towns and cities. The League mounted a quick defense of the municipalities' share, pursuing it so far as to win a constitutional amendment to preserve the municipal portion. This rapid response to the threat ensured what has now been a decade of additional revenues for municipalities' capital improvements.

The power of pooling resources and standing together infuses one of the League's most recent undertakings, the Alabama Municipal Funding Corporation (AMFund). Founded only a few years ago, this program empowers member municipalities to obtain funding that would otherwise be beyond their grasp, funding that can be used for virtually any municipal project.

While his predecessors worked to remove legislative stumbling blocks and to respond to and defend against intrusive power structures, Roquemore and his team were able to focus their efforts on pursuing proactive legislative measures and expanding educational, financial, and quality-of-life opportunities for their members.

continued next page



Perry Roquemore became the League's third executive director in 1986 after serving as Staff Attorney for 12 years. He retired in May 2011 with 37 years of service – the longest-serving League employee to date.

Following Perry Roquemore's retirement in May 2011, the League's Deputy Director, Ken Smith, who was originally hired as a staff attorney in 1986, was confirmed by the membership to take the helm and continue to build on the legacies of his three predecessors.

Moving Forward

As the League's services and responsibilities have grown, so has its staff. In the last quarter century, the association's workforce has more than tripled in size to over 60 skilled professionals providing a gamut of services from legislative and legal assistance to loss control programs, insurance and low-interest loans. The number of member municipalities has grown from the initial 24 to nearly 450, an impressive 99 percent of the municipal population of the state, and, accordingly, the demand for information and assistance has increased. Additionally, the League boasts a custom-designed and generously-sized headquarters – which has twice been expanded to meet the needs of its membership. Its initial and ongoing concern with gathering and spreading information is now aided by advanced technology, weekly e-newsletters, blast email alerts, five unique websites,

searchable digital publications, social media and a variety of professional marketing pieces.

Back in Depression-era Alabama, the League's first Executive Director, Ed Reid, and the founding members of the modern incarnation of the League could little have imagined how successful their vision of an empowered and autonomous body of municipal officials would become.

Amidst all the changes throughout its 80+ year history, however, the unifying principles of the League remain constant. As former Fayette Mayor and League Past President Guthrie Smith succinctly put it during the League's 75th Anniversary year: "There's more to city government than filling pot holes and catching stray cats." ■

***About the Author:** Lee Anna Maynard, PhD, is a freelance writer, editor and scholar currently based out of Augusta, GA, where she is on faculty with Augusta University. She received her PhD in English from the University of South Carolina and was an Assistant Professor in the Department of English and Philosophy for Auburn University Montgomery. She has served as the managing editor for a regional magazine and her first academic volume, which explores the role of boredom in the Victorian novel, was published in 2009.*



The League headquarters building, which is located at 535 Adams Avenue in downtown Montgomery, was built in 1970 and expanded in 1992 from 7,500 square feet to 22,000. Both the land and structure are owned by the Alabama League of Municipalities. – Photo by Elmore DeMott • www.elmoredemott.com

Advocacy and Communications Team Adept at Building Relationships and Developing Coalitions

By: Greg Cochran, CAE • Director of Advocacy and Public Affairs • ALM

It's my great pleasure to welcome those of you who are newly elected officials into the League family. You'll quickly find that your League staff works closely with both municipal officials and employees to provide a variety of services, programs and educational opportunities that wouldn't exist otherwise. From legal guidance to conferences, policy committees and certified training, the League is a well-honed organization dedicated to its members and the vital services local government provides across the state. Nowhere is this truer than via your League Advocacy and Communications Departments, which are my honor to oversee on your behalf.

While all the League departments work together on a variety of projects throughout the year, it is the specific role of this team to disseminate information, develop messaging, work strategically with the League's leadership, attorneys and contract lobbyists to proactively navigate the legislative process and – most important of all – build relationships and form strong partnerships, especially with legislators and their staffs, our congressional delegations and their staffs as well as state agencies and other associations and organizations that work both directly and indirectly with our members. It is our responsibility and goal to develop coalitions through relationships to better represent your interests. Our ability to control the narrative in Montgomery relies on our ability to influence politicians and special interest groups throughout Alabama. The relationships we've forged not only matter, they are *imperative*. It can be



Greg Cochran with Senator Richard Shelby in Washington, D.C.



Greg Cochran with Senator Jeff Sessions in Washington, D.C.

a daunting responsibility. Thankfully, however, you are very well represented.

I joined the League staff just over 20 years ago after managing legislative and advocacy programs for two statewide member associations as well as directing governmental services for a Chamber of Commerce. A year after I was hired, we recruited Carrie Banks, our Communications Director, who previously worked in the nonprofit sector as well as with a statewide membership organization. I am a Certified Association Executive (CAE) and Carrie has a Master's degree in Communications. (For complete bios, visit alalm.org.) Over more than two decades, she and I have forged crucial relationships with a number of organizations and individuals that are integral to the League's success.

We are both active in the Alabama Council of Association Executives (ACAEE) and have both served three-year terms on ACAEE's board of directors. I was ACAEE president from 2009-2010. In addition, Carrie chairs the Communications Committee for the Alabama Communities of Excellence (ACE), an organization that provides technical assistance to select communities with populations ranging from 2,000 to 18,000 to strengthen their long-term economic success. To date, 32 Alabama municipalities have become designated ACE Communities. She is also the local government representative to the Alabama Bicentennial Commission (Alabama200) where she co-chairs the Local Activities Committee with Tami Reist, Executive Director of the Alabama Mountain Lakes Tourism Association who is a member of the Bicentennial Commission. She also serves on the board of directors for DesignAlabama, which offers a yearly Mayors Design Summit and advocates

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Carrie Banks with Senate Education Trust Fund Chairman Arthur Orr (Decatur) who also serves as Chair of the Alabama Bicentennial Commission.

for the importance of the design arts in building not only structures but communities.

Most recently Carrie was selected to participate in the 2016-2017 Delta Leadership Institute Executive Academy, which is an arm of the Delta Regional Authority (DRA), an organization established by Congress in 2000 to support the eight-state Delta region to foster local and regional partnerships that address economic and social challenges to ultimately strengthen the Delta economy and the quality of life for Delta residents, which consists of the Black Belt in Alabama. DRA is one of the many programs administered by the Alabama Department of Economic and Community Development (ADECA), a key state agency that oversees programs and grant resources vital to Alabama's municipalities.

For many years I have been an active participant in the Southern Municipal Conference's (SMC) advocacy programs. SMC is comprised of 12 municipal Leagues in the Southern region and its advocacy arm meets annually to discuss recent legislative issues in our various states and how they were handled as well as to exchange ideas regarding advocacy opportunities and challenges. I also attend the yearly conferences hosted by the National League of Cities (NLC) – the annual City Summit as well as the Congressional City Conference in D.C. – and use those opportunities to meet with a number of federal constituents as well as reinforce our excellent working relationship with NLC's advocacy staff. In addition, I work closely with the ATRIP Commission formed by Legislative Act through the Alabama Department of Transportation (ALDOT) along with our municipal designee to that Commission Mayor David Bradford of Muscle Shoals who is also a League past president. I'm also an active member of Montgomery Capitol City Rotary, where I am

slated to be president in 2018 and have numerous opportunities to establish meaningful connections with many business owners and professionals.

We also have excellent working relationships with many other agencies and organizations including, the Alabama Department of Commerce, Alabama Department of Revenue (ADOR), Alabama Department of Environmental Management (ADEM), Alabama Tourism Department, Alabama Small Business Commission, Alabama Broadband Commission, Alabama Department of Archives and History (ADAH), Alabama State Council of the Arts (ASCA), Alabama Public Television (APT) and the Alabama Humanities Foundation (AHF).

Throughout the year, Carrie and I, along with the League's attorneys, speak to a variety of business and municipal government groups including, clerks, revenue officers, city administrators and municipal attorneys, judges and prosecutors. We are always happy to visit with your regional mayors' groups, Councils of Local Governments (COLGs), civic organizations such as Rotary, local leadership programs, Chambers of Commerce or any other group and/or organization that touches local government.

Advocacy does not happen in a vacuum. It absolutely relies on solid relationships and stable partnerships – which take time, energy and effort to establish and then continual nurturing to maintain. My team looks forward to working with you to protect municipal interests and strengthen local government. If we can be of service to you, please do not hesitate to contact us. ■



Greg Cochran with Gov. Bentley, 2016 Regular Session.



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The Legal Viewpoint

By Lori Lein, General Counsel



Duties of the Mayor and Council

One of the most misunderstood aspects of municipal government is the separation of powers between the mayor and the council. Like government on the state and federal levels, municipal government is divided into three separate but equal branches: executive, legislative and judicial. Each of these branches has distinct duties and powers and restrictions on how far it can intrude into the affairs of the other branches.

At the municipal level, the mayor serves as the head of the executive branch. As such, the mayor is responsible for overseeing the day-to-day operations of the municipality. He or she oversees municipal employees, makes sure that bills are paid on time, executes municipal contracts approved by the council and, in general, performs many of the same functions as a CEO of a private corporation. Section 11-43-81, Code of Alabama 1975.

In municipalities of less than 12,000 inhabitants, the mayor also presides over council meetings and serves as a member of the council. In these cities and towns, the mayor may vote on any issue before the council, introduce measures and participate in debates to the same extent as members of the council. Section 11-43-42, Code of Alabama 1975.

In cities with populations of more than 12,000, the mayor is not a voting member of the council. While not a voting member of the council, he or she does have a veto over any permanent action taken by the council. The council can override the mayor's veto by a two-thirds vote. Section 11-43-42, Code of Alabama 1975.

The council is the legislative branch. The council has authority over the finances and property of the municipality. The council authorizes contracts, establishes policies, passes ordinances, sets tax levels, determines what sorts of services the municipality will offer and has authority over all other legislative aspects of municipal government. Section 11-43-56, Code of Alabama 1975. Citizens and councilmembers must understand that individual councilmembers, acting alone, have no greater power or authority than any other citizen of the municipality. The council can only act as a body at a legally convened meeting. No official action may

be taken by any individual council member. All official action must be taken by the council acting as the governing body. For instance, the Attorney General has ruled that individual councilmembers cannot direct the activities of a municipal fire department, even pursuant to a properly enacted ordinance. AGO 1988-262. Other similar rulings include:

- Individual city councilmembers may not supervise and control municipal departments. The city council must approve expenditures of municipal funds. AGO 1991-147.
- A town council may not delegate its authority to appoint recreational board members to individual councilmembers. AGO 1991-402.

Perhaps the best way to sum it up is that the mayor is the chief executive officer of the city and is charged with the duty of supervision of the day to day affairs of the city under the policies authorized by the council.

Regardless of who is responsible for what, the laws of Alabama necessitate a close working relationship between the council and the mayor. Without that spirit of cooperation, a municipal government will not function properly. Open communications between the mayor and the council should be maintained at all times. Before acting on any proposal, the council should carefully consider the advice, views and recommendations of the mayor. Similarly, the mayor should also listen to council discussions in order to understand the reasoning behind council actions and the intent of the council as it passes ordinances and resolutions. There is no question that at times the mayor and the council will disagree over the best solution to a problem. While disagreement is inevitable, it can be healthy. Negotiating opposing viewpoints can often lead to unexpected solutions. City officials must learn that when an opposing view is taken by someone else in government, it is merely a different opinion on the best way to represent the citizens of the municipality.

This article outlines the duties and responsibilities of the mayor and council with respect to some of the most important functions of municipal government.

Powers of Appointment

In *Scott v. Coachman*, 73 So.3d 607 (Ala. 2011), the Alabama Supreme Court held that the mayor has the authority to hire most municipal employees. The Court in *Coachman* interpreted Section 11-43-81, Code of Alabama 1975, which provides that the mayor has the “power to appoint all officers whose appointment is not otherwise provided for by law.” The Court ruled that the council cannot remove the mayor’s appointment authority under Section 11-43-81 by ordinance. Since at least 1957, the Attorney General had interpreted the phrase “otherwise provided by law” to mean that the council could pass an ordinance - a law - to assume the power to appoint employees and officers. *Coachman* overturned this interpretation and stated that unless a state statute authorized a different appointment method, the mayor had the power to appoint municipal employees.

In cities having a population of more than 6,000, there shall be elected by the council, at its first regular meeting or as soon thereafter as practicable, a city treasurer and a city clerk, who shall hold office until the next general election and until their successors are elected and qualified, and such council may elect an auditor, and any officers whose election is required by ordinance, and, except as otherwise provided, the council shall have authority to fix the terms of office, prescribe their duties and fix the salaries of the officers. Section 11-43-3, Code of Alabama 1975. This section specifically gives the council the authority in municipalities

of over 6,000, to identify “officers” of the city by ordinance and provide for their election by ordinance.

In cities having a population of less than 6,000 and in towns, the council shall elect a clerk and fix the salary and term of office, and may determine by ordinance the other officers of the city or town, their salary, the manner of their election and the terms of office. The clerk and such other officers elected by the council shall serve until their successor or successors are elected and qualified. Section 11-43-4, Code of Alabama 1975. While worded differently than § 11-43-3, this section also gives the council, in municipalities of under 6,000 population, the authority to identify officers of the city by ordinance and to elect those officers or provide for another “manner of appointment” by ordinance. The council may provide for a tax assessor, tax collector, chief of police, and chief of the fire department and shall specifically prescribe their duties. The council shall designate the persons who shall administer oaths and issue warrants of arrest for violations of law and the ordinances of the city or town and the persons authorized to approve appearance bonds of persons arrested. This section identifies specific officers of a municipality and gives the council the authority to provide for these officers should it choose to.

In combination with Section 11-43-3 and Section 11-43-4 of the Code of Alabama 1975, the council, in providing for these “officers” could, by ordinance, provide for their manner

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THE LEGAL DEPARTMENT A USER'S GUIDE

LORI LEIN · GENERAL COUNSEL · ALM



On behalf of the League's Legal Department, I'd like to congratulate you on taking office. Or better yet, congratulations on surviving the election process! Having gone through the election, many of you several times now, you may already be familiar with the legal department at the League of Municipalities. One of the League's most important functions is responding to legal inquiries from its member municipalities. In addition to responding direct legal inquiries, attorneys for the League also participate in numerous training sessions for elected officials and municipal employees.

I have been with the League since 2001 and have had the privilege of serving as your General Counsel since 2011. One of the things I love most about my role as General Counsel is guiding our member municipalities, elected officials and employees as they deal with the multitude of legal issues that present themselves on any given day at city hall. I am fortunate to have a wonderful team to help me in serving our members. In addition to me, the legal department consists of Rob Johnston, Assistant General Counsel,

Teneé Frazier, Assistant General Counsel, and Sharon Carr, Legal Services Administrator. To learn more about each of us please visit the staff section of our webpage at www.alalm.org.

While the legal department has many roles, with over 450 members – representing literally thousands of officials, employees, board members and others who may make requests – there are limits to what the department can do. This article will help readers make the most effective use of the legal department. It is intended simply as a guide, and should be read that way. Because our goal is to serve our member municipalities, League attorneys attempt to remain flexible in the services they provide.

What Services Are Available?

The legal department's primary function is to represent the interests of member municipalities throughout Alabama. Therefore, we attempt to have an attorney available by telephone every day during regular business hours. However, the Legal department is not a substitute for local legal representation. The volume of requests we receive makes individual representation impossible. Therefore, we have to restrict our activities to those which we feel best serve all our member cities and towns.

In addition to providing direct legal assistance, the Legal department provides other services, such as: preparation of *amicus curiae* (friend of the court) briefs in appellate cases; preparation of monthly summaries of court decisions and Attorney General's Opinions for the League magazine and the League's Law on Disc computer program; monthly legal articles in the *Alabama Municipal Journal*; drafting manuals explaining the duties and responsibilities of municipal officials and employees; providing sample and model ordinances; conducting educational and training seminars; managing the Alabama Association of Municipal Attorneys (AAMA) and the Alabama Municipal Judges Association (AMJA); and assisting with the League's lobbying efforts.

Who Can Inquire?

This question raises complex ethical conflicts of interest issues concerning the responsibilities of the League's attorneys. Explaining it simply, the League represents its member municipalities and not individuals, even if they are municipal officials.

The League answers inquiries from mayors, council members, board members, clerks, attorneys and other representatives of member municipalities. League attorneys do not advise officials about their private legal matters. Additionally, conflict of interest rules generally prohibit us from advising members of the public regarding municipal legal matters, although we do share articles or other general information we have on hand with private citizens. Please do not encourage citizens who are not municipal officials or employees to contact the League for legal advice as we may have to refuse assistance.

Further, the League's attorneys cannot take sides in disputes involving one municipality against another or in conflicts between municipal officials. League attorneys exercise discretion in these situations and will generally refer you to your local attorney where a potential conflict of interest appears likely to arise. If it appears that we are being asked to resolve a dispute between two or more officials, we may ask that the question be reduced to writing with an agreed to statement of facts between the concerned parties so that we may respond to all sides jointly. We will also make every effort to encourage cooperation on questions involving disputes between municipal officials.

How to Use the Legal Department

Whether you inquire by telephone, e-mail, letter, or fax,

the following guidelines will help us give you the most prompt, accurate response:

- Call or write as soon as possible after identifying your problem – immediate deadlines make responses difficult since often a question requires research.
- Give us as many facts as possible. On questions involving boards, it is best to know under what section of the Alabama Code the board was created.
- If you are following up on an issue you have been discussing with one of our attorneys, please advise the receptionist so that your call may be directed to that attorney.
- If you have inquired with a particular attorney but have not received a response please indicate that information in any follow-up inquiry so as to avoid duplicate effort on the part of attorneys in the department. Please be patient as some responses take time and may require discussion among all the attorneys in the legal department in order for us to develop a consensus answer and avoid conflicting and/or confusing responses.
- If you are under a deadline, let us know when it is and we will try our best to meet it.
- Municipal officials and employees are welcome to discuss matters in person at League headquarters in Montgomery.

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Robert's Rules of Order:

Four Bad Habits to Avoid at City Council Meetings

Ann G. Macfarlane

Professional Parliamentarian

There are a number of “urban myths” about *Robert's Rules of Order* that can get in the way of democratic process for your council. If your municipality, county council, or special district avoids these bad habits, congratulations! If these errors happen at your meetings, however, you might want to bring them to the attention of your colleagues to straighten them out – in a pleasant way, of course.

- 1. Misuse of “call the question.”** Many people believe that if a member says “I call the question,” discussion on the motion being considered must stop immediately. This is a widespread misunderstanding. If you say, “**I call the question,**” it just means that you – as a single individual – would like to stop debate and vote now. The chair must ask for a second and then take the vote by show of hands, because two-thirds of the members must agree for debate to stop. The reason is that stopping debate limits members’ rights, and in general, a two-thirds vote is needed when members’ rights are limited or extended. While it may seem odd to “vote on whether to vote,” with time, your group will get used to this and use it properly.
- 2. Misuse of “friendly amendment.”** If a motion has been made, seconded, and stated by the chair, it is open to discussion, debate, and amendment by the members. One common mistake occurs when a member says, “May I offer a friendly amendment?” The chair sometimes then turns to the maker and the seconder to ask if they will accept this amendment. To do this denies the basic fact that a motion belongs to all the body, not just to the one who proposed it. It gives the maker a special “proprietary” right in her motion which, in fact, she doesn’t have. Instead, the chair can say, “A friendly amendment is handled just like any other amendment – is there a second?” The group then proceeds with its discussion and votes on the amendment in the usual way.

- 3. Abuse of power by the chair.** The chair of a meeting is charged with ensuring a fair process and following the procedures that the group has adopted. He is not responsible for the decision that the group makes. It is the group itself that has that authority. Sometimes chairs are over-assertive in running a meeting. They refuse to recognize a legitimate motion, or to acknowledge a “point of order.” The members should know how to bring them in line by using “appeal.” When running a meeting, the chair or presider is the servant of the group, and the group is the final authority.
- 4. Allowing a few members to dominate the conversation.** In council, committee, commission, and board meetings, it can happen that a few members get most of the air time. This is a bad habit that weakens the effectiveness of the group’s discussion. The remedy is the “speak once” rule, which states that “No one may speak a second time until everyone who wishes to do so has spoken once.” Whether the chair keeps track of who has spoken, maintaining a little list for future speakers, or whether you use the “round robin” method of discussion, following this rule will ensure a democratic process and lessen your chances of “groupthink.” ■

About the author: Ann G. Macfarlane is a professional parliamentarian who offers fresh insights into Robert’s Rules of Order at JurassicParliament.com. Follow Ann on Twitter@[AnnGMacfarlane](https://twitter.com/AnnGMacfarlane).

Please call in advance to make an appointment. If your questions involve a review of documents, we may ask that they be forwarded prior to the meeting so that we may review them.

Telephone Inquiries

As noted above, the legal department's primary goal is to have an attorney available by telephone every day during business hours. Of course, there are exceptions, such as during the League's convention or when we are trying to meet a publication deadline, or on hectic meeting days of the Alabama Legislature. We try to return calls either the same or the following day and we try to give an answer over the telephone. However, not every question has a clear legal answer. In these cases, we will try to give you our best legal opinion, based on years of municipal legal experience and knowledge of state and federal laws.

Further, some questions require research before a knowledgeable answer can be given. Therefore, it is best not to put off calling until just before a deadline. Of course, not every question can be anticipated, and when a quick legal response is needed, we will make every effort to provide a speedy answer.

Written Inquiries

Because of the volume of calls, it is difficult to confirm telephone advice in writing. However, we are happy to answer written inquiries in writing and try to do so in a timely fashion. All requests for written responses should be submitted in writing, laying out the question and any relevant facts. Written inquiries are generally answered in the order received and the response time depends upon time available to draft a response. Again, we will try to accommodate a deadline, but this is not always possible. As always, it is generally best to work with your local attorney if a quick response is needed.

We generally treat faxed messages the same as written requests. A carefully written legal opinion takes just as long to prepare in either case. If you simply want us to call you back with an answer, please indicate that in your request.

E-mail

Because of the nature of e-mail requests, they may be treated as either a written request or a telephone inquiry. League attorneys attempt to respond to electronic questions as quickly as possible, but please bear in mind that when our attorneys are out of the office, they may not have access to a computer, which will delay any reply. If you have an e-mail question that must be answered quickly, but have not received a response, it is generally advisable to follow up with a telephone call to be sure that the message was received, and that the attorney you are attempting to reach is in the office. Please inquire as to the status of the attorney you are requesting information from

before simply sending your request to another attorney in the office. This will help us avoid duplicate effort on inquiries.

Amicus Curiae Briefs

While the League does not file lawsuits on behalf of its members, we do sometimes file *amicus curiae* briefs in cases on appeal to either the Courts of Appeal or to the Alabama Supreme Court if the issues involved in the case have statewide significance. If you are involved in a case on appeal and you think the Court should have input from the League, please send a written request for an amicus brief, with supporting documentation, to the legal department.

Sample Ordinances

We maintain a large supply of sample ordinances on many topics. These samples come from several sources. Our most important source for ordinances is our members. If you adopt a new ordinance, it would benefit all League members if you could forward a copy to the League's legal department for our files.

Please remember that these ordinances have not been drafted by the legal department. Before using one as a guide, it is important to adapt these ordinances to your local needs and to obtain advice from your local attorney regarding compliance with statutes and case law.

We are often called upon to review ordinances or to interpret a word or phrase in an ordinance. While we can offer a cursory reading of an ordinance, we cannot be familiar with the circumstances which require the adoption of an ordinance, nor can we investigate facts which might influence the meaning of specific words or the inclusion of specific sections. Our interpretation is not intended to be definitive and should be used merely as a second opinion for your local municipal attorney. He or she is in the best position to provide you with a detailed analysis of your ordinance and provide you with a final answer.

Coordination with Local Attorneys

Each municipality should have its own attorney. The League's legal department is a resource to assist your municipal needs; it is not a replacement for your municipal attorney. Nothing we do or say is meant to interfere with the critical relationship between your municipality and your attorney. When the law is unclear or the inquiry presents substantial risk of litigation, we'll often suggest that you seek advice from your attorney, because he or she will have to represent you should you have to go to court. When your attorney provides advice, he or she does so in the belief that the recommended action puts the municipality in the most defensible legal position. Your municipal attorney is also in the best position to know local factors which influence the need to proceed in a particular manner. Therefore, we generally encourage municipal officials

and employees to follow their attorney's advice, especially on questions where the law is open to interpretation or factual matters require further development. Of course, we are always happy to discuss an issue with local attorneys or to verify their interpretation of a statute or case.

You should not seek our advice in the hopes that we will second-guess your attorney. We are here to assist, and not compete with, your attorney. If you have already discussed the matter with your attorney, please advise us of this when you call or write. Legal opinions are fact-specific and people who are not lawyers are often unaware of how a fact which seems unimportant to them might affect the legal response. Thus, if our opinion differs from that of local counsel, we will generally advise you to follow the advice of your local attorney.

To further help municipal attorneys represent their clients, the League created the Association of Municipal Attorneys (AAMA) in 1992. AAMA provides a number of services to municipal attorneys. It conducts two training seminars annually for municipal attorneys, publishes updates of ongoing litigation and also maintains an internet forum to enable attorneys to communicate with each other on legal issues. In addition to AAMA, the League created the Alabama Municipal Judges Association (AMJA) in 2007 to provide similar services and training opportunities for municipal judges. We strongly encourage all municipal attorneys, prosecutors and judges to join AAMA or AMJA and hope that all municipal officials will request that their local attorneys and judges join and participate in these important organizations. For more information, contact the League's legal department, or visit the League's web site, where links to information about AAMA and AMJA are posted.

Local Political Disputes

As attorneys, we answer your questions regarding municipal law. We often receive calls for "legal assistance" where the caller is seeking resolution to a political disagreement. Every municipality has political disagreements; most cannot be resolved by looking at a statute. In many cases, statutes are subject to multiple interpretations, especially where the responsibilities and duties of municipal officials are concerned. These calls are awkward, and we cannot give you an answer about who is right and who is wrong. These disputes are best resolved in the political arena through compromise and cooperation rather than through legal guidance.

Coordination with Other Agencies

The League often serves as a contact point on municipal issues for other agencies, including state departments like the Attorney General's office, as well as other entities, such as regional planning commissions. League attorneys often provide advice to representatives of these offices and frequently serve as speakers at educational conferences and seminars run by these agencies. Because of our relationships with these

agencies, we may refer you to one of them if we feel they can assist you with your questions.

Relationship with the Municipal Worker's Comp Fund (MWCF) and the Alabama Municipal Insurance Corporation (AMIC)

The League administers two risk-pooling type programs for municipalities – Municipal Workers Compensation Fund, Inc. (MWCF), and the Alabama Municipal Insurance Corporation (AMIC), which provides liability coverage for municipalities. It is important to understand that the League's legal department does not represent these entities. We do not provide advice regarding coverage or on matters in which one of these entities has an interest. Further, following our legal advice does not guarantee coverage. Questions regarding specific coverage issues or other matters related to these entities should be directed to them, and not to the League's legal department.

Limitations

Excluded from our advisory services are matters such as:

- drafting individualized ordinance and contracts
- comprehensive review of ordinances, contracts, applications for grants or legal responses
- on-site training for individual municipalities (although League attorneys will meet with representatives of a municipality at League headquarters if an appointment is made)
- litigation
- direct representation or negotiations with third parties on an individual municipality's behalf

Further, it is important to remember the following:

- we cannot take sides with one municipality or one official against another
- we generally cannot respond to questions regarding the League's worker's compensation or liability programs; inquiries on these programs should be directed to the appropriate representative

Have a Question? Don't Hesitate to Call

This user's guide is not meant to discourage you from contacting the League's legal department. On the contrary, Rob, Teneé, and I hope that understanding the scope of our services will help you make better use of them. When in doubt about whether we can help you, please don't hesitate to call. Of course, if ethics prohibit us from responding to your question we may have to refuse to answer it, or may refer you to someone who does not have a conflict. We hope you will take advantage of League services and programs. If there is anything we can do to help, please let us know. ■

of appointment, including appointment by the council rather than the mayor. In addition to the above listed code sections, Section 12-14-30 of the Code of Alabama 1975, specifically gives the council the authority to appoint, by vote of a majority of its members, the judges of the municipal court. Also, Section 11-43-20 of the Code of Alabama 1975, authorizes the city council to provide for, by ordinance, a city manager. The council is authorized to establish a police force under the general supervision of a police chief. Section 11-43-55, Code of Alabama 1975.

Where a municipality has created, *by ordinance*, the office of city attorney and the ordinance fails to designate the appointing authority, the Mayor is the appointing authority for the city attorney. AGO 2009-054. **NOTE:** Where a municipality contracts with an attorney to provide legal services for the municipality, the council must approve the contract and its terms.

The Attorney General, in Opinion 2012-039, held that the specific language of Sections 11-43-3 and 11-43-4 don't limit the council's appointment power only to listed "offices." Instead, the Attorney General noted that "Section 11-43-3 authorizes a city council to elect any officer whose election is required by ordinance, to prescribe the duties, to fix salaries and to set the terms of office for these officers." Therefore, the Attorney General concluded that the legislature has created a method for the council to appoint other positions than those listed above and designate them as "officers." The Attorney General, though, stated that there are limitations on the council's power to designate certain positions as officers. Using the definition in Black's Law Dictionary, the Attorney General concluded that: "any office created by a city council must be assigned specific duties and hold a position of authority. Paramount to the authority of an officer is the ability to discharge some portion of the sovereign power. The Supreme Court of Alabama, in defining the term "office" stated the following:

"We apprehend that the term "office" implies a delegation of a portion of the sovereign power, and the possession of it by the person filling the office; and the exercise of such power, within legal limits, constitutes the correct discharge of the duties of such office. The power thus delegated and possessed may be a portion belonging sometimes to one of the three great departments, and sometimes to another; still, it is a legal power, which may be rightfully exercised, and, in its effects, will bind the rights of others, and be subject to revision and correction only according to the standing laws of the state. An employment, merely, has none of these distinguishing features. "

State v. Stone, 240 Ala. 677,680, 200 So. 756, 758 (1941). An employee, instead, is someone who "works within the service of another person (the employer) under an express or implied contract for hire (A)n officer must have responsibilities and hold a position that is superior to that of an employee ... Accordingly, an officer is limited to a person that exercises some level of authority, presumably over employees, and performs some discretionary, policy-making functions."

In summary, according to *Coachman*, the mayor has the power to appoint anyone whose appointment "is not otherwise provided for by [state] law." State law clearly provides that the council shall appoint certain positions, such as clerk and treasurer. State law also allows the council to create "offices" by ordinance and, therefore, fill those positions. Keep in mind that not every position within the municipality can be designated as an office. In order to hold an office, a person must exercise some "level of authority, presumably over employees" and perform discretionary, policy-making functions. If so, the council may pass an ordinance making these positions officers of the municipality.

Powers of Dismissal

Section 11-43-160, Code of Alabama 1975, states that any person appointed to an office in any city or town may, for cause, after a hearing, be removed by the officer making the appointment. Section 11-43-81, Code of Alabama 1975, states that the mayor may remove, for good cause, any non-elected officer appointed by him or her and permanently fill the vacancy. In *State v. Thompson*, 100 So. 756 (1924), however, the Alabama Supreme Court ruled that where the mayor has been given the power to make appointments solely on his or her own discretion and without the approval of the council, the mayor must grant a hearing to the appointee before the dismissal. Of course, the appointee may waive this right to a hearing.

The mayor may remove any officer for good cause, except those elected by the people, and permanently fill the vacancy if the officer was elected by the council or appointed with its consent. In either of these cases, the mayor must report the dismissal to the council and state the reasons for the action to the council at its next regular meeting. If the council sustains the mayor's act by a majority vote of those elected to the council, the vacancy must be filled as provided in Title 11 of the Code of Alabama. Again, Section 11-43-81 states that the appointee must be granted a hearing, which can be waived by the employee, before the dismissal becomes permanent. Section 11-43-160 of the Code of Alabama gives the city council the authority to remove any officer in the

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The Happiest Time of the Year: Technology Equipment Updates!

By: Chuck Stephenson, Director of Information Technology, AIM

It's that time of year... when the big guy in red from up North starts making his presence felt. I well remember when I was a kid the *Sears Wish Book*, the *J.C. Penney Christmas Catalog* and even the *Service Merchandise Christmas Catalog* were must-read material just prior to the holidays. Oh, the *anticipation!* Those glorious publications were the basis for our wish lists to Santa and what the Christmas season's successes were measured by. Sadly, all those catalogs have disappeared (along with some of the merchants that produced them).



I know. I know. What does this have to do with IT? Great question.

Today, many of us get excited about the prospect of a new technology release. A new laptop, PC or tablet can trigger the ecstatic expectations reminiscent of Christmases past. (Don't act like this doesn't happen to you.) New smartphone releases often generate crowds like the "hot toy trends" of Christmas years ago. (Cabbage Patch Kids anyone...?) As an IT professional, I can tell you that a similar excitement level is mirrored in most businesses when it's time for a new computer. Employees often become giddy over the anticipation of Randolph the Red-Faced IT Guy loading up the cart and delivering shiny new technology! There are, however, some considerations to review when making decisions about purchasing new technology equipment (none of which have anything to do with the Naughty or Nice Lists, thankfully).

be repurposed? These are just a few of the items that need to be considered.

Once upon a time (probably not that long ago), your organization purchased new IT equipment and everyone was happy, work was accomplished efficiently and there weren't many complaints about IT. Unfortunately, like the Ghost of Christmas Past, those times are now just reflections and memories. What happened? What changed to cause employees to now complain that their PCs take an eternity to startup in the morning or that it takes 10 minutes to open or save a file? The truth is that there are multiple factors that could be causing the performance issues, but, depending on the age of the equipment, it could be that newer software, graphics and file sizes have left the older equipment behind. This is true not only of PCs but also of smartphones and tablets. The average life expectancy of a PCs is 3 to 5 years. That number can fluctuate either way by a year depending

Consider this.

When deciding whether to purchase new IT equipment, there are many factors that should be considered. Which employees need newer equipment first? What level of performance is required of the equipment for the employee to accomplish job duties? How old is the existing equipment, and can it



on the level of performance required by the user of the PC. Smartphones and tablets generally have the same lifespan but will start to show performance issues much sooner.

When planning begins for purchasing new equipment, you have to assess the needs of each department, and possibly of each individual user. Some departments/users will need much higher level equipment than others. For example, a graphic designer will need a PC that has a large amount of memory (RAM), a faster CPU, a better graphics card and possibly a larger hard drive (depending on where your organization stores files) than an employee who is responsible for data entry. Once you have assessed the needs, it is a good idea to purchase more resources (i.e. CPU, RAM, graphics card and hard drive) than what is currently needed. This will allow the equipment to be useful for its lifespan.

Once the new equipment has been ordered, depending on the method of procurement used, the existing equipment can be assessed to determine if repurposing it elsewhere is a viable solution. For instance, the PC that the graphic designer was using may have enough resources for the data entry employee to use for a couple of additional years before having to be replaced. While doing this may be viewed by some as emulating Ebenezer Scrooge, it is a wise choice given the resources that may be present in certain equipment. Another potential use for repurposed equipment is loaner/utility duty. In our organization, we have several “loaner” PCs and laptops. These are useful if a user’s PC is having issues and requires maintenance. A loaner will allow that user to continue to work rather than being hamstrung by the lack of a PC.

How do you want to pay for that?

Another consideration when purchasing new technology equipment is the method of procurement. There are many options available both for standard office technology equipment as well as for cellular technology. Unfortunately,



The author in his jammies Christmas morning, circa 1977

writing a list to Santa is not one of the options available to organizations for procurement; however, there are others. Leasing equipment is an option that most larger PC manufacturers offer – either through their purchasing department or through a third-party procurement broker. There are different options available in the leases as well, including discounted purchase options at the end of the lease. In addition to these options, there is always the option to purchase the equipment outright. This, of course, will allow flexibility in the repurposing options discussed above.

Cellular purchases are a similar to the options listed above. There are additional options available for corporate accounts and, as with most contracts, there is always room for negotiation.

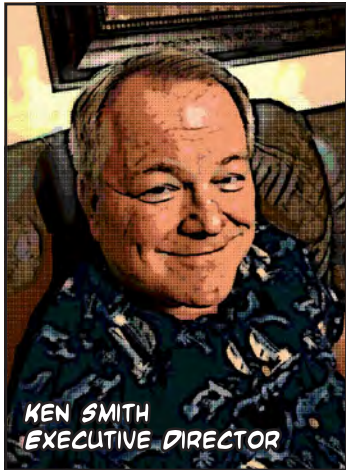
Finally, regardless of which path your organization decides is best, keep in mind that technology is changing at a faster pace than we have ever experienced. This pace will not slow down. If anything, it will increase. Therefore, the decisions you make today will affect the organization in the future – much like the Ghost of Christmas Yet to Come. ■

Terms of the Trade

- PC – personal computer (or “politically correct” depending on the situation).
- CPU – the abbreviation for “central processing unit”. Sometimes referred to simply as the central processor, but more commonly called processor, the CPU is the brains of the computer where most calculations take place. In terms of computing power, the CPU is the most important element of a computer system.
- RAM – an acronym for “random access memory,” a type of computer memory that can be accessed randomly; RAM is cleared when a computer is rebooted or shutdown, or as needed to grant access to other programs. RAM is the most common type of memory found in computers and other devices, such as printers.
- Reindeer – a species of deer with circumpolar distribution, native to Arctic, Subarctic, tundra, boreal and mountainous regions of northern Europe, Siberia and North America. Utilized by Kris Kringle as the engines for his sleigh in his yearly toy delivery excursions.

LEAGUE STAFF INTRODUCTIONS

THE LEAGUE HAS 23 FULLTIME EMPLOYEES AND IS DIVIDED INTO SIX DEPARTMENTS: LEGAL, FINANCE, LEGISLATIVE, COMMUNICATIONS, MEMBER SERVICES AND TECHNOLOGY. TO LEARN MORE ABOUT THE DEDICATED EMPLOYEES WHO WORK ON BEHALF OF YOU AND YOUR COMMUNITIES, VISIT THE "ABOUT THE LEAGUE" TAB ON THE HOMEPAGE OF OUR WEBSITE AT ALALM.ORG AND CLICK ON "STAFF". BIOS AND CONTACT INFORMATION ARE AVAILABLE FOR EACH STAFF MEMBER.



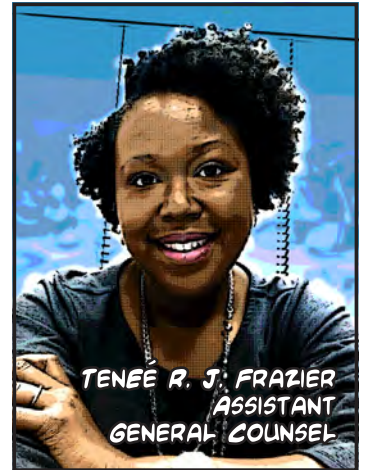
KEN SMITH
EXECUTIVE DIRECTOR



LORI LEIN
GENERAL COUNSEL



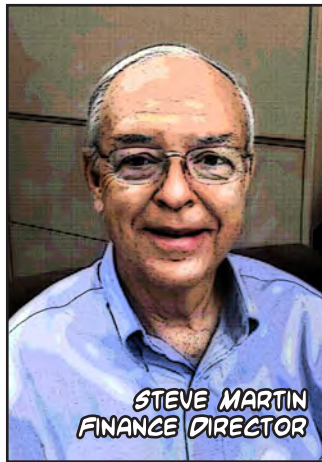
ROB JOHNSTON
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TENE R. J. FRAZIER
ASSISTANT
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SHARON CARR
LEGAL SERVICES
ADMINISTRATOR



STEVE MARTIN
FINANCE DIRECTOR



RICHARD BUTTENSCHAW
OPERATIONS MGR., MWCF;
PRESIDENT, MIS



FAITH ANN GUNN
ACCOUNTING MANAGER



MELISSA CHAPMAN
ACCOUNTING
COORDINATOR



RACHEL WAGNER
FINANCE/MIS ASSISTANT



GREG COCHRAN
DIRECTOR OF ADVOCACY
AND PUBLIC AFFAIRS



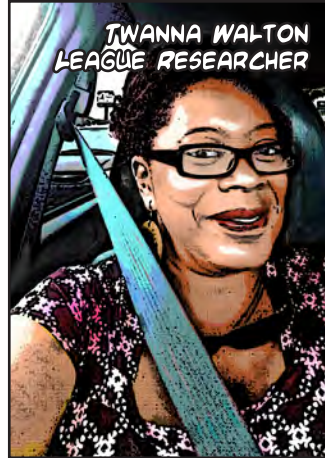
CARRIE BANKS
COMMUNICATIONS
DIRECTOR

LEAGUE STAFF INTRODUCTIONS

...CONTINUED



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GRAPHIC DESIGNER



TWANNA WALTON
LEAGUE RESEARCHER



THERESA COOK
MEMBER SERVICES
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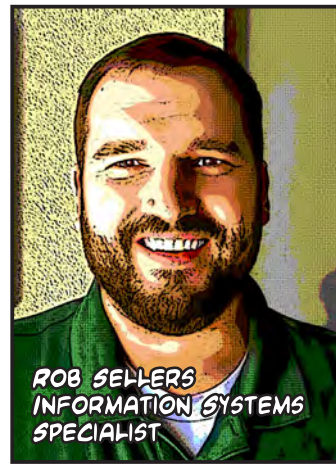
KRYSTLE BELL
TRAINING AND PROFESSIONAL
DEVELOPMENT ADMINISTRATOR



CINDY PRICE
CORPORATE RELATIONS
MANAGER



CHUCK STEPHENSON
DIRECTOR OF
INFORMATION TECHNOLOGY



ROB SELLERS
INFORMATION SYSTEMS
SPECIALIST



JENNIFER FRAKES
FACILITIES ASSISTANT

NOT PICTURED: PRISCILLA STARR, MEMBER SERVICES ASSISTANT; KEN GABEHART, INFORMATION SYSTEMS TECHNICIAN/FACILITIES MANAGER; NATHAN BAKER, SENIOR SOFTWARE DEVELOPER.



LEAGUE HEADQUARTERS IN MONTGOMERY, AL



WWW.ALALM.ORG

Prayer Before a Public Meeting-

Yes or No



Randy Van Vleck, General Counsel, New Mexico Municipal League

Editor's Note: This article originally ran in the April 2016 issue of The Municipal Reporter, a publication of the New Mexico Municipal League. It is reprinted in full with permission.

One of the perennial questions we receive at the League is whether it is constitutional to have an opening prayer before council meetings. My standard answer for the longest time has been “it depends.” Now the Supreme Court of the United States (SCOTUS) has decided a case on this issue. In *Town of Greece v. Galloway*, the SCOTUS decided whether a prayer made at the beginning of a council meeting was appropriate under the U.S. Constitution. In *Town of Greece*, the SCOTUS was called upon to decide whether the town of Greece, New York, imposes an impermissible establishment of religion by opening its monthly board meetings with a prayer.

Following the roll call and recitation of the Pledge of Allegiance, the Town Supervisor (Mayor) would invite a local clergyman to the front of the room to deliver an invocation. After the prayer, the Town Supervisor would thank the minister for serving as the board’s “chaplain for the month” and present him with a commemorative plaque. The prayer was intended to place town board members in a solemn and deliberative frame of mind, invoke divine guidance in town affairs, and follow a tradition practiced by Congress and dozens of state legislatures. The Town followed an informal method for selecting prayer givers, all of whom were unpaid volunteers. A Town employee would call the congregations listed in a local directory until she found a minister available for that month’s meeting. The town eventually compiled a list of willing “board chaplains” who had accepted invitations and agreed to return in the future. The Town at no point excluded or denied an opportunity to a would-be prayer giver. Its leaders maintained that a minister or layperson of any persuasion, including an atheist, could give the invocation. Nearly all of the congregations in Town were Christian and consequently the bulk of the prayers were led by Christian leaders. The Town neither reviewed the prayers in advance of the meetings nor provided guidance as to their tone or content, in the belief

that exercising any degree of control over the prayers would infringe the free exercise speech rights of the ministers.

Respondents Susan Galloway and Linda Stephens attended Town Board meetings to speak about issues of local concern, and they objected, claiming that the prayers violated their religious or philosophical views. At one meeting, Galloway admonished board members that she found the prayers “offensive,” “intolerable,” and an affront to a “diverse community.” After these complaints, the town invited a Jewish layman and the chairman of the local Baha’i temple to deliver prayers. A Wiccan priestess who had read press reports about the prayer controversy requested, and was granted, an opportunity to give the invocation.

Nevertheless, Galloway and Stevens brought suit in the United States District Court for the Western District of New York. They alleged that the Town violated the First Amendment’s Establishment Clause by preferring Christians over other prayer givers and by sponsoring sectarian prayers, such as those given “in Jesus’ name.” They were not interested in stopping the prayer practice, but they wanted the content of the prayers to be more “inclusive and ecumenical,” in other words prayers that referred only to a “generic God” and which would not associate the government with any one faith or belief.

The District Court upheld the prayer practice and found that there was no impermissible preference for Christianity. It also held that notion of a requirement that the prayer be nonsectarian is not supported. The Court of Appeals reversed, finding that in its totality a reasonable observer might believe that the Town was endorsing Christianity. It also found fault because the Town did not go outside its borders to find more diverse clergy. Finally, the court found it relevant that guest clergy sometimes spoke on behalf of all present at the meeting, by saying “let us pray,” or by asking audience members to stand and bow their heads: “The invitation . . . to participate in the prayer . . . placed audience members who are nonreligious or adherents of non-Christian religion in the awkward position of either participating in prayers invoking beliefs they did not share or appearing to show disrespect for the invocation.”

The Supreme Court of the United States reversed. In support, the SCOTUS cited *Marsh v. Chambers*, 463 U. S. 783 (1983), where the Supreme Court found no First Amendment violation in the Nebraska Legislature's practice of opening its sessions with a prayer delivered by a chaplain paid from state funds. The decision concluded that legislative prayer, while religious in nature, has long been understood as compatible with the Establishment Clause. Legislative prayer lends gravity to public business, reminds lawmakers to transcend petty differences in pursuit of a higher purpose, and expresses a common aspiration to a just and peaceful society. *Marsh* teaches instead, that the Establishment Clause must be interpreted "by reference to historical practices and understandings." The fact that the first Congress of the United States provided for the appointment of a chaplain, days after approving the First Amendment (which contains the Establishment Clause) is evidence that the Framers of the Constitution considered prayer to be an acknowledgement of religion's role in society. *Marsh* stands for the proposition that it is not necessary to define the precise boundary of the Establishment Clause where history shows that the specific practice (prayer prior to a legislative meeting) is permitted.

The SCOTUS decided that an insistence on nonsectarian or ecumenical prayer as a single, fixed standard is not consistent with the tradition of legislative prayer outlined in prior cases. The Congress that drafted the First Amendment would have been accustomed to invocations containing explicitly religious themes of the sort respondents find objectionable and have historically approved such themes in prayers. The contention that legislative prayer must be generic or nonsectarian arises from statements made in *County of Allegheny*, 492 U. S. 573, that was disputed when written and has been repudiated by later cases. To hold that invocations must be nonsectarian would force the legislatures that sponsor prayers and the courts that are asked to decide these cases to act as supervisors and censors of religious speech, which would create an environment of government entanglement in religion, which would clearly be in violation of the First Amendment. It was suggested that references to "Father, God, Lord God, and the Almighty" would be acceptable in public prayer, but that references to "Jesus Christ, the Holy Spirit, and the Holy Trinity" would not. Perhaps the thought was that references to a generic "Father, Lord, God or Almighty" would not be overly offensive, yet those types of references would most likely alienate nonbelievers or polytheists.

The SCOTUS supported a prayer that was designed to emphasize the gravity of the occasion and to instill a positive and reflective attitude among the elected officials. Prayer that is solemn and respectful in tone, that invites lawmakers to reflect upon shared ideals and common ends before they embark on the contentious business of governing, serves a legitimate function. So long as the prayer is not disparaging of other faiths or used and given to proselytize those at the

meeting it will be acceptable. The tradition of having an opening prayer that has been in place since the Constitution was written and adopted, permits each chaplain to be free to ask their own God for blessings of peace, justice, and freedom that find appreciation among people of all faiths. That a prayer is given in the name of Jesus, Allah, or Jehovah, or that it makes passing reference to religious doctrines, does not remove it from that tradition.

From the very beginning, these prayers or invocations were directed to the legislative or judicial body. So, some common sense suggestions as to the mechanics of having a prayer or invocation might be in order.

First, it is preferable that the chaplain or person leading the prayer face the council and not the audience. The leader should refrain from asking the gallery members to participate, but direct the prayer to the members of the body. Such actions show the intent is to actually have the prayer be a part of the legislative meeting and given for the governing body. Second, it is preferable to have outside individuals lead this prayer or invocation. Having the Mayor or a member of the body give the prayer or invocation (even if they person rotates or changes) gives the indelible impression that the body is endorsing or supporting the view being espoused which is exactly what the Establishment Clause is seeking to avoid. Having a list or "stable" of chaplains of differing faiths and beliefs goes a long way toward rebutting claims that the body is endorsing one religion over the others.

If a municipality wants to begin its meeting with a prayer, it must understand that the principal audience for these invocations is not, indeed, the public but the governing body themselves, who may find that a moment of prayer or quiet reflection sets the mind to a higher purpose and thereby eases the task of governing. Prayer, prior to a meeting of a legislative body has been in practice since the birth of this country and has historically been accepted as a legitimate means of expressing that our own existence must be understood by precepts far beyond the authority of government. ■

Randy is the General Counsel to the New Mexico Municipal League where he advises municipalities, their officials and employees on various statutory and constitutional issues. Randy's public service includes employment as an Assistant District Attorney, the Deputy Chief Counsel to the Disciplinary Board of the New Mexico Supreme Court, an Assistant Attorney General for the State of New Mexico, and as City Attorney for the City of Rio Rancho. Randy is currently on the faculty of the Graduate School of Public Administration at the University of New Mexico. In 2001 he was named a Fellow in Local Government by the International Municipal Lawyers' Association and re-certified twice since. In 2005, Randy was approved by the State Bar of New Mexico as the first Board Certified Specialist in Local Government Law and in 2014 was named IMLA's Outstanding State League Counsel.



League Timeline 1935-2016

1935 → Although attempts to organize began as early as 1914, the Alabama League of Municipalities did not find solid footing until a small cadre of mayors met in Montgomery and, with the advice and guidance of **Gov. Bibb Graves**, hired **Ed Reid** as Executive Secretary – which was made possible by a contribution from the American Municipal Association (precursor to the National League of Cities) that went towards Reid’s initial salary.

↳ Laws were passed to authorize municipalities to enact zoning laws and control subdivisions.

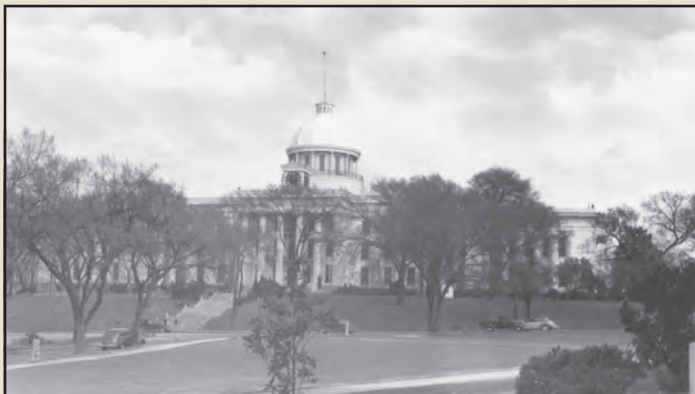
1937 → **Ed Reid** published the inaugural issue of *The Alabama Municipal News* – a publication dedicated to providing accurate information, informed opinions and pragmatic advice for running towns and cities.

↳ Municipalities were authorized to license businesses in the exercise of their police power as well as for revenue-raising purposes. *City of Birmingham v. Hood-McPherson Realty Co.*, 172 So. 118



Ed Reid, the League’s first Executive Director, remained at the helm until his death in 1965.

1939 → Law was passed to allow municipalities to acquire electric systems operating within the municipal limits.



State Capitol in Montgomery circa 1930s. (Alabama Department of Archives and History, Montgomery, Alabama.)

1942 → **Municipal Revenue Service** was established to provide necessary investigations to collect unpaid and escaped delinquent insurance license taxes from insurance companies doing business in Alabama’s municipalities. In September 2016, the Alabama League of Municipalities mailed more than \$600,000 in refund checks (some in excess of \$20,000) to its participating cities and towns for delinquent insurance license taxes collected on their behalf through this program – which is still going strong after 74 years!

1943 → Law was passed to authorize the Attorney General to issue opinions to counties and municipalities.

1944 → *The Alabama Local Government Journal*, formally published as *The Alabama Municipal News*, became the official publication of the Alabama League of Municipalities.

1945 → Constitutional Amendment was passed to allow all municipalities to levy up to 12 1/2 mills of ad valorem taxes

↳ Law was enacted to authorize mayors to operate municipal utility systems for additional pay.

1946 → The League signed a lease on a small, seven-room, shot-gun style building located at 24 S. Hull Street in downtown Montgomery. The offices would remain at this location for the next 24 years.

1948 → The League began publishing *The Handbook for Mayors and Councilmembers* every four years.

1949 → Cater Act was passed to create municipal industrial development boards.

↳ State Connecting Link roads were designated.

1952 → *Evers v. City of Dadeville*, 61 So.2d 78 – upheld the gross receipts license tax in the nature of a sales tax.

1953 → *The Alabama Municipal Journal*, formerly published as *The Alabama Local Government Journal*, became the official publication of the Alabama League of Municipalities. (See image below)

↳ Law was passed to authorize county and municipal employees to participate in the State Retirement System.



From the Oct. 1946 *Alabama Local Government Journal*: "THE NEW HEADQUARTERS PLEASES THEM – Tuscaloosa Commissioner J. Frank Livingston, left, League president (1943-1950), and Ed E. Reid, Executive Secretary, survey the grounds of the League of Municipalities' new home at 14 South Hull Street in Montgomery. They were both pleased at the way the exterior as well as the interior looked. In the spacious five room headquarters, an elaborate library, two offices, storage rooms and a reception room are included. Both county and municipal officials are invited to drop in whenever they're in the Capital City. League headquarters is easily reached being only two blocks from Capital Hill."



1956 → **John Watkins was hired as the League's first Staff Attorney.** A native of Faunsdale, AL and a 1945 graduate of the University of Alabama School of Law, Watkins practiced law in Prattville for five years followed by serving several years as a judge before joining the League staff.

1958 → *Al Means v. City of Montgomery*, 104 So.2d 816 – Provided judicial authority for city sales taxes.

1961 → First comprehensive municipal election laws enacted.

1965 — The League’s first Executive Director, Ed Reid, died of cancer. Reid, who was hired in 1935, had been the League’s “sparkplug” for 30 years. *The Montgomery Advertiser* succinctly described Reid and the League in a circa 1955 article: *The Alabama League of Municipalities, you might say, is Alabama’s 10th Congressional District and its congressman is its director, Ed E. Reid. As Mohammedans to Mecca, politicians at all levels make pilgrimages to the little red brick office building of the League on a Hull Street incline. There, Reid, short, dapper and given to alternating blasts of amiable mimicry and barking truculence, presides. He is one of the remarkable figures on the Alabama scene. Because of his influence over the mayor-members of his organization and his encyclopedic knowledge of practical politics, all politicians crave his help.*



Ed Reid with his wife, Josephine.

— Staff Attorney **John Watkins** was named the League’s second Executive Director during the 1965 Annual Convention.

1967 — Current 20% Constitutional Debt Limit was established.

1968 — Realizing the Hull Street location was no longer large enough to accommodate its needs, for \$60,000 the League purchased Lots 37 and 38 in the New Philadelphia Subdivision of Montgomery County – on the corner of Adams Avenue and Bainbridge Street, in shouting distance of the Alabama capitol building, to build a new headquarters.



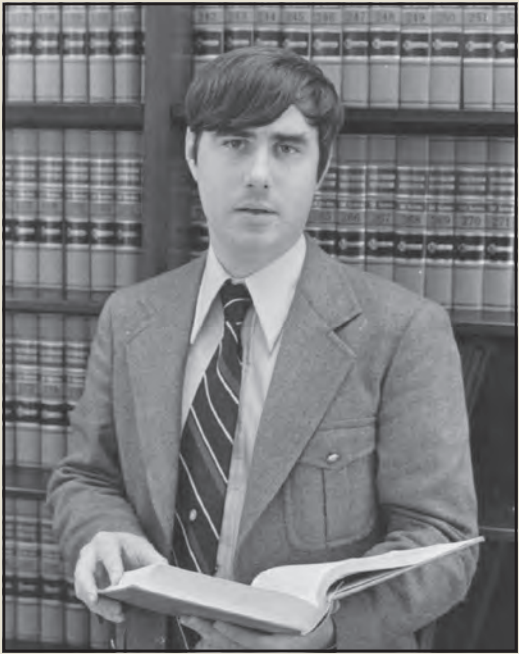
John Watkins became the League’s second Director in 1965 following the death of Ed Reid.

1969 — Authority for “true” sales tax was enacted.



New League Headquarters at 535 Adams Avenue, 1970. The Capitol can be seen at right.

1970 — New League headquarters building at 535 Adams Avenue was dedicated in on Thursday, October 29, 1970 at 3 p.m. Designed by Montgomery architecture firm Tom Kirkland and Associates, the two-story structure was a testament to the aesthetic sensibilities of the time, embracing a more streamlined modernity and bringing added light, air, and space for the growing staff. Thanks to healthy building fund contributions from most of the League’s membership, the structure was nearly paid for by the time of its official dedication.



Perry Roquemore was hired as staff attorney in 1974 and became Executive Director in 1986.

1971 → Unanimous Consent Annexation authority was enacted.
→ Municipal elections became non-partisan.

1972 → The League began publishing the *Selected Readings for Municipal Officials* every four years.

1973 → The League began publishing a weekly *Legislative Bulletin* during each Legislative session. Prior to 1973, legislative updates were published in the League’s newsletter and/or monthly *Journal*.

1974 → **Perry C. Roquemore, Jr. was hired as League Staff Attorney.** He would later become the League’s third Executive Director following John Watkins’ retirement in 1986.

1975 → *Jackson v. City of Florence*, 320 So.2d 68 – abolished doctrine of governmental immunity.

1976 → The **Municipal Workers Compensation Fund, Inc. (MWCF)** was established to provide workers compensation insurance coverage to municipalities, housing authorities, utility boards and other city agencies. The League created MWCF during a “hard market” when private carriers were not interested in insuring many of Alabama’s municipalities. MWCF is the second oldest League insurance pool in the nation. www.almwcf.org



www.almwcf.org

1977 → The Alabama Legislature placed a cap on municipal tort liability.

1978 → *Peddycoart v. City of Birmingham*, 354 So.2d 808 – Outlawed general bills of local application.

→ A Constitutional Amendment was adopted to authorize the establishment of eight classes of municipalities based on population.

1981 → **Council President Nina Miglionico (“Miss Nina”) of Birmingham was the first woman elected League President.** The daughter of Italian immigrants, Miss Miglionico was a lifelong Birmingham resident and later became one of the first female lawyers in the state. She was the first woman elected to Birmingham’s city government, serving on the City Council for 22 years from 1963 until 1985. From 1978 until 1981, she served as Council President – the first female to hold that title. A graduate of Howard University, Miss Miglionico earned her law degree from the Alabama School of Law in 1936 and is thought to be the first woman in Alabama to have established her own firm. With 73 years of service, she held the unique distinction of being the longest practicing female attorney in the history of the State of Alabama. She died at age 95 in May 2009.



Birmingham Council President Nina Miglionico became the League’s first female president in 1981.

1985 → The League celebrated its **50th Anniversary** during the Annual Convention in Montgomery.

1986 → **Perry Roquemore became the League's third Executive Director** following the retirement of John Watkins.

→ *Dillard v. Crenshaw County*, 640 F. Supp. 1347 Required most governments in Alabama to elect members of their governing bodies from districts rather than at-large.

→ Legislation was enacted to authorize municipalities to receive a share of the oil and gas trust fund interest.



Perry Roquemore became Executive Director in 1986. He retired in 2011.



Outgoing League President, Mayor Steve Means of Gadsden (left), and incoming President, Mayor Harold Swearingen of Pine Hill (right), light the 50th Anniversary candle during the 1985 Annual Convention.

1987 → Law was enacted to create revolving loan program for wastewater treatment.

1988 → A Constitutional Amendment was approved to limit state-enacted unfunded mandates.



Mayor Johnny Ford of Tuskegee became the League's first African American President in 1989.

1989 → **Mayor Johnny Ford of Tuskegee became the first African-American League President.** Elected as Mayor in 1972, Ford was one of the first black mayors, along with A.J. Cooper of Prichard, elected to a city of more than 10,000 people in modern-era Alabama. In 1998 he was elected State Representative of the 82nd District from Macon County as a Democrat. He served from 1999 until 2004. In February 2003, he switched parties and became Alabama's first black Republican legislator in more than 100 years. He served as Tuskegee mayor again from 2004 until 2008 and from 2012 until 2016.

→ The **Alabama Municipal Insurance Corporation (AMIC)** was established as a mutual insurance company organized under the laws of the State of Alabama and owned by its member municipalities. The League created AMIC during a "hard" insurance market when many municipalities could not get insurance or were charged exorbitant prices. AMIC continues to write all lines of insurance and celebrated its 25th Anniversary in 2014. www.amicentral.org



www.amicentral.org

1990 → The Alabama Legislature authorized the State Employees Insurance Board to establish a health insurance plan for municipalities.

1992 → The **Alabama Association of Municipal Attorneys (AAMA)** was created to serve and benefit municipal attorneys and prosecutors throughout the State of Alabama by fostering communication and education of attorneys and the public as to the unique aspects of municipal law.



Rep. Bill Dukes, former Mayor of Decatur and past League President (1987-88), addressed CMO graduates at every graduation ceremony from 1994 until 2010. This photo is from the 2009 ceremony. Dukes passed away in December 2014 at age 87. He served as mayor for 18 years followed by 16 years in the Alabama Legislature.

1994 → Tort liability of municipal officers and employees was capped.

→ ALM becomes the second League in the nation to offer a **Certified Municipal Official (CMO) Program**, which was established as a series of continuing education programs for mayors and councilmembers who voluntarily wish to receive training in municipal government. Officials earning 40 hours of credit receive their CMO designation.

1995 → The League expanded its headquarters building, creating a basement and much needed additional office space.

1997 → *City of Prattville v. Joyner*, 698 So. 2d 122 – Held that a municipality is not required to continue providing services in its police jurisdiction when it stops collecting taxes in the area.

1998 → The League launches its website: www.alalm.org.

→ Joint powers authority was enacted.

→ The League established the **Advanced Certified Municipal Official** designation for those elected officials who receive an additional 40 hours of training after completing their initial CMO designation.

1999 → A Constitutional Amendment was approved to protect the municipal share of oil and gas trust fund revenues.

2000 → AMIC purchased the building at 110 North Ripley Street in downtown Montgomery and moved all services in-house. In 2016, AMIC has 35 full-time employees and continues to expand its coverage, recently adding free cyber liability coverage for its members.



2002 → AMIC and MWCF developed an internal League **Loss Control Division** to provide a variety of services, including regional and on-site training programs, proactive driver training (SkidCar), firearms training (FATS), and four loss control representatives assigned to various areas of the state. The Division currently has 11 staff members and an extensive website, www.losscontrol.org, offering free online training to members as well as bulletins, reference documents, newsletters and additional risk management information.

2006 → The **Alabama Municipal Funding Corporation (AMFund)** was established to assist Alabama municipalities with funding local projects and purchases through low-cost financing. www.amfund.com



www.amfund.com

2007 → **Councilwoman Cynthia McCollum** of Madison became the first Alabama official elected President of the National League of Cities (NLC).

→ The **Alabama Municipal Judges Association (AMJA)** was re-established to serve and benefit municipal judges throughout the State of Alabama by fostering communication and education for municipal judges in order to increase the efficiency and effectiveness of Alabama's municipal courts.



Councilwoman Cynthia McCollum of Madison delivers her acceptance speech in 2007 as first Alabama official to be elected President of the National League of Cities.

2009 → Pre-zoning Authority was enacted.



Perry Roquemore's last Executive Committee Meeting, January 2011.

2010 → The League celebrated its **75th Anniversary** during its Annual Convention in Mobile May 15-18. When the League officially organized in 1935, it did so with 24 member cities and towns. In May 2010, that number was 442 out of 460 municipalities in 67 counties. In 2016, the League has 449 members out of 462 incorporated municipalities.

→ Law was passed allowing local governments to purchase goods and services through vendors with a current and valid contract with the Government Services Administration without further competitive bidding.

2011 → **Perry Roquemore retired in May** with 37 years of service – the longest-serving League employee to date.



Ken Smith became Executive Director in 2011.

2011 League Deputy Director **Ken Smith** became the League’s fourth Executive Director following Perry Roquemore’s retirement. Originally hired in 1986 as League Staff Attorney, Ken also served as General Counsel and Deputy Director before being named Executive Director.

2013 The League established its official Facebook page, www.facebook.com/ALALM. “Like” ALM on Facebook and 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.

Passed legislation creating municipal entertainment districts.

Passed legislation allowing municipal pretrial diversion programs.

2014 Law was passed enacting the Debt Setoff Authorization Act.

2015 The League launched **League Law**, an online legal research system allowing subscribers to search selected Alabama and federal cases affecting municipalities, including summaries of Alabama Attorney General’s opinions, Ethics Commission opinions and Alabama and federal court opinions.

The League launched **Municipal Intercept Services (MIS)**, a debt intercept program designed to allow local governments to recover a portion of the outstanding debts they previously deemed lost from an individual’s State tax refund. MIS is Alabama’s *only* state tax refund municipal debt recovery program. www.alintercept.org



www.alintercept.org

Law was passed enacting the Remote Sales Tax Remittance Act.

Law was passed enacting the Alabama Reinvestment and Abatements Act

The League created a third designation in its Certified Municipal Official Program, **CMO Emeritus**, which recognizes mayors and councilmembers who have excelled beyond the requirements of the Basic and Advanced CMO Programs. CMO Emeritus is awarded to officials who have acquired a minimum of 120 credit hours of Continuing CMO Education plus 15 points. Points can be earned by participating on ALM policy committees and attending specific ALM and NLC events. The first class to earn CMO Emeritus status graduated in December 2015.



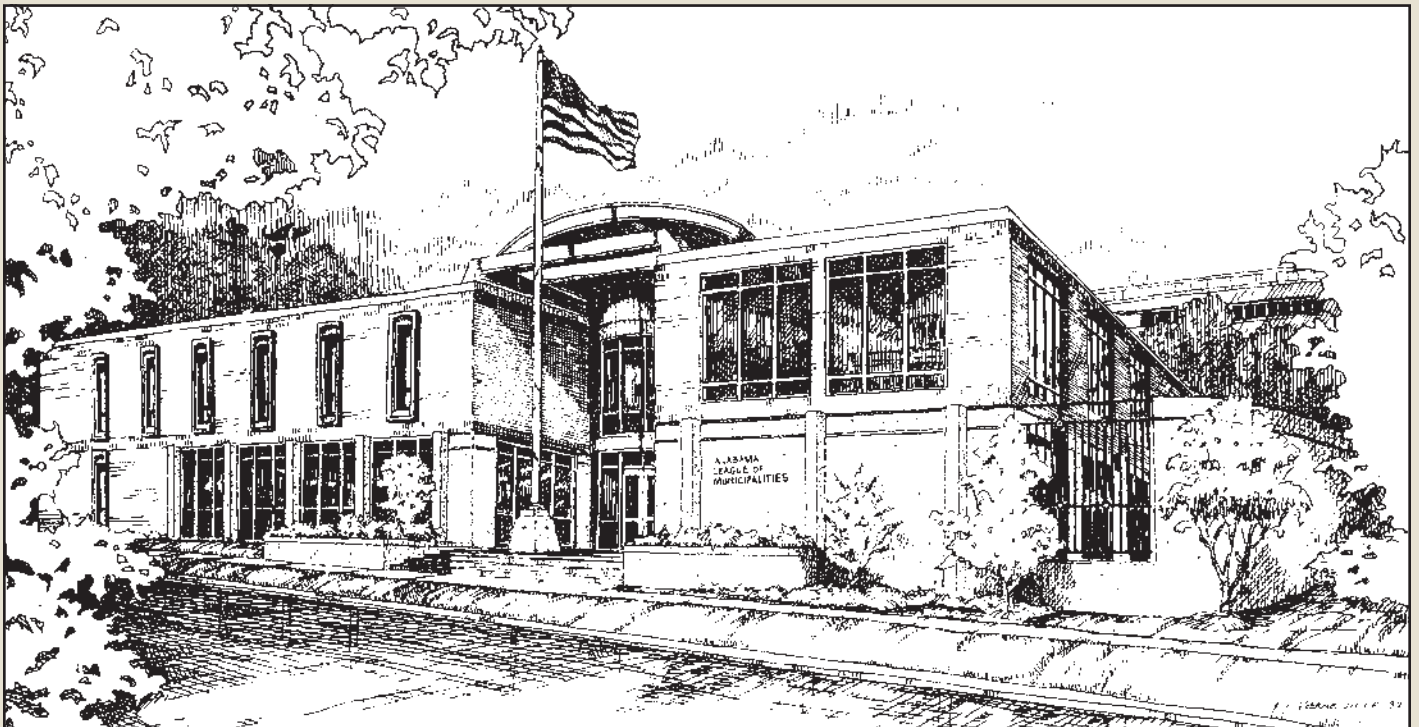
2015

↗ Councilwoman Sadie Britt of Lincoln, Alabama – “Ms. Sadie” – became the first African American female president of the Alabama League of Municipalities – only the fourth woman to serve as President since 1935. In the early 1990s, Sadie was approached by the then mayor of Lincoln to fill an open position on the Council. She’s been in office ever since – the first African American woman to serve on the Council, running unopposed all but three times and then winning handily against her opposition. Since being appointed to the Council more than two decades ago, Sadie has been active with the Alabama League of Municipalities. Prior to being elected League Vice President in 2014, Sadie was the Vice Chair of the League’s Committee on State and Federal Legislation for two years and then Chair for two years. She had also previously served as the Vice Chair and then Chair of the Human Development Committee as well as several years on the League’s Executive Committee. She currently serves on the Board of Directors for the Municipal Workers Compensation Fund, Inc. (MWCF), which was established by the League in 1976. In addition, Sadie immediately became involved in the League’s Certified Municipal Official (CMO) program when it was launched in 1996 and was part of the first graduating class to earn Emeritus Status – the highest CMO level – in December 2015.



2016

→ Law was enacted repealing the Municipal Commission form of government.



The League headquarters building, which is located on the corner of Adams and Bainbridge in downtown Montgomery, was built in 1970 and expanded in 1992 from 7,500 square feet to 22,000. Both the land and structure are owned by the Alabama League of Municipalities. For more information on the League, visit www.alalm.org.

Communities Prepare for ALABAMA 200

JAY LAMAR, EXECUTIVE DIRECTOR, ALABAMA BICENTENNIAL COMMISSION

Alabama will celebrate its 200th birthday in 2019. This once-in-its-history anniversary is a big event for any state; however, in Alabama, it's *really* big. Our commemoration will begin in 2017, timed to coincide with the 200th anniversary of the creation of the Alabama Territory, and conclude in 2019 as a celebration of 200 years of statehood. The Alabama Bicentennial Commission, chaired by Senator Arthur Orr of Decatur, has named this three-year commemoration "ALABAMA 200".

Bicentennial Commission Encourages Community Participation

ALABAMA 200 is the *only* three-year bicentennial commemoration in the nation, and Alabama communities are

already making plans. Thanks to the Alabama Bicentennial Commission's Local Activities Committee, co-chaired by Carrie Banks of the Alabama League of Municipalities and Tami Reist, CEO of North Alabama Mountain Lakes Tourist Association, almost 100 towns and cities throughout the state have attended information sessions, adopted the ALABAMA 200 Bicentennial Resolution and/or established community celebration committees.

At least once a month, somewhere in the state, staff from the Alabama Bicentennial Commission and its partners present at public information sessions. They share information about timelines, funding and statewide projects, such as "Making Alabama: An Alabama Bicentennial Traveling Exhibition," in development at the Alabama Humanities Foundation, and the Alabama Family History and Heritage Project, which is digitizing genealogy publications in partnership with the Alabama Department of Archives and History.

For these information sessions, however, the most important focus is what will happen in the cities, towns and counties of the state. "We want these sessions to make people excited, to get them thinking about possibilities and to help them plan what is going to be most important to them," said Local Activities co-chair Reist.

About 35 people attended an information session this past spring at the Daleville Cultural and Convention Center hosted by former Daleville mayor Claudia Wigglesworth. "Hosting an information session is one way to share information and get ideas on the



Prattville's Teresa Lee, executive assistant to the mayor and co-chair of the Elmore County bicentennial committee, hosted an info session for a packed house.

200[®]

ALABAMA BICENTENNIAL

table,” she said. “We invited the public and ended up with representatives from seven different towns, as well as three TV news outlets.”

How Your Community Can Form an ALABAMA 200 Community Celebration Committee

ALABAMA 200 has made it very easy for municipalities to participate in the state’s three-year commemoration. Community Celebration Committees are formed via special resolution by the mayor and council and can be composed of *anyone* from your community. A copy of the resolution is available for download by clicking on the “Participate” tab at the top of the homepage of the ALABAMA 200 website at www.alabama200.org.

Adopting the ALABAMA 200 resolution makes your committee official and can help focus the excitement generated during an info session. Based on Governor Robert Bentley’s directive to state agencies, it states the bicentennial’s goal: “Commemorations and celebrations will enable and encourage Alabamians of all ages and backgrounds, as well as visitors from around the United States and beyond, to experience Alabama’s rich and diverse cultural, historic, and natural resources; thereby stimulating the economy of Alabama through local economic growth.” It also encourages towns and cities to get onboard: “... participation and contributory efforts by the localities of the State through their various councils, committees, and congregations, are paramount to the success of this



Citronelle city councilwoman Connie Robinson, pictured in an ALABAMA 200 t-shirt with her grandson and members of the local history association, hosted an information session in August.

historic endeavor.” Adopting the resolution signals that people are beginning to organize. It can be presented at a city council meeting, formally signed by the mayor at a media event, even framed to hang in city hall. Some communities use the resolution as the cornerstone of their bicentennial committee. Others use it as a tool to recruit interest. In either case, it is important to think about who should serve. Likely candidates are representatives from city or county government, the chamber of commerce, the public library, school(s) or school board, local businesses, the community center (youth, senior, etc.) and historical, cultural, civic, and other community organizations. Different ages, backgrounds, and ethnicities will bring range and diversity

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several departments, but not employees. The term “officer” includes all those positions specifically set forth in the Code of Alabama as “officers,” as well as any position created by the city council pursuant to ordinance. An officer is limited to a person that exercises some level of authority, presumably over employees, and performs some discretionary, policy-making functions. A city council is not authorized to fire an “employee” pursuant to section 11-43-160 of the Code. AGO 2012-039.

In municipalities having a population of less than 12,000 inhabitants, according to the last or any subsequent federal census, the mayor may vote on the removal of any person appointed to office in the municipality pursuant to this section and the mayor shall be considered as a member of the council in determining whether there is a two-thirds vote of the council for the removal of the officer. Section 11-43-81, Code of Alabama 1975. The mayor may not permanently remove the police chief or any other officials who were not appointed by him or her but the mayor may temporarily remove such officials pending a hearing on the question by the council. The mayor may fill the vacancy temporarily by the appointment of an acting successor

who is entitled to pay for services rendered. AGO to Hon. Robert S. Glasgow, July 19, 1956. The AG has determined that Section 11-43-160 gives the city council the authority to remove any officer in the several departments, but not employees. The term “officer” includes all those positions specifically set forth in the Code of Alabama as “officers,” as well as any position created by the city council pursuant to ordinance. An officer is limited to a person that exercises some level of authority, presumably over employees, and performs some discretionary, policy-making functions. A city council is not authorized to fire an “employee” pursuant to section 11-43-160 of the Code. AGO 2012-039

The mayor of a city of 12,000 or more in population does not sit as a member of the council and, therefore, has no vote on questions of appointment or dismissal of officers or employees who come before the council. The mayor of a city of 12,000 or more in population does not have the power of veto over appointments made by the council.

The fact that the mayor, who voted and participated in a personnel hearing before the council concerning an officer’s dismissal, may have had prior and independent knowledge of

continued on page 54

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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

Discrimination: Evidence did not support the employee's claim that the city retaliated against her for filing discrimination charges with the EEOC. *Johnson v. City of Mobile*, 195 So.3d 903 (Ala. 2015).

Education – Labor and Employment: Education Board's decision in termination proceeding was entitled to deference on review by the hearing officer. *Huntsville City Bd. of Educ. v. Jacobs*, 194 So.3d 929 (Ala.Civ.App. 2014).

Taxation: City's failure to follow the required administrative procedures of the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act (TBOR) prior to suing a limited liability company (LLC) for unpaid municipal sales taxes, business license and occupational taxes deprived the trial court of subject matter jurisdiction over the claim regarding sales tax, but it did not deprive the trial court of subject matter jurisdiction for the claims for the unpaid business license and occupational taxes. *Bonedaddy's of Lee Branch v. City of Birmingham*, 192 So.3d 1151 (Ala. 2015).

Ordinances – Appeals: City's appeal from the circuit court's order reversing the municipal court's decision was taken without statutory authority, since the circuit court did not hold the municipal ordinance invalid and the amount in controversy did not exceed \$50,000. *City of Montgomery v. Mark G. Montiel, P.C.*, 192 So.3d 413 (Ala.Civ.App. 2015).

ATTORNEY GENERAL'S OPINIONS

Public Records: The checking account numbers on checks are not subject to disclosure under the Open Records Law and should be redacted. AGO 2016-049.

Contracts – Solid Waste Disposal: A municipality may enter into an agreement with a county for the collection and disposal of solid waste, and receive a percentage of the revenue generated, even if the municipality does not participate in the collection or disposal. The funds received must be used for solid waste disposal. AGO 2016-051.

Competitive Bid Law: The purchase of services to convert records from the Banner/Oracle database to the Alliant Microsoft/SQL platform base, and the purchase and installation of the custom Campus Key ERP software, would be exempt from the Competitive Bid Law if the services involve a high degree of professional skill, custom software, or there is only one vendor for the software. AGO 2016-052.

ETHICS OPINIONS

Solicitation: Public officials and employees and their families are permitted to solicit donations to Friends of McCalla from principals as long as the purpose for doing so is to benefit the public, and as long as funds raised will not provide any personal gain to the public official, public employee, their family or a business with which they are associated as noted herein. If they are members of the Board, they may solicit on Friends of McCalla's behalf unless they are paid for Board service or derive any other personal gain from service. AO 2016-024.

Solicitation: The Bicentennial Foundation and Commission by statute can only serve a public purpose, benefitting to some degree all citizens of Alabama. As long as these business leaders solicit contributions on behalf of the Bicentennial Foundation and do not in the process provide a "thing of value" to any public official or employee, or provide anything for the purpose of corruptly influencing official action, the solicitations would not violate the Act's or our Opinions' solicitation restrictions. AO 2016-025. ■

Do you know what's happening This Week?

We do! Stay informed by subscribing to *This Week*, the League's weekly e-newsletter, which is emailed every Tuesday morning.

Subscriptions are FREE!!

Visit www.alalm.org, click on the link at the top left of the home page and provide the requested information.

Participation in NLC

Since 1935, the Alabama League has been a member of the National League of Cities (NLC), our national counterpart. Members of our League are thereby entitled to participate in the annual Congress of Cities where national municipal policy is formed and educational programs are conducted. Our members may become direct members of NLC if additional benefits and assistance are desired from the national organization. Throughout the years, Alabama municipal officials have been extremely active in NLC. For more information, visit www.nlc.org.

Individual Services to Members

Individual service to member municipalities, on a day-to-day basis, is one of the most important functions of the League. These services include research to help local officials make decisions in the performance of their many duties; legal opinions from the League's four attorneys; publication of the League's bi-monthly magazine, *The Alabama Municipal Journal*; distribution of *This Week*, a weekly electronic newsletter; distribution of the *Statehouse Advocate*, ALM's weekly legislative e-bulletin when the legislature is in session; and publication of booklets and information bulletins to better enable officials and personnel to perform their duties. In addition, the League has an extensive website, www.alalm.org, as well as an official Facebook page at <https://www.facebook.com/ALALM>.

The League has brought legal actions on behalf of its member municipalities and has filed briefs in many other cases affecting our cities and towns. League staff and officers frequently appear before state agencies and legislative committees to testify on rules, regulations and proposed legislation affecting our members.

The League has also established a number of special programs for member municipalities. Some of these programs are operated directly by the League while others are privately held companies whose products or services are endorsed by the League. Any League member city, town or instrumentality of the League member may contract for any or all of these services at very competitive rates.

League-Operated Programs

- **Municipal Revenue Service** – This League program has been available to League members for many decades. This service collects delinquent municipal insurance license taxes and has recovered a tremendous amount of lost municipal revenue over the years.
- **Municipal Workers Compensation Fund (MWCF)** – The League sponsors the Municipal Workers Compensation Fund, which provides a means for municipalities and their boards to save on the cost of workers compensation coverage.
- **Alabama Municipal Insurance Corporation (AMIC)** – The Alabama Municipal Insurance Corporation (AMIC) was formed by League members in the late 1980s to provide liability and property insurance coverage for member municipalities. AMIC and MWCF take pride in their competitive rates, strong safety services and record of savings for members over the years.
- **Alabama Municipal Funding Corporation (AMFund)** – AMFund was developed by the Alabama League of Municipalities to assist Alabama municipalities fund local projects and purchases. The purpose of AMFund is to provide low-cost financing to municipalities in Alabama. Tax-exempt bonds are issued and the bond proceeds will fund AMFund, from which individual municipalities can borrow at low tax-exempt interest rates to fund almost any municipal equipment or project.
- **Municipal Intercept Service (MIS)** – MIS was formed in 2014. This program allows municipalities and their entities to submit uncollected finalized debts to the Alabama Department of Revenue. Those debts are set-off against individual income tax refunds.

League-Endorsed Programs

- **Cable Television Franchise Management Service** – This League-endorsed program provides technical assistance to municipalities relating to cable television franchise management.

Like the League on Facebook!

Visit www.facebook.com/ALALM to “like” ALM on Facebook and 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. This is also where the League posts photos from its events that you can download, share and save!



- **Model City Ordinance Review Program** – This program uses the expertise of law students working through the Alabama Law Institute to revise municipal ordinances.
- **US Communities Government Purchasing Alliance** – Jointly founded by the National League of Cities, National Association of Counties, National Institute of Government Purchasing, United States Conference of Mayors and the Association of School Business Officials International to provide high quality government contracts to all U.S. local governments, this program provides Alabama’s municipalities the opportunity to piggyback on competitively bid contracts; take advantage of the enormous collective purchasing power of public agencies nationwide; and leverage these savings to their own advantage.
- **CGI Streaming Video** - Founded in 1988, CGI’s products and services for Community Image Marketing have been used by over 2000 communities in North America! All of CGI’s programs are offered at NO COST to municipalities, and are specially designed to streamline communication and strengthen communities. The League continues to look for even more programs to benefit its member municipalities. Besides saving money for our members, all of these programs contribute to the operation of the League and help keep membership dues down.

The Legislative Function

In every session of the Alabama Legislature for the past 81 years, the League has served as the guardian and the voice of municipal interests. This is a vitally important function, since Alabama municipalities are creatures of the Legislature and are dependent upon it for their powers and their very existence. League legislative programs through the years have produced over hundreds of general acts which directly benefit municipal government and its citizens. Cities and towns in Alabama now receive many millions of dollars annually in state-shared revenues as a direct result of the League’s legislative efforts. In addition to working for passage of League legislative proposals, the League staff continuously monitors and reports on all types of legislation, at both the state and federal levels, which may affect cities and towns.

Training Programs

Over the past years, the League has worked closely with the University of Alabama, Auburn University, Jacksonville State University, the University of North Alabama, Faulkner University and other educational institutions and groups to sponsor training programs for municipal officials and employees. In 1987, the League, in cooperation with the College of Continuing Education at the University of Alabama, established the John G. Burton Endowment for the Support of Municipal Programs. The fund honors the League’s first president and the “Father of Municipal Education in Alabama.” This perpetual fund, to which municipalities, individuals and corporations may contribute, is used to increase training programs and opportunities for municipal officials and employees.

In 1994, the League established the Elected Officials Training Program for elected municipal officials. This voluntary program was the second in the nation and provides elected officials an opportunity

to receive continuing education training. Upon obtaining 40 credit hours of training, the elected official will be presented with the designation of Certified Municipal Official (CMO). Several years later, due to the program’s popularity, an Advanced CMO Program was established. In 2015, the League introduced a new training level, the Emeritus level, which recognizes meritorious continued participation in League training programs, events and service.

Publications and Communications

The League publishes *The Alabama Municipal Journal*, a magazine prepared by the staff which annually provides more than 400 pages of timely information on the operation of city and town governments. *The Alabama Municipal Journal* is mailed to all elected officials and to top administrative and legal personnel of member cities and towns. Members of the Legislature also receive the magazine as well as the Alabama Congressional Delegation, sister leagues throughout the country, subscribers and friends. The total circulation of *The Alabama Municipal Journal* is approximately 4,500.

The League provides a weekly e-newsletter, *This Week from the League*, that informs and updates members on meetings, training and other items of importance.

As mentioned earlier, the League’s *Statehouse Advocate* is electronically transmitted weekly to each member municipality when the Legislature is in session. In addition to these regular publications, the League staff prepares numerous books, information bulletins and special reports on specific subjects of interest to municipal officials and maintains a Facebook page: www.facebook.com/ALALM.

The League staff continually attempts to keep the public and the news media informed about issues affecting municipal government in Alabama and to promote the objectives of the League and its member municipalities. Press releases are issued as needed to wire services, newspapers and radio and television stations. The League staff also prepares local news items at the request of individual municipal officials. In addition, members of the League staff make appearances before a number of organizations, on request, throughout the state to discuss the problems and goals of municipal government.

In addition, the League offers several computer programs for purchase to its members such as *League Law* (which offers an easy method of searching for court decisions and opinions of the Attorney General that are of interest to municipalities).

Conclusion

As the foregoing notes indicate, the League is a multi-purpose organization, the goals of which are to promote more efficient and effective government for the citizens of Alabama. The League is a tremendous resource for municipal officials and personnel. Municipal officials are urged to take advantage of these resources, to call on the League staff whenever necessary and to attend as many educational programs, seminars and conventions as possible. The rewards will benefit you as municipal officials and the citizens that you have been elected to serve. ■

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to ideas and efforts. And newcomers may have fresh ideas and will welcome the chance to contribute.

For Tuscaloosa's Tourism & Sports CEO Gina Simpson, who helped form the Tuscaloosa committee, "forming the local Bicentennial Committee was a vital step in helping to celebrate the state's Bicentennial as well as the planning of our city's Bicentennial. It creates the opportunity for the community to drive and shape Tuscaloosa's Bicentennial Celebrations. The committee will spearhead telling our story and making our history come alive for the celebration."

The duties of a committee will vary depending on its goals and objectives. For instance, this is a great time to start a new event, but if a festival, fair, play or other event is already a tradition, it can wear a bicentennial banner for a year or two.

According to Teresa Lee, executive assistant to Prattville mayor Bill Gillespie, the key can be starting early. "Back in March, we hosted the state's first bicentennial information session," she said. "It was an experiment for us and for the Bicentennial Commission, but we had committee co-chairs in place very soon after that. Meeting regularly since then has helped us get focused on some specific projects."

Regional Bicentennial Workshops Planned for Spring 2017

Alabama towns and cities are rich in history, stories and culture. There is no time like the bicentennial to showcase them, and the Alabama Bicentennial is available to help. Beginning in spring 2017, the commission will schedule regional bicentennial workshops featuring speakers on statewide bicentennial initiatives and funding opportunities, as well as how-to sessions on project planning and implementation. Bicentennial-in-a-Box "tool kits" will be distributed that will include sample projects, tips on community networking, sample press releases and other useful items.

More information on workshops will be available prior to the end of the year. Those interested should visit the website at www.alabama200.org or call the office at 334-242-4537 to set up a session, download a resolution or talk through the process of forming a committee. The Alabama Bicentennial Commission looks forward to hearing from you! ■



Bicentennial Commission Executive Director Jay Lamar discusses how to form a Community Celebration Committee at an information session in Daleville which drew people from surrounding cities.



THE ALABAMA WORLD WAR I CENTENNIAL COMMITTEE

Commemorating World War I in Alabama — 2017 Marks American Centennial of the Great War

Georgia Ann Conner Hudson, Communications Officer
Alabama Department of Archives & History

The American centennial period will officially begin on April 6, 2017, one hundred years after the U.S. entered the war, and will extend through Armistice Day, November 11, 2018. The committee is co-chaired by Steve Murray, director of the Alabama Department of Archives and History, and Maj. Gen. Perry G. Smith, adjutant general of the Alabama National Guard. Nimrod T. Frazer, author of *Send the Alabamians*, serves as honorary chairman. Comprised of more than 30 scholars and military, government and community leaders, the committee is tasked with planning and implementing commemorative

Nearly a century ago, thousands of young Alabamians departed our state, bound for the war-torn battlefields of France. Alabama troops fought in pivotal battles during the last year of World War I, often with distinction. On the home front, citizens from all walks of life worked in factories and participated in volunteer efforts to support the war. Just as World War I marked the emergence of the U.S. as a world power, it strengthened the ties between state and nation in a rebirth of patriotic fervor.

Next year will mark the centennial of America's entry into World War I, a war that profoundly shaped the course of the 20th Century. More American servicemen died in World War I than in the Korean and Vietnam Wars combined, yet today, their sacrifices remain largely forgotten. Alabama's newly formed World War I Centennial Committee is embarking on a statewide mission to educate our citizens, honor those who served and commemorate the centennial of the Great War.



World War I victory parade for the 167th Infantry regiment on Commerce Street (at the intersection with Tallapoosa Street) in Montgomery, Alabama, May 1919. (Photo courtesy of the Alabama Department of Archives and History, Montgomery, Alabama)

Alabama World War I Centennial Committee

In the spring of 2016, the first meeting of the Alabama World War I Centennial Committee was held at the Alabama Department of Archives and History in Montgomery.

programs, educational events, and initiatives throughout the state during the centennial period.

The group will work closely with the United States World War One Centennial Commission to ensure that the experiences and sacrifices of Alabamians during

the Great War are remembered. The U.S. Commission was created by an act of Congress in 2013 to plan World War I commemorative events and activities throughout the centennial period. Its 12 members were appointed by the President and the leaders of the Senate and House of Representatives as well as the American Legion, Veterans of Foreign Wars and the National World War I Museum. All four living Presidents serve on the Commission as honorary chairs.



Young men departing for boot camp during World War I on a train with phrases such as “To Hell Mit The Keiser” and “Mobile to Berlin” written on the side, ca. 1917. (Photo courtesy of the Alabama Department of Archives and History, Montgomery, Alabama)

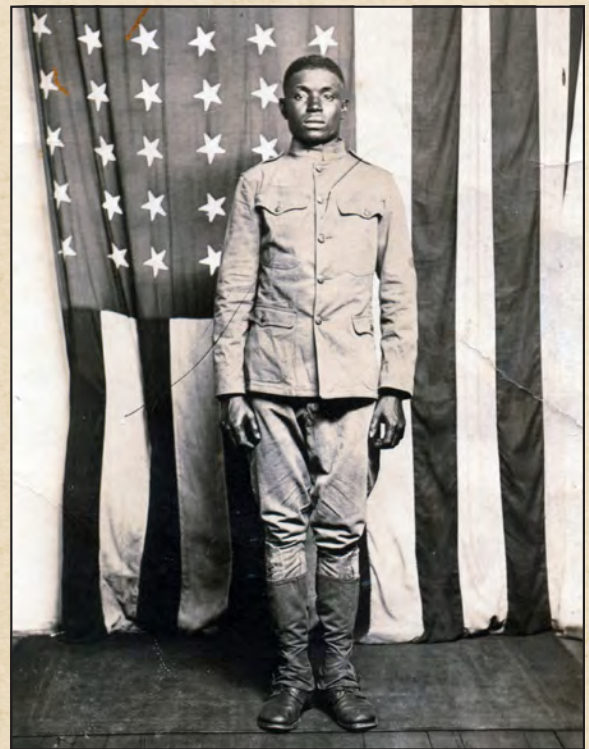
In attendance at the first meeting of the Alabama World War I Centennial Committee was U.S. Commissioner Monique Seefried. She remarked: “As a U.S. World War I Centennial Commissioner, I am proud that Alabama has taken this important first step towards honoring the Alabamians who sacrificed greatly in service to their country nearly a century ago.” Programs of the Alabama committee will include developing a comprehensive list of World War I monuments throughout the state, public programs, lectures, symposiums in partnership with scholars and educational institutions and the development of publications.

Alabama World War I Centennial Website Launched

In late summer, the committee launched a website hosted by the United States World War I Centennial Commission: www.worldwar1centennial.org/alabama. The site includes a wealth of information and resources about Alabama during World War I that will continue to be updated and enhanced with new content throughout the centennial period.

A key feature of the site is the Centennial Blog. Frequent new posts include details about the activities of the committee, projects happening around the state and fascinating collections and stories from the war. Over the next two years, the blog will grow to become a rich resource for discovering the wartime experiences of Alabamians and for staying up-to-date about centennial activities and events happening in communities around the state.

The site also includes an Alabama events calendar that is already populated with many activities scheduled over the next two years. The calendar is integrated with the U.S. Commission’s calendar, providing national promotion for activities happening in Alabama.



Daniel Robinson of Prairie, Alabama. During World War I, Robinson served as a private in Company C the 802nd Pioneer Infantry Regiment. He died of illness on October 2, 1918, while overseas. (Photo courtesy of the Alabama Department of Archives and History, Montgomery, Alabama)



Audie Hill and Margaret Moffat standing outside the Red Cross headquarters in Montgomery, Alabama, during World War I. Moffat was the secretary for the Montgomery chapter of the American Red Cross, ca. 1918 (Photo courtesy of the Alabama Department of Archives and History, Montgomery, Alabama)

Committee Requests Information About Statewide WWI Monuments

At its fall meeting in Montevallo in October, the committee launched the *Alabama World War I Monuments and Memorials Project* to document all of our state's WWI monuments and memorials. For the project to be a success, the committee is asking Alabamians from across the state to provide information about World War I monuments and sites in their local communities. These efforts will result in the development of an important new resource that will become a lasting legacy of Alabama's World War I centennial commemoration. **To participate, visit the "Monuments, Memorials, & Historic Sites" section of www.worldwar1centennial.org/alabama to view an interactive map. If your local site(s) is not included, or if you have additional information or photographs to include, contact Graham Neeley at graham.neeley@archives.alabama.gov or call (334) 353-4629.**

Community Participation Encouraged!

Of the 95,000 Alabamians who served in World War I, 3,000 became casualties. A century later, the Alabama World War One Centennial Commission is working to ensure that their service and sacrifices are remembered and that the causes and consequences of the Great War are understood by future generations of Alabamians. However, this small committee cannot do it alone. It needs the support and engagement of local communities and citizens who understand the significance of this centennial milestone and the importance of encouraging all Alabamians to remember the war and commemorate its legacy. **To learn more about the Alabama World War I Centennial Committee and how you and your community can get involved, contact Amy Williamson at amy.williamson@archives.alabama.gov or (334) 353-4689. ■**

Plan a WWI Community Observance in Your Municipality

By Mayor Gary Fuller, Opelika and Alabama World War I Centennial Committee Member

Alabama municipalities have a special opportunity in the next two years to honor the service and sacrifice of our residents who contributed to the Allied victory in World War I. A century ago, young men – and some women – left their hometowns to don a uniform and travel to a war zone that seemed very far away. From their arrival in France in late 1917 until the armistice of November 11, 1918, they comprised the forces that broke a four-year stalemate and ushered in a new period of peace.

One of the most memorable occasions of my life was attending the November 2011 dedication of a memorial in Croix Rouge, France, to the Alabamians in the 167th Infantry Regiment, a leading unit of the famed 42nd Rainbow Division. It is a moving tribute to the Alabamians who stepped on the world stage and demonstrated amazing courage under terrifying conditions.

Relatively few residents of our state will ever visit Croix Rouge and the other battlefields in France. This makes it incumbent upon us to commemorate at home the service of those overseas, as well as the many volunteers on the home front who grew victory gardens, made bandages for the Red Cross and promoted war bond drives.

I hope you will engage the resources compiled by the Alabama World War I Centennial Committee, on which I am pleased to serve, and start planning your community's observance of this historic anniversary.

President's Report

continued from page 7

or leadership service in these various certifications. For additional information, visit the “Training and Resources” tab on the homepage of the League’s website at alalm.org.

League members are also encouraged to volunteer to serve on major policy committees which identify the issues that are most pressing for our cities and towns. Very capable League staff and consultants then interface with state and national officials, including the National League of Cities, to help implement needed changes and well as prevent legislation harmful to our communities.

Of course, our League is also a clearing house for vital information – not only via this publication, the *Alabama Municipal Journal*, which you will receive six times a year, but through our website, social media, e-newsletters and regular e-blasts. Please make sure the League has your correct email address so you don’t miss any important information, particularly during the legislative cycle as you will receive the League’s weekly legislative e-newsletter, *Statehouse Advocate*, when the Legislature is in session. Your engagement is crucial throughout this process and we hope you will stand ready to contact your legislators when you receive notice from our advocacy staff.

Over the years, I’ve found that one of the most valuable benefits of League membership is the ability to network with my fellow mayors and councilmembers statewide. Relationships matter, especially in local government, and the League provides many opportunities to expand and strengthen relationships with your municipal colleagues. For example, in addition to a variety of timely topics, the League’s Annual Convention offers roundtable discussions with similarly sized municipalities where challenges common to all municipalities – as well as possible solutions – are discussed. And, as I mentioned earlier, numerous other League functions offer opportunities to form invaluable lasting and rewarding relationships with municipal officials for the combined benefit of our cities and towns.

In closing, I appreciate your faith and support and will do my best to represent you as your President. The Alabama League of Municipalities serves as one of your greatest resources – whether you are a first-time elected official or someone who has served for many years. I look forward to working with you over the coming months as we all strive to bring the best to our communities. ■

Parting Message from Phil Seagraves Former Mayor of Guin and Former League President

After 20 years of being involved with the Alabama League of Municipalities, it is time to say a fond farewell. Being elected by you, my peers, to serve as your League President is an honor I will cherish for the rest of my life.

The Alabama League of Municipalities exists for the benefit of its membership. It is the only organization you can call on for resources to make you a better elected official through a certified training program designed especially for mayors and councilmembers. In addition, the League provides valuable legal guidance by experts in municipal law who are available for you, your municipal attorney or city judge an invaluable service, particularly in times of need. The League’s advocacy and governmental affairs team continues to be our voice in the state legislature to promote and protect the interests of Alabama’s cities and towns while the League’s Communications Department keeps us informed via several websites, the ALM Facebook page, e-newsletters, e-blasts and, of course, this outstanding publication, the *Alabama Municipal Journal*. Additional program such as the Alabama Municipal Insurance Corporation (AMIC) and the Municipal Workers Compensation Fund (MWCF) as well as the Alabama Municipal Funding Corporation (AMFund) and Municipal Intercept Services (MIS) are designed specifically to benefit Alabama’s municipalities. *Your* League is a first class organization with a first class, dedicated staff that works diligently to meet the needs of Alabama’s cities and towns – large and small.

I challenge each of you to get involved with the Alabama League of Municipalities and give of yourself to this organization that does so much for you. I have enjoyed the opportunity to work with the staff and getting to know each of them better. I have also enjoyed the opportunity to meet and develop friendships with fellow elected officials throughout Alabama. Your dedication, loyalty and focus to make your city better and our state better is a rewarding experience for me. While we may not cross paths as often in the future, I hope we can stay in touch. I will leave my personal contact information with the Communications Department of the League. I don’t yet know what the future holds for me, but I hope you will keep me in your thoughts as I start a new chapter in my life. I also know as I leave office and pass the baton to a friend and impressive mayor, Dr. Howard Rubenstein of Saraland, the League presidency is in great hands. Please give Howard your support and friendship.

I say goodbye to you with mixed feelings while wishing each of you the best as you strive to improve your communities. Thank you for the opportunity to have served you through the League and for making me even more proud to be an Alabamian!

Your Friend –
Phil Seagraves

Municipal Officials

Invite Your Vendors to Exhibit at ALM's 2017 Annual Convention in Birmingham May 21 and 22!

- Exposure and networking with 1,000+ attendees representing over 200 municipalities!
- More than 275 companies have already experienced the value of partnering with the League.
- 150+ exhibitors to showcase new products and services.

Advertising and Sponsorships are available. Contact Cindy Price, EXPO Manager at cindyp@alalm.org or (334) 262-2566 for more information.





AMIC Introduces **FREE** Cyber and Privacy Liability Coverage

Effective November 1, 2016, Alabama Municipal Insurance Corporation (AMIC) began providing Cyber and Privacy Liability coverage to all our members at no additional cost. AMIC Board Chairman, Mayor Billy Joe Driver of Clanton, said: “If you have read the paper or watched the news lately, it is obvious that cyber exposure is going to become more prevalent. The AMIC Board thought it was imperative that AMIC not only clarify, but provide adequate Cyber Liability coverage for its member municipalities and their associations.”

With a minimum \$2,500 deductible per claim, AMIC members have cyber liability protection for:

Privacy Liability (Including Employee Privacy)
Privacy Regulatory Claims Coverage
Security Breach Response
Crisis Management Costs
Business Income and Digital Asset Restoration

Security Liability
Multimedia Liability
Cyber Extortion
Breach Response Costs

AMIC President Steve Wells is pleased to provide another value-added service to AMIC members: “The most important part of this coverage is the security breach response component. This includes call centers and credit monitoring. The new Cyber and Privacy Liability coverage will help safeguard our members against the liabilities associated with doing business online and the costs of security breaches. AMIC takes your cyber security seriously, and we are committed to Insuring the Future of Your Local Government.”

If any claim is made against you, or you become aware of any act that gives rise to a claim, complete and send a Notice of New Claim form to AMIC immediately. For the convenience of its members, AMIC has designated a specific e-mail address for claims reporting: newclaim@AMICentral.org. See information below. ■

AMIC E-mail Address for Claims Reporting

For the convenience of its members, AMIC has designated a specific e-mail address for claims reporting: newclaim@AMICentral.org. This reporting method will provide a higher level of efficient service by centralizing the claim reporting process. The address will be monitored by several designated AMIC Claims Department staff members. It may be used to forward the following information to AMIC: 1. Notice of incidents, events or potential claims. 2. Notice of Official Claims. 3. Lawsuits and EEOC Charges of Discrimination.

newclaim@AMICentral.org

Alabama Department of Revenue Introduces Online System for Filing Business Personal Property Tax Returns

Filing your business personal property tax return is now easier than ever! As of October 1, Alabama businesses are now able to report equipment, tools, machinery and other business personal property online.

The Optional Personal Property Assessment Link, or OPPAL, has been developed by the Alabama Department of Revenue to give taxpayers an option to file their business personal property returns electronically. OPPAL is free to use and is an electronic form of the standard paper return (ADV-40 or ADV-40S). There is absolutely no charge to the taxpayer for using this system and OPPAL is an optional alternative to the standard paper form. (Several counties are not participating in the new OPPAL system and will continue to utilize their online systems currently in use. These counties are Jefferson, Shelby, Montgomery, Mobile, Morgan, Elmore, Autauga, and Limestone.)

So, who is required to file a business personal property return? Every individual, firm or corporation owning business personal property in Alabama on October 1 of each year is required to report it. In addition to those conducting business in Alabama, if you own an airplane or other aircraft based in Alabama, or you have purchased a permanent trailer tag in Alabama you are required to file a business personal property return. If one of these applies to you, OPPAL is here to help make filing your returns easier.

This new web portal will be open from October 1 through January 31 of each year. Filing a return in OPPAL is free. If a return is submitted after December 31, all applicable fees and penalties will apply in accordance with the laws of this state. After January 31, a paper return must be filed.

There are some restrictions on what can be claimed as business personal property. It is property, such as furniture, fixtures and/or equipment, not permanently affixed to or part of real property. All furniture and fixtures, as well as machinery and equipment purchased for and used by the business is required to be listed on a business personal property return. Also, any assets that were brought from home that are now being used in the business should be included on the return. Everything that is not real property and is used to conduct business in Alabama is generally considered business personal property.

Even if business equipment has been fully depreciated for income tax purposes you will still need to list it on the business personal property return. All assets owned as of the October 1 lien date each year must be reported with the original acquisition dates and original acquisition costs. The depreciation schedule used in preparing income tax returns may be used, but, it must be adjusted for additions and deletions so that it will contain all property owned by the business on the October 1 lien date.

When you purchase business personal property you pay a sales tax. Sales tax is different from the business personal property tax filed using the new OPPAL system. The business personal property tax is an "ownership" tax that is solely based on the market value of an asset. It is not based upon the ability of the owner to pay the tax.



Optional Personal Property
Assessment Link

OPPAL.Alabama.gov

The new online system is for reporting purposes only. OPPAL will submit the return electronically to the county assessing official or applicable agency where the tax return is required to be filed. The taxpayer's information entered into this system is transmitted to the county taxing official for use in compiling a tax assessment and bill. OPPAL is utilized only for the filing of business personal property tax returns and will not be used for administration or enforcement of business personal property taxes.

OPPAL was designed per the requirements of Section 40-7-56, Code of Alabama, 1975, that states the Department of Revenue will develop, maintain and administer an online business personal property tax filing system to allow any taxpayer required to file a business personal property tax return with any county assessing official or applicable agency the ability and option to file the return online.

Be on the lookout for the OPPAL public awareness campaign in your community! The Alabama Department of Revenue will have various platforms with information on OPPAL's launch, including digital, video and radio advertisements.

OPPAL is open as of October 1 for filing returns. You can access further information and file electronically at OPPAL.Alabama.gov. The Alabama Department of Revenue also has information regarding business personal property on their website: <http://revenue.alabama.gov/advalorem/>. You may also call 1-855-277-3232 regarding any OPPAL questions. ■

Taxpayers who have previously filed a business personal property return will be mailed a new PIN number each year to access their previous year's filing data for use in OPPAL. Taxpayers who have never filed a business personal property return in Alabama may still use OPPAL to file, and will receive a PIN by mail in subsequent years. Account and PIN information will be sent based on the name and address on each county's account record.

the dispute would not, standing alone, be sufficient to support a finding that the officer was deprived of an opportunity for an impartial hearing. The Alabama Supreme Court has held, however, that if before the hearing, a mayor and a councilmember had decided to uphold the discharge of the officer before evidence was presented, participation of the mayor and councilmember in the council hearing denied the officer due process. *See, Chandler v. Lanett*, 424 So.2d 1307 (Ala. 1982); *see also, Guinn v. Eufaula*, 437 So.2d 516 (Ala. 1983); *Stallworth v. Evergreen*, 680 So.2d 229 (Ala. 1996).

Municipal Finances

Section 11-43-84, Code of Alabama 1975, requires the mayor, as chief executive officer, to present a written statement to the council at least once every six months showing the financial condition of the municipality and the steps the mayor proposes to take for the protection of the city or town. This section also states that the mayor shall require any officer of the city or town to make a report at such times as the mayor or the council directs. This authority is intended to facilitate supervision of the various municipal

departments and officials and to assist the mayor in making reports to the council.

Section 11-43-85, Code of Alabama 1975, requires the mayor to appoint an expert accountant to make a detailed examination of all books and accounts of the city and to make a full report in writing, under oath, to be submitted to the council at its first meeting after completion of the report. This report must be placed in the minutes of the council. Section 11-43-85 also authorizes the mayor to request the Examiners of Public Accounts to audit the municipality. AGO 1992-322.

The council does not have authority to appoint its own accountant in lieu of the mayor's appointment. Further, the mayor is authorized to fix the accountant's fee without the approval of the council and the council is legally obligated to pay a reasonable amount for these services. If the council is not satisfied with the audit provided by the mayor's accountant, the council may order an additional audit to be made by an auditor of its choice.

The council is required to appropriate the sums necessary for the expenditures of city departments, and for interest



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on indebtedness, not exceeding in the aggregate 10 percent of its estimated receipts. In addition, the council cannot appropriate in the aggregate an amount in excess of its annual legally-authorized revenue. Section 11-43-57, Code of Alabama 1975.

While a city is not required to adopt a budget, most municipalities do so to ensure that citizens obtain maximum service for each tax dollar. As chief executive officer, the mayor is in the best position to determine the requirements of the various municipal departments. While the mayor does not draft the final budget, he or she compiles estimates of revenues and expenses and presents those figures to the council along with recommendations for appropriations and for revenue-raising procedures, if necessary. The municipal budget is not considered permanent and, therefore, is not subject to the mayor's veto. AGO 1991-180.

The mayor plays an important role in the disbursement of municipal funds. Warrants must be drawn by the clerk, approved by the mayor or such other person as the council designates and presented to the treasurer for payment. The Alabama Supreme Court held in *Edwards v. 1st National Bank of Brewton*, 377 So.2d 966 (1979), the council may, by ordinance, remove the mayor's authority to sign checks. *See*, AGO 1990-284; *see also*, AGO 2001-260.

All expenditures of municipal funds must be specifically approved by the mayor or by some other person designated by the council. Section 11-43-120, Code of Alabama 1975. The council may, however, make a purchase over the objection of the mayor. AGO to Hon. Norman Plunkett, June 22, 1977. Further, Section 11-43-120 provides that no warrant shall be drawn except by the authority of law or ordinance, and the treasurer shall allow no expenditure unless it is approved by ordinance or by the mayor. If the mayor questions the legality of an expenditure, the clerk and treasurer and, if necessary, the city attorney, should be consulted about the matter. The mayor may be held responsible for unauthorized expenditures made on the basis of his or her approval. *See, Altmayer v. Daphne*, 613 So.2d 366 (Ala. 1993). Additionally, the council should stress that only those with authority to authorize expenditures should do so, because in *Brannan and Guy, P.C. v. Montgomery*, 828 So.2d 914 (2002), the Alabama Supreme Court held where the authority to set the compensation rates of contract attorneys rests solely with the mayor, a discussion of rates between the city attorney and the contract attorney at the request of the mayor does not create a unilateral contract that binds the city.

While it is unnecessary for the council to validate each disbursement individually, Section 11-43-120 requires that all claims, requisitions and demands against a municipality

for goods purchased or debts incurred be presented to the council for approval, unless already provided by ordinance or resolution.

Municipal Contracts

Unless otherwise directed by state law or ordinance, the mayor is authorized to enter into and execute all municipal contracts in the name of the city or town. The mayor cannot, however, change the price fixed by the council without authority from the council to do so. *Albany v. Spragins*, 93 So. 803 (Ala. 1922). All obligations for the payment of money by the municipality, except for bonds and interest coupons, shall be attested by the clerk. Section 11-47-5, Code of Alabama 1975.

The mayor is required to see that all contracts with the municipality are faithfully performed or kept. The mayor is required to execute all deeds and contracts and bonds required in judicial proceedings for and on behalf of the city or town. No sureties shall be required on the bond. Section 11-43-83, Code of Alabama 1975.

The Alabama Supreme Court held that, absent authorization from the council, the mayor does not have the authority to enter into and execute a contract on behalf of the municipality. While the Court recognized that the mayor is authorized to enter into and to execute contracts, it determined that the authority cannot be exercised without the direction and authorization of the council. *Town of Boligee v. Greene County Water & Sewer Auth.*, 77 So.3d 1166 (Ala. 2011). Accordingly, the general rule is that the only method by which an employee or official may expend funds or be given authority to bind the municipality to a contract is by an affirmative vote of the council reflected in the minutes. An exception is the mayor's authority to contract for an annual municipal audit pursuant to Section 11-43-85, Code of Alabama 1975.

Section 11-47-20 of the Code of Alabama 1975, authorizes a municipality, by ordinance entered on the minutes of the council, to dispose of any real property not needed for public or municipal purposes. The council directs the mayor to make title thereto. The council may file a writ of mandamus against the mayor if the mayor refuses to execute a deed as required. AGO 1995-113. A conveyance made by the mayor in accordance with this ordinance invests the grantee with the title of the municipality. Section 11-47-21 requires a municipality to follow the same procedure when it wishes to lease any of its real property. No similar requirement is made for personal property. *See*, Section 11-43-56, Code of Alabama 1975. For further discussion on this topic, please see the article entitled "Sale of Lease of Unneeded Municipal Property" located in the *Selected Readings for the Municipal Official* (2016 ed.).

If a public official, public employee, member of the household of the public official or employee, or business with which that person is associated, enters into a contract to provide goods or services and payment, in whole or part, for the contract will come out of state, county or municipal funds, must be filed within the Ethics Commission within ten days after the contract has been entered into, regardless of the amount of the contract or whether or not the contract has obtained through competitive bid. AGO 2001-029.

Legislative and Judicial Powers of the Mayor

Section 11-45-1, Code of Alabama 1975, gives municipalities the power to adopt ordinances and resolutions to carry into effect the powers and duties conferred on it by statute and to provide for the safety, preserve the health, promote the prosperity, improve the morals, order, comfort and convenience of the citizens of the municipality. The council, as the legislative body of the municipality, is responsible for enacting these ordinances.

In municipalities of less than 12,000 in population, the mayor sits with, presides over and is considered a member of the municipal council. This provision entitles the mayor to

vote for or against the adoption of ordinances that the council considers. It is unnecessary that an ordinance be approved by the mayor or authenticated by his or her signature. Section 11-43-42, Code of Alabama 1975.

In cities with populations of 12,000 or more, the mayor does not sit as a member of the council. Therefore, the clerk must transmit all ordinances and resolutions intended to be of a permanent nature to the mayor within 48 hours after passage by the council. If the mayor disapproves of an ordinance or resolution transmitted by the clerk, he or she must, within 10 days of its passage by the council, return it to the clerk with the written objections. The clerk is to report these objections to the council at its next regular meeting. If the mayor fails to return the ordinance within 10 days, the clerk shall publish the ordinance as though the mayor had signed his or her approval. *See*, Sections 11-45-4 and 11-45-5, Code of Alabama 1975. The mayor has no authority to veto an ordinance which merely disposes of an administrative matter. AGO to Hon. Carl H. Kilgore, July 8, 1975. Therefore, nonpermanent ordinances are not subject to the mayor's veto. AGO 1991-072. The council has the

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power to pass an ordinance over the mayor's veto by two-thirds vote of the members elected to the council. The vote must be recorded on the minutes. Section 11-45-5, Code of Alabama 1975.

Under general law, in municipalities over 12,000 in population, Section 11-45-5 gives the mayor power to approve or veto in whole or in part all ordinances or resolutions fixing the salaries of officers and employees. At its next regular meeting, the council votes on whether it will override the mayor's veto. If it fails to override the veto, then it votes upon the approval of the ordinances as approved by the mayor.

Section 12-14-15, Code of Alabama 1975, states that the mayor, under authority as chief executive officer, has the power to remit fines and costs imposed by the municipal judge or the court to which an appeal was taken for violation of a municipal ordinance. In addition, the mayor has the power to pardon those convicted and sentenced by the municipal judge for violations of municipal ordinances. In an opinion to the city council of East Brewton, however, the Attorney General ruled that a mayor has no authority to dismiss pending cases in municipal court. AGO to City Council of East Brewton, August 8, 1974. Further, the Attorney General has determined that the mayor has no authority to remit forfeitures levied against sureties on appearance bonds by the municipal judge. AGO to Hon. Richmond McClintock, July 17, 1957. Likewise, the mayor has no authority to approve or order the approval of any appearance bonds. AGO 1991-374. Similarly, councilmembers may not sign as surety on bail bonds for persons arrested by municipal police officers. AGO 1990-282.

Section 12-14-15 also requires the mayor to make a written report to the council at its first regular meeting each month, listing the fines and costs remitted, sentences commuted and pardons and paroles granted by the mayor during the preceding months and stating the reasons therefor.

The council may, by a properly-adopted ordinance, authorize the mayor to administer oaths on behalf of the municipality, pursuant to Section 11-43-5, Code of Alabama 1975. AGO 1988-397.

The mayor may serve as superintendent of the municipal utility system. The council has no authority to reduce the mayor's salary by the amount he or she receives for serving as superintendent. AGO 1989-070.

Similarly, the council may not require the mayor to devote full time to his or her duties as mayor. AGO to Hon. William Willis, January 20, 1960. However, the Legislature may, by local act, require the mayor to serve in a full-time capacity. AGO 88-298. *See also*, AGO 2005-076.

Legislative Powers of the Council

The council as a body establishes municipal policy, and the mayor is charged with the duty of implementing that policy. For instance, in AGO 1989-243, the issue was whether the mayor or the council had authority to establish the working conditions of a police dispatcher. The Attorney General concluded that the mayor could require the dispatcher to work at city hall unless the council provided otherwise. The question of where the dispatcher performed her duties was a matter of policy, a decision for the council to resolve. Until the council acted, it was the mayor's decision. However, once the council acted, the mayor was required to implement that policy.

Another example of the legislative power of the council is found in AGO 1992-289. It concluded that the council is responsible for establishing policies which will be followed by municipal departments. Department heads may not set policies unless the council has delegated the authority to them. A council may delegate authority to set policy to the mayor, who may authorize department heads to determine policies which their departments will follow. Where the council has not acted, department heads may set informal procedures to be followed until the council acts.

Other examples of the legislative power of the council to draft city policy include AGO 1995-091, which concludes that the use of city-owned vehicles is under the control of the council, which should promulgate a policy regarding their use. This Opinion also makes clear that the council has the power to decide how much to reimburse an individual for the use of a personal vehicle on municipal business.

Subpoena Power

A municipal council or a committee authorized by the council may, by resolution, issue subpoenas pursuant to Section 11-43-163 of the Code of Alabama 1975. This does not require a permanent resolution. The council or committee may impose punishment pursuant to Section 11-43-163 for failure to comply with the subpoena. AGO 1999-076.

Council Committees

While no law requires a council to establish committees, most councils set up committees to study the needs of the various departments of municipal government and to make recommendations regarding the operating policy of each department. Council committees should confer with the mayor for his or her views on the policies and programs under consideration since, as the chief executive, the mayor will be responsible for carrying them out.

When questions about council committees arise, they usually involve the desire of councilmembers to directly control the functions of city employees. It must be remembered that council committees are not administrative bodies and have no authority to exercise any executive power over the administrative branch of the municipal government. This means that the council cannot direct and supervise the work of employees, even through the creation of a committee. AGO to Hon. Norman Plunkett, June 22, 1977; AGO 1988-262; and AGO 1991-147. Council committees are advisory only and cannot supervise or give directions to city employees. AGO 1985-156 (to Hon. H.T. Mathis, January 8, 1985).

The sole purpose of committees is to give detailed attention to the programs and policies concerning the departments entrusted to their study and to report their findings to the full council and the mayor so appropriate actions may be taken.

Generally, the presiding officer of the council makes appointments to the committees, which usually consist of three councilmembers each. In AGO 1981-409 (to Hon.

Gwin Wells, June 4, 1981), however, the Attorney General stated that council committees may be appointed by the mayor, or by the mayor and the council, depending on the internal rules of procedure established by the council. The mayor of a municipality of under 12,000 in population is a member of the municipal council and therefore may vote on and serve on these committees.

Conclusion

It is clear that the primary factor in the success of a municipal government lies in the working relationship between the mayor and the city council. Elected city officials must recognize that they have dedicated themselves for the next four years to accomplishing a common goal – providing the city or town with the best municipal government possible. To achieve this goal, the mayor and the council must maintain a harmonious working relationship while understanding the individual and collective roles they play. This starts with understanding the legal responsibilities of those roles. Questions regarding the duties of the mayor and council and how they relate should be directed to the League Legal Department. ■

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