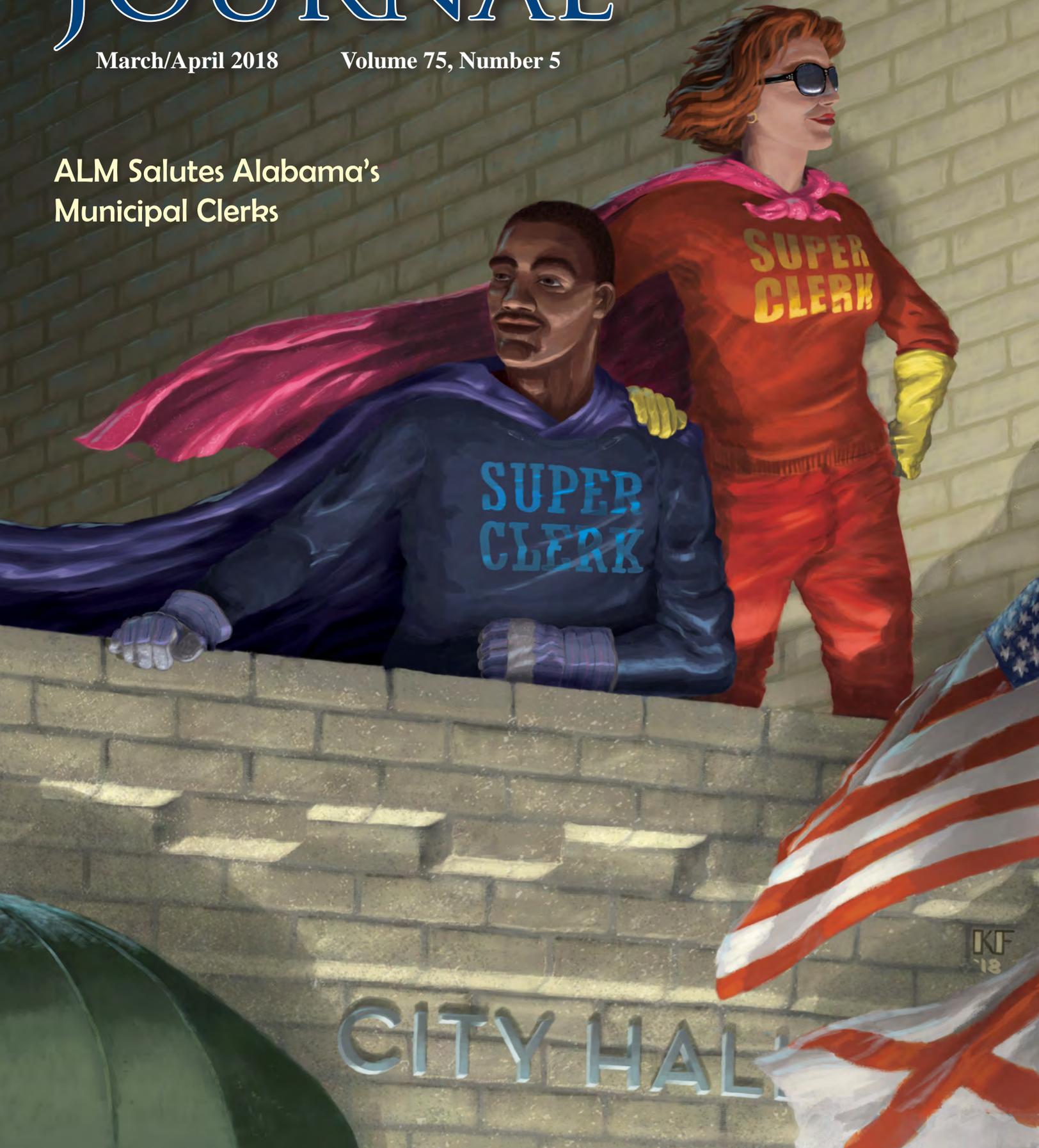


# The Alabama Municipal JOURNAL

March/April 2018

Volume 75, Number 5

ALM Salutes Alabama's  
Municipal Clerks



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# The Alabama Municipal JOURNAL

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March/April 2018 • Volume 75, Number 5

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## On the Cover:

The League salutes Alabama's municipal clerks for their tireless efforts to ensure our cities and towns operate at the highest levels. Their dedication and problem solving skills are proof that not all super heroes wear capes and scale tall buildings to save the day ... although we've no doubt they would if it was necessary. Thank you!

Cover Illustration by Karl Franklin

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# Thank you!

Carrie Banks • Communications Director • ALM



**Municipal Clerks Week is May 6-12** and I know everyone reading this issue of the *Alabama Municipal Journal* will agree with me that your clerk's position is *vital* for the day-to-day operations of municipal government! If your municipality would like to formally recognize your municipal clerk(s), the International Institute of Municipal Clerks (IIMC) website features a week-long series of activities and promotional items aimed at increasing the public's awareness of Municipal Clerks and the vital services they provide for local government and the community. Visit [www.iimc.com](http://www.iimc.com) for more information.

Of course, the Alabama League of Municipalities has long understood the importance of this unique role. In August 1955 – a mere 20 years after the League was founded – Ed Reid, our first Executive Director, sent a letter to Fairfield's municipal clerk asking him to answer specific questions pertaining to his position. While Reid's original letter no longer exists, the response from William F. Poer was stored in our archival files and is an interesting read (see pp. 18-20). It's also striking that many of the duties of the municipal clerk have remained constant more than 60 years later, as you'll note when you read the article about Shane Smith, Heflin's Municipal Clerk and current president of the Alabama Association of Municipal Clerks (see p. 17), as well as the Q/A segments (beginning p. 21) from four municipal clerks across Alabama. Many thanks to Shane Smith, Iva Nelson of Gadsden, Louis Davidson of LaFayette, Betty Jones of Guntersville, and Mary Jackson of Monroeville for taking time out of their slammed schedules to participate in this special issue of the *Journal*.

So ... just how important is the municipal clerk? Regardless of city size, the knowledge and expertise required to successfully perform the duties of municipal clerk are extensive. Generally, clerks in smaller cities and towns may have additional job duties such as magistrate or utilities clerk. In many municipalities, the clerk also performs the financial responsibilities of the city treasurer – a critical function usually carried out by a finance director in larger cities. It seems that most of what happens in local government is impacted by the municipal clerk and his or her staff. Everything from budgets to elections to maintaining public records or paying the bills is under the control of the clerk. In addition, the clerk must constantly be aware of new requirements placed on the city by federal regulations, the state legislature and local ordinances and resolutions. The Clerk's Office is often the first point of contact for many citizens and is essentially the "face of the city." Therefore, municipal clerks must be able to professionally and effectively deal with people – because we all know that not everyone comes to City Hall to thank the employees for their public service.

In 2017, the League revised its *Municipal Clerks Manual* which was originally written several decades ago and is updated following every election cycle to answer many of the questions the League receives concerning the duties and responsibilities of clerks working for municipalities operating under the mayor-council form of government. It's designed to be a quick reference when time is not available for extensive research and is available as a PDF file on the League's website under the Legal Services tab (click "Legal Publications and Manuals").

The fact that the League found it necessary, beginning many years ago, to write a manual on the role of the clerk further supports the critical nature of this position. And, really, it should go without saying that, regardless of a municipality's size, the municipal clerk is paramount. Therefore, in deference to the many hats worn by the clerk; the many hours worked on behalf of the municipality and its citizens; the records kept, meetings attended, elections held, problems researched and financial sleuthing measures taken to ensure a healthy community, the League applauds and commends Alabama's municipal clerks. We thank you for your outstanding service, your dedication, your professional integrity and for embracing your cities and towns in a way very few people truly understand. ■

# The President's Report

By Dr. Howard Rubenstein, Mayor, Saraland



## Five Pearls of Wisdom for Advancing Quality of Life in your Municipality

**1. As this issue of the *Journal* emphasizes, your city clerk is one of your most valuable assets to help you with the successful governing and operation of your municipality.** Most city clerks have knowledge and experience that is extremely useful as you make decisions regarding your cities and towns. Municipal clerks in Alabama can achieve CMC and MMC certifications, which demonstrate their dedication and competence in municipal administrative duties – and I strongly encourage our mayors and councilmembers to support your clerks in those endeavors and to make sure he or she receives professional training throughout the year. An effective city clerk will give you the accurate information you need to help with the many varied issues that arise in municipal government. Please respect your city clerk's position, understanding that while ultimate decisions are the responsibility of the mayor and council, your city clerk is an excellent resource to share information and insight to aid you in fulfilling your governing responsibilities. Also *listen* when your city clerk cautions you about proceeding down an avenue with legal or ethical pitfalls.

**2. Become familiar with and utilize the various state agencies for advice, guidance and assistance.** My City of Saraland used our partnership with ALDOT to obtain two ATRIP grants that have greatly helped improve our interstate corridor and in developing property for economic development. We have also worked with the Alabama Communities of Excellence (ACE) to obtain the coveted ACE designation for our city. This process helped with implementation of a comprehensive plan for Saraland as well as the formation of a local leadership program to provide training for current and future community leaders. Working with other state departments and organizations, such as the Alabama Department of Economic and Community Affairs (ADECA), Alabama Historical Commission, Main Street Alabama, Your Town Alabama, DesignAlabama and the Alabama Bicentennial Commission, can be very useful to your city or town. Numerous grants and professional resources are available through many of these organizations.

**3. One of the most important resources that the League can offer you is the Certified Municipal Training (CMO) training program.** ALM's CMO program provides training in virtually all aspects of municipal government and I highly recommend that you take advantage of these educational and

networking opportunities that you will not get anywhere else. In addition to traveling to both local and state training sessions, the League now offers an economical webinar format that also allows you to obtain CMO credits. In addition, the annual League Convention that will be held May 19-22 in Montgomery offers many courses and events that award CMO credit. Municipal officials participating in the CMO program can earn three distinct designations as they complete various levels: Certified Municipal Official, Advanced Certified Municipal Official and Emeritus Certified Municipal Official.

**4. Please stay informed on state and federal legislative issues that can affect our municipalities.** The League recently formed a task force that is working to help municipalities collect revenue lost due to internet sales. Unless this problem is solved, all Alabama municipalities stand to lose a large portion of their total revenue. Without adequate revenue, essential municipal services such as police and fire protection will suffer. In addition, unfunded mandates and other legislation that can be harmful to our communities must be monitored and we must work together to lobby against passage. Our League Advocacy Team does a wonderful job of working to protect and advance our municipalities; however, they can only do their job with our local grassroots assistance. Please review emails/alerts that you receive from the League regarding issues of concern and work with our staff to contact your local legislators to make your voice heard.

**5. Always remember to honor the trust your citizens vested in you when they elected you as a municipal official.** In addition to council meetings, *every time* you interact with a resident – in both your professional and personal capacities – you are making an impression as to the quality of both you and the city or town you represent. With the advent of social media, it is easy to be called out and criticized for what you do. Also, please be aware that anything that *you* post on social media, even on a personal page, can be considered an official statement from your municipality. I strongly suggest not posting anything, even to a “closed group”, that you would object to being read at a formal council meeting. Most citizens want elected officials who are both caring and professional. Demonstrating a positive attitude and helpful spirit will greatly aid you in your capacity as a leader of your community. ■

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## SAVE THE DATE!

### Upcoming League Events

#### Webinar - General Powers of Municipalities\*

March 27, 2018

Register online at [www.alalm.org](http://www.alalm.org)

#### 2018 Spring Municipal Law Conference

March 23, 2018

Embassy Suites, Montgomery

Register online: [alalm.org/conferences-training](http://alalm.org/conferences-training)

#### Webinar - Public Works Bidding\*

April 24, 2018, 2018

Register online at [www.alalm.org](http://www.alalm.org)

#### 2018 Annual Convention\*

May 19-22

Renaissance Montgomery Hotel  
& Spa at the Convention Center

\*CMO Credit Available

For additional details and updates for the events, check the "League Calendar" at [www.alalm.org](http://www.alalm.org).

# Municipal Overview

By Ken Smith, Executive Director



## Thank You to Alabama's Municipal Clerks

Perhaps no other description fits the office of municipal clerk better than to say that it is the hub of municipal government. The clerk's office sits at the center of municipal government, providing a connection between the legislative, executive and clerical functions that keep the municipality running. The clerk is a link between the mayor and the council, other municipal employees, residents, business owners and others with an interest in the operation of the city.

Quietly working behind the scenes, often without recognition, an efficient clerk can make even the most complicated problem look simple – answering questions, offering suggestions and helping direct the daily operation of municipal government.

A clerk must be knowledgeable in many areas to be effective. She must have a grasp on how the government she works for serves its citizens. She must know the municipal departments and which employees are responsible for each function. She must know who to turn to for information, and where instructions should be given.

A clerk must understand how state and federal laws and regulations impact his city or town. Decisions will often

have to be made quickly and mistakes are likely without this base of knowledge. This requires study, attending training sessions and asking questions. He must recognize when circumstances dictate caution and how to navigate potentially lethal legal waters.

A clerk must have a good grasp of basic accounting, of human resources, of business operations, economic development, public works, public safety, records management, conducting elections, court operations, conducting meetings – the list goes on and on.

And, the clerk must stay up-to-date on developments in each of these areas.

A clerk must have the right temperament, demonstrating an almost unnatural ability to confront citizens at times when they are often at their worst – frustrated with governmental bureaucracy or angry that a decision didn't go their way – with professionalism, understanding and patience. The proper response by the city clerk at the right time can ease tensions that could spiral out of control.

At the same time, the clerk must recognize the importance of the rule of law and firmly support the decisions of the city, sometimes in the face of intense criticism.

A clerk is often a source of continuity within the municipality. The mayor and councilmembers stand for election every four years and if they are not reelected, the clerk can ease the transition between administrations. Smart in-coming officials will look closely to the serving municipal clerk for advice and suggestions on how to serve the community. A clerk can provide a feeling of stability for the citizens.

I'm proud to dedicate this issue of the *Municipal Journal* to the municipal clerks of Alabama in recognition of the hard work and expertise they display every day.

### The League and the Municipal Clerk

The first legal question I received as a League staff attorney came from a city clerk and concerned the competitive bid law. I remember it so well partly because I had not started working for the League at the time. I had been announced as an incoming employee at a meeting. The

*continued page 12*



Ken Smith with the 2018 officers of the Alabama Association of Municipal Clerks and Administrators (AAMCA). From left to right: Lee Frazer, President-Elect, Birmingham; Shane Smith, President, Heflin; Ken Smith; Tameeka Yann, Secretary, Center Point; and Samantha Gross, Treasurer, Demopolis.



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# ALM Accounting Manager Faith Ann Gunn Retiring After Nearly Two Decades of Dedicated Service

Carrie Banks • Communications Director • ALM

Faith Ann Gunn joined the Alabama League of Municipalities staff in July 1999 and, as Accounting Manager, has been a crucial part of the professional mortar that binds the association's foundation. On April 30th, she is retiring after working tirelessly for nearly two decades with the League's Finance Director to ensure the integrity of not only the League's accounting structure but that of the Municipal Workers Compensation Fund (MWCF), the Alabama Municipal Funding Corporation (AMFund), Municipal Intercept Services (MIS) and the Municipal Revenue Service. In addition to providing on-going financial reporting analysis and budget development support, she has also maintained employee records and developed, implemented and maintained accounting and spreadsheet applications and subsidiary accounting records. Beyond her professional role, Faith Ann has been a steady and solid resource for her coworkers – always available to offer encouragement, wise counsel or a new perspective.

Steve Martin, ALM's Finance Director and former MWCF Operations Manager, has worked directly with Faith Ann for nearly 20 years. "She is the best employee I have ever worked with," he said. "Her attitude and work ethic are excellent. Even when the workload is heavy, she never complains but goes about the task with a positive attitude, and her input regarding management issues has been very helpful to me. She seems to command great respect among the other League employees. It has been a blessing to have known her and worked with her."

Faith Ann doesn't hesitate when asked about her time with the League: "I've loved my job. Steve Martin, in particular, has been a great mentor to me. He's been nothing but kind and encouraging and I wouldn't take anything for having had the opportunity to work with him because he's one of the finest people I've ever known. Everyone here has always encouraged me to put family first and when I've needed to do that – for grandchildren or parents – I've been able to do it. Even if it meant taking things with me to work on as I could."

Hers has certainly not been a 40-hour per week job – "instead of having more hands in the pie, the hands that were in the pie worked a little longer and a little harder" – however, she said that with the addition of more staff over the past few years, as well as the internal shifting of some responsibilities, it will be a more standardized position for her successor. Since 1999, Faith Ann has worked with two executive directors and seen many advancements and changes in the organization. Many tasks that were done manually transitioned to a digital format, which she said sped up the overall process but created its own challenges when something didn't work as expected.



*"The League is a great organization and the people I work with have become like family members."*

"I completely set up our accounting system on the latest version of Peachtree (accounting software) a few years after I came because most of the accounting, particularly for Workers Comp, was done by hand on ledger paper and all the checks were written out of checkbooks," she said. "Every time we added a new service program, we added that set of books to our accounting software." Of course, since bringing the League's accounting functions into the digital age, Faith Ann has also had to remain apprised of all the advances and updates to the software.

"My job has changed dramatically from when I was hired in 1999," she said. "When I was initially hired, I primarily did the League books with very little MWCF duties and then as things progressed with Workers Comp, Steve filtered more and more to me so now I, by far, do the majority of the accounting for the Workers Comp Fund – the daily transactions – every payment, every void, every recovery, everything that we have to track through our office, especially the last couple of years

*continued page 11*

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when we've added so many deductible programs, which are billed on a monthly basis instead of an annual basis."

When Faith Ann joined the staff in the summer of 1999, the League had 13 full-time employees and two or three part-time employees. There are now 23 full-time League employees. "We've added all kinds of programs since I first started working here," Faith Ann said. "Which means more staff – which means more people who have to be paid and more benefits that have to be managed."

**"I'm proud that I'm leaving things in good shape. I'm not leaving a bunch of things hanging for someone to finish."**

In 2002, ALM formed a Loss Control Division via its two insurance companies, AMIC and MWCF, which has grown to 10 employees. The League has also added additional service programs, including AMFund in 2006 and MIS in 2015, which fall under Faith Ann's accounting purview. She also works closely with the accounting firms that audit the League, MWCF and AMFund.

Richard Buttenshaw, who became MWCF Operations Manager in 2016 after serving just over a decade in the AMIC/MWCF Loss Control Division, said it has been a pleasure working with Faith Ann in two very different roles throughout his career with the League. "When I started in the Loss Control Division back in 2003, Faith Ann was always there to help and guide me as I learned the ropes and always had the answer no matter the question," he said. "Her knowledge and experience across all facets of the League and all its programs was invaluable to me. That became even more apparent and important to me as I transitioned into my new role as the Operations Manager of MWCF. She has been one of my most important go-to people with any questions or ideas regarding MWCF's operations because she has been a critical part of the growth, development and success of the Fund. As technology and our members' needs changed, Faith Ann never missed a step in keeping pace with those changes. No one works harder or longer hours to ensure the success of MWCF than Faith Ann. She has been an invaluable mentor and friend and will be greatly missed both professionally and personally by everyone – no one more so than me."

Beyond the Finance Department, Faith Ann has also worked every League Convention since 1999 as part of the staff team helping with registration and wherever else she was needed. In addition, she attended the management meetings with the facilities in advance of convention and was responsible for paying all convention invoices – everything from facilities to food, speakers, entertainment and employee expenses and reimbursements.

League Executive Director Ken Smith has worked closely with Faith Ann since she was hired by his predecessor, Perry Roquemore. "There are people you meet throughout your life who make an indelible impression on you, and for me, Faith Ann is one of those people," he said. "Her dedication to and

understanding of the operations of the League and its affiliated programs have made her an invaluable asset to the League, its staff and to our members as well. I've come to rely on her sage advice and suggestions. But beyond that, she is just an outstanding person. She is devoted to her family and to God and has found a way to balance both with long hours of work to benefit the League and its entities. Her personality and genuine concern for the staff have earned her the respect of all who work with her. I'm going to miss having her around the office, but I know I'm a better person for having known her and wish her all the best as she moves into this next great adventure!"

Faith Ann is optimistic about the future of the League and its affiliates, particularly MWCF, and will retire without any regrets. "When I met Perry Roquemore and Steve Martin one day for lunch at Red Lobster in 1999, it was a very, very good move for me," she said. "The League is a *great* organization and the people I work with have become like family members. I'm proud that I'm leaving things in good shape. I'm not leaving a bunch of things hanging for someone to finish. When I walk out this door April 30th, May 1st will be just like May 1st would have been had I come in and turned on the computer. Richard (Buttenshaw) is going to take MWCF into the future. He's got great ideas, a *wonderful* work ethic and has his finger in every piece of the pie. He stays on top of everything and will take it to the next level."

Knowing she's leaving the League on solid ground, Faith Ann is ready to embrace the next phase of her life. "I'm looking forward to more time with my grandchildren and especially more time with my mother, who is 85," she said. "So, more than anything, I'm looking forward to time with family." ■



*Faith Ann Gunn, long-time Accounting Manager for both the League and MWCF, will retire April 30 after nearly two decades of dedicated service. Pictured left to right: ALM Executive Director Ken Smith, MWCF Operations Manager Richard Buttenshaw, Faith Ann Gunn and ALM Finance Director Steve Martin.*

clerk heard my name and sought me out after the meeting to ask her question.

I have to admit, I was startled to be expected to answer legal questions before I even started work, and the question made me painfully aware of just how much I needed to learn. But even more importantly, it underscored the close working relationship between the clerks and the Alabama League of Municipalities.

Recognizing the complex roles of the municipal clerk, the League works closely with the Alabama Association of Municipal Clerks and Administrators (AAMCA), and with city and town clerks across Alabama to help them address the many difficult situations confronting them. We publish the *Municipal Clerk's Manual*, which is updated every municipal election cycle, to answer many of the most common questions we receive from clerks about their job responsibilities. Our four attorneys answer thousands of specific legal questions from clerks each year. League staff members are frequent guest speakers at meetings of clerks all across Alabama. And, when necessary, we commiserate with them about how difficult it may be for them to accomplish what they need to do given their specific situation.

My personal relationship with municipal clerks goes back a long way. After a reception at one of the first conferences I spoke at as a League employee, a group of clerks and I chatted long into the night about local government in Alabama. While I learned a great deal about how Alabama municipalities function, what I enjoyed most about that conversation was the time we spent getting to know each other personally. The clerks weren't just picking my brain for legal information and I wasn't just learning about their municipalities. We were getting to know each other. We discussed our lives, our families. We developed connections that are still in place to this day, 32 years later.

That, to paraphrase Robert Frost, has made all the difference.

Over the years, I've had the opportunity to laugh with clerks and to cry with them. We've lived through crises big and small. When a close family member of mine was diagnosed with a brain tumor at the age of four, the clerks rallied around me as I spoke at one of their conferences, comforting me and adding her name to prayer lists in churches all over the country. After her surgery, and even today, many municipal clerks continued to follow her condition, seeming to treat her continued improvement as though it was impacting a member of their own family.

I can't tell you just how much the contact I shared with the clerks during that period meant to me. This led to the

creation of the clerk's prayer list, a listserve I maintained for several years for clerks to share personal concerns and pray for each other. While the list is no longer active, I hope it provided support for each of us at times we needed to know that those we worked with cared about us not just as co-workers, but as individuals.

There are a great many outstanding, dedicated municipal clerks I've been privileged to work with over the years. I'm happy to be able to call so many of them friends. The clerks are a close-knit community, and I'm honored that they have allowed me to share in that community in some small way.

## What is a Municipal Clerk?

I'm not going to spend much time discussing the various duties and responsibilities of municipal clerks. The office of municipal clerk is one of the oldest known professions, traceable at least to biblical times. Early records point out the importance of a city or town "reminder" whose memory served as the record of public actions.

But clerks serve as more than keepers of the past. From the beginning, they have also been responsible for performing various administrative and clerical community tasks. Early records also show that, just like today, clerks were often given other tasks as well, such as sweeping the meeting house, ringing the town bell and other functions. The title "clerk" begins appearing regularly in records as early as the 17<sup>th</sup> century and has continued to the present.

In an often-quoted statement describing the role of the municipal clerk, Professor William Bennett Munro stated in 1934: "No other office in municipal service has so many contracts. It serves the mayor, the city council, the city manager (when there is one), and all administrative departments without exception. All of them call upon it, almost daily, for some service or information. Its work is not spectacular, but it demands versatility, alertness, accuracy, and no end of patience. The public does not realize how many loose ends of city administration this office pulls together."

In the October 1949 issue of the newsletter of the National Institute of Municipal Clerks, the author noted that: "The Clerk's office can be truly called the hub of local government. It is the Clerk who is the contact between the citizens and the government. It is he *or she* to whom most complaints are brought. He *or she* gives advice on many subjects, not necessarily relating to the government, but by his *or her* contact with the public, they for a great part place confidence in him *or her* [to] answer most any question. The Clerk, can, if he *or she* so desires, wield a great measure of influence in his *or her* community." (emphasis added).

*continued page 16*

# The Legal Viewpoint

By Lori Lein, General Counsel



## The Public Hearing Playbook Conducting Orderly, Efficient & Fair Public Hearings

Regardless of the reason for conducting a public hearing, municipal officials can rest assured that the people who attend and speak at a public hearing will not all sing from the same hymnal. Disagreements are to be expected. It can be difficult for municipalities to balance the rights of the public to voice their opinions and concerns with the need to conduct an orderly, efficient and fair hearing. This article will address some of the best practices for finding this balance.

### Public Meetings v. Public Hearings

First, it is important to understand the difference between a public *meeting* and a public *hearing*. A common misconception is that the word “public” in public meeting means that the public is accorded the right to be heard during the meeting. The purpose of a public meeting, however, is for a governmental body, board, commission or authority to conduct business and while the public has the right to attend a public meeting under the Alabama Open Meetings Act (OMA), Sections 35-25A-1 *et seq.*, Alabama Code 1975, the law does not guarantee the public the right to speak up and be heard at a public meeting.

In Opinion No. 98-00134, the Attorney General addressed the question of whether members of the public have a right to speak at a meeting held pursuant to the Sunshine Law. The Attorney General stated that:

“[a] public body has the right to determine whether public comments will be allowed, except in those cases where the law requires a public hearing. While the law does not mention public participation at meetings of a public body, it is good public policy to allow citizens and taxpayers to express their views.”

The Sunshine Law was repealed when the legislature passed the OMA in 2005. Nothing in the OMA, however, contradicts this Opinion.

The League, as a general rule, supports the position that a portion of council meeting should be set aside for public comment, even if a true public hearing is not required. And,

in fact, most municipalities do provide some opportunity of public comment period, generally during a time set aside for this purpose. This doesn’t mean, however, that any member of the public desiring to comment should be permitted to speak on any issue brought before the council at a meeting. As the Attorney General notes further in Opinion 98-00134, “Even when the public body decides public comment is needed, a citizen does not have an unbridled right to express his views at a public meeting.” Public comments during a meeting remain subject to reasonable time, place and manner restrictions. Courts generally uphold the right of public bodies to limit public comment outside of a public hearing requirement. As the United States Supreme Court has noted:

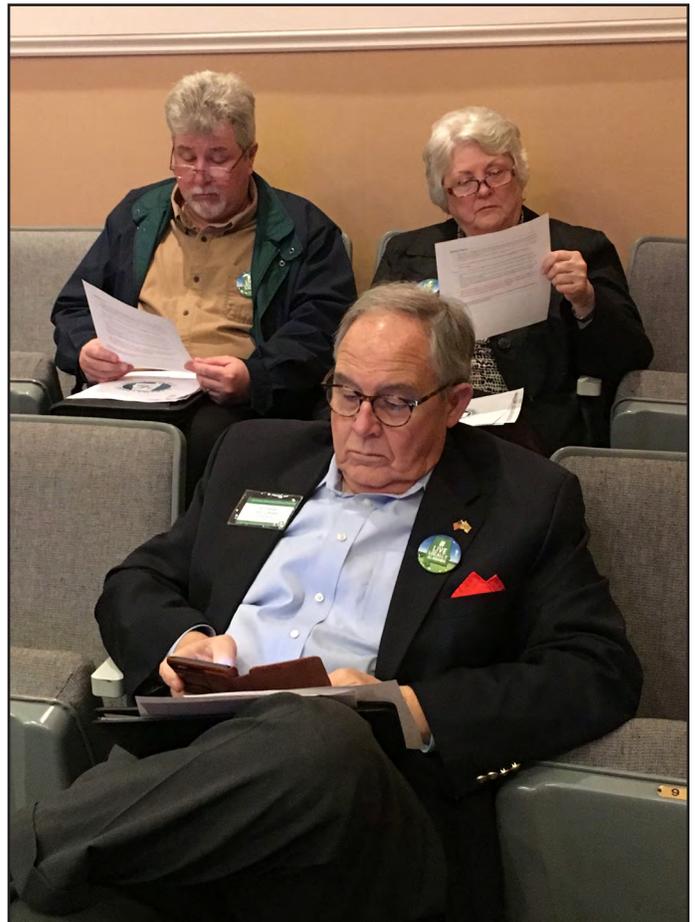
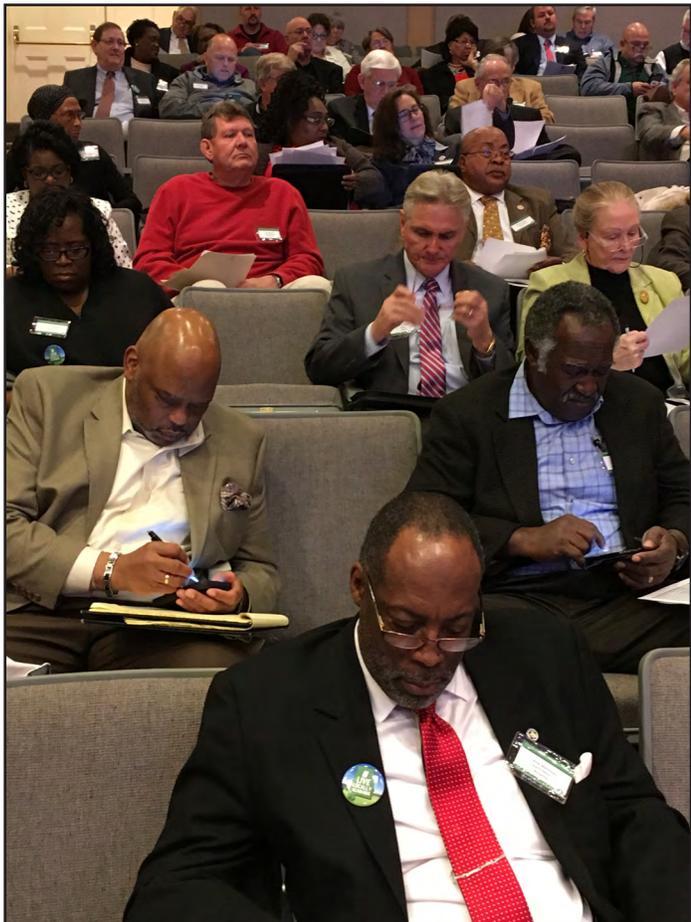
“The Constitution does not grant to members of the public generally a right to be heard by public bodies making decisions of policy.... Policymaking organs in our system of government have never operated under a constitutional constraint requiring them to afford every interested member of the public an opportunity to present testimony before any policy is adopted.... Public officials at all levels of government daily make policy decisions based only on the advice they decide they need and choose to hear. To recognize a constitutional right to participate directly in government policymaking would work a revolution in existing government practices.”

*Minn. State Bd. for Cmty. Colls. v. Knight*, 465 U.S. 271 (1984).

The distinction between a public meeting and a public hearing is important. Unlike a public meeting, a public hearing, is not for conducting the official business of a governmental entity but is specifically set up to allow the public to comment and express opinions and concerns on matters related to the purpose of the hearing. Stated another way, a public hearing is an official proceeding during which the public is accorded the right to be heard on specific issue.

*continued page 26*





## Final Thoughts

The importance of the office of municipal clerk in Alabama is demonstrated by the fact that the municipal clerk is the only employee all municipalities in Alabama are required to hire. All incorporated municipalities are required to have a mayor, a legislative body and a city clerk. All other positions in a municipality are optional.

It is impossible to detail all the duties and responsibilities that have been placed on municipal clerks. Many duties are set out in statutes adopted by the legislature. Others are set out in ordinances or regulations adopted by the council or mayor. Other duties, though, are prescribed by custom rather than law and vary greatly from municipality to municipality. These duties are no less important to the success of a municipal clerk. In many cases, even where a function is established, how to perform that responsibility is not clear, leaving the clerk some discretion in how to accomplish her goals.

And sometimes, even when laws, regulations and customs are unclear about who is responsible, if a duty concerns municipal administration, the clerk will often be the one responsible for seeing that it gets done.

In short, the clerk is often the linchpin that helps keep

municipal governments in Alabama functioning. This important office sits at the focus-point of so many municipal activities that its importance cannot be overemphasized.

A city clerk shouldn't be selected for political reasons. The position is too important to be left to chance. A clerk must be capable of juggling countless tasks at a single time, all while keeping various municipal factions satisfied with his or her objective participation in the process. A clerk cannot take sides on issues and must be able to provide information to all parties without preference.

While a clerk may be called on to express an opinion, she must be aware that ultimately, the decision is likely up to someone else.

Although it will probably be her responsibility to implement that decision. Effective clerks can do so without feeling ignored, recognizing their own importance in the decision-making process.

Because that role is crucial. A clerk is a manager, a facilitator, a record-keeper and, all too often, a mediator.

I hope that this issue dedicated to the hard-working women and men in Alabama who serve as municipal clerks will help elevate the awareness of others to the important role these professionals fulfill. ■

Join the  
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of Municipalities in

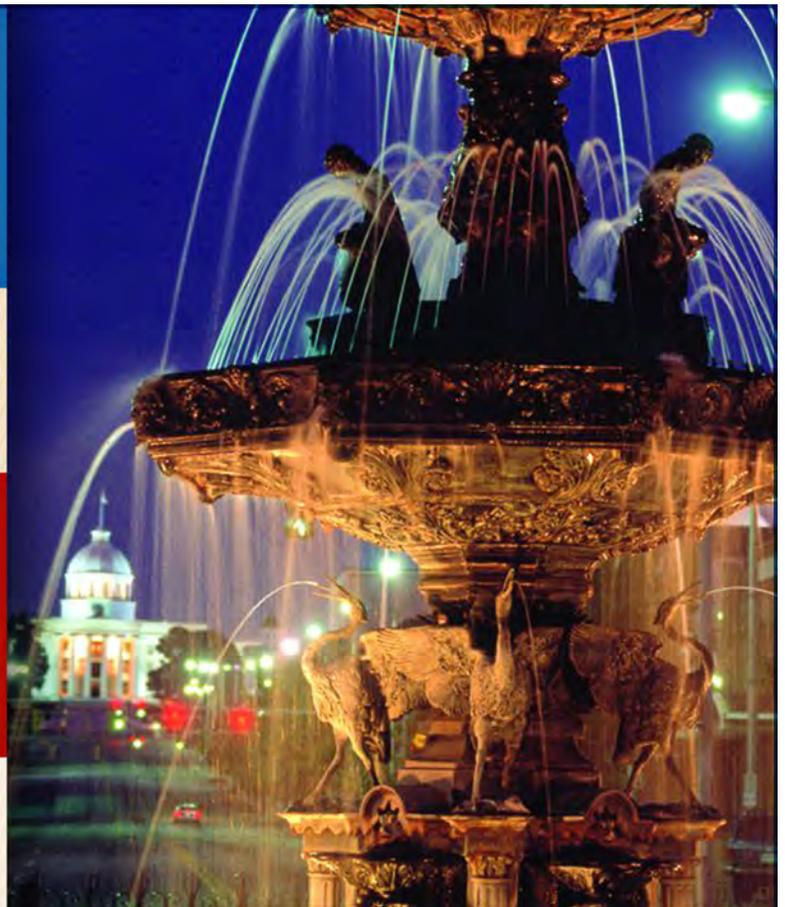
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# Heflin's Municipal Clerk Shane Smith

## Small City, BIG Job

Carrie Banks • Communications Director • ALM

*Every single day my job touches somebody. When I'm at the grocery store, I'm not Shane Smith; I'm Heflin's City Clerk. When I post something on Facebook, I work for the City of Heflin. When I'm at a restaurant, I work for the City of Heflin. My job's not just in the building – I work for 3,500 people seven days a week.*

After spending 15 years in New York City working in the entertainment industry, Heflin native Shane Smith moved “home” in 2010 and dedicated his energy and enthusiasm to the community that raised him, educated him, supported him and that he has always loved. It was a fortunate decision because energy and enthusiasm are absolutely necessary in his role as Heflin's municipal clerk – a unique position requiring many skillsets and the ability to juggle numerous responsibilities while serving as the first point of contact for the public on any and every issue.

Returning to his hometown and becoming its city clerk was a journey many years in the making. Educated in the public school system, Shane graduated from Cleburne County High School and then attended Jackson State University where he earned a degree in theater. He then moved to New York where he completed a 1.5-year program in musical theater at the American Musical Dramatic Academy. From there, he joined a national theater group that toured the country where he performed in numerous shows including “Sound of Music,” “Babes in Toyland,” “Cinderella” and “Joseph and the Amazing Technicolor Dreamcoat” before settling in with the record industry where he spent more than a decade honing his marketing and promotional skills.

“I worked in sales and marketing for Virgin Megastores, which was the world's largest music store,” Shane said. “I oversaw 13 stores across the United States and produced their in-store events as well as handled all the advertising in Times Square – the billboards. If an artist came out with a CD, we'd host them in our stores. Before that, I was an actor – that's why I went to New York. I got to travel a lot – I did 26 states in three months on one tour. I originally started working for the record store when I was a student in New York. I started as a cashier and found a passion for the record and cd industry. That's why I went back (after touring) and got in with Virgin and became a manager of one of the stores. Then I wanted to be part of Virgin's marketing department so I worked my way into it. The last job I held was Senior Field Marketing Manager over all the Field Marketing Managers across the country.”

When the stores were shuttered in 2009 due to the recession, changes in the industry, as well as astronomical real-estate lease agreements in New York, Shane decided to move home to Heflin to be closer to his family. “Great decision,” he said. “When I got back home, I waited tables and got involved with the local theater, which is how I got to know our current mayor, Rudy Rooks. He had decided to run for mayor and was interested in me working for him and that's how I found myself in this position.



*continued page 28*

# CITY OF FAIRFIELD

FAIRFIELD, ALABAMA

J. T. McLAUGHLIN  
MAYOR

WILLIAM F. POER  
CITY CLERK & TREASURER

August 30, 1955

Mr. Ed E. Reid, Executive Director  
Alabama League of Municipalities  
24 South Hull Street  
Montgomery, Alabama

Dear Ed:

Please excuse my delay in answering your letter of August 8, 1955, giving you some information about my duties as Fairfield City Clerk. I shall attempt to answer your questions in the order they are listed in your letter.

1. Personal Notes: Education - My education consists of a B. S. Degree with a Major in Accounting from the University of Alabama. I graduated in the class of June, 1949. Prior to that time, I received some valuable training and experience as a Ship's Yeoman in the U. S. Navy. I served in the Navy from October 4, 1940, until November 26, 1946. Prior to my enlistment in the Navy, I attended high school and graduated at Hubbertville High School in Fayette County, Alabama.
2. Family - While attending the University of Alabama, I met Miss Elma Louise Rogers of Holt, Alabama, who was also a student at the University. On July 3, 1948, we were married in a church ceremony at the Holt Methodist Church, Holt, Alabama. We now have two additions to our family, both girls: Janet Faye Poer - age 6 and Patricia Ann Poer - age 2½.
3. Time with City - I have been employed by the City of Fairfield since May 15, 1951. I completed an examination given by the Jefferson County Personnel Board for the position of City Clerk and Treasurer of Fairfield in April, 1951, and in May was selected for the position of City Clerk by a unanimous vote of the Fairfield City Council. The Mayor, of course, recommended me for this position. Before becoming City Clerk of Fairfield, I was employed by the City Board of Education, Birmingham, as Senior Accountant for the period August 1, 1949, to May 15, 1951.
4. Civic and Religious - My Wife and I are both members of the First Methodist Church of Fairfield, having transferred our membership here from Holt, Alabama. My Wife and I are both members of the Young Adult Sunday School Class of the First Methodist Church of Fairfield and I am Vice-President of the class for the coming year. I am a member of the Fairfield Kiwanis Club and have been since I became Clerk in Fairfield. I am a charter member of the Fairfield Toastmasters Club, which was recently organized in Fairfield. I am a member of the American Legion Post #137, and also a member of the Veterans of Foreign Wars Post in Fairfield.

Mr. Ed E. Reid, Alabama League of Municipalities  
Page Two  
August 30, 1955

5. Importance of Local Government - I believe that our local City government should be ranked in the most prominent position in our whole governmental setup. After all, our local government is the only governmental organization close enough to the citizens and taxpayers to know and see their feelings about their governmental organization. The citizens of Fairfield participate in the operation of our City government. They are always on the alert, especially through the Chamber of Commerce, to assist the City in carrying out a program of improvements for our City and they keep the City informed as to what the City should do to make Fairfield a better place in which to live.

6. List of Duties performed - I have the responsibility for the accuracy and accounting of all City financial records. These records include all cash disbursements through the various funds, including the Park and Recreation Board. The auditing of all vouchers for the expenditure of funds and making reports periodically to the Mayor and City Council. I have the responsibility for all cash receipts and the records in connection with the collection of taxes. I have the responsibility for collecting city licenses, inspecting business establishments for the proper payment of City licenses, and the preparation and adjustments in the city license schedule. I work closely with the Mayor and the various department heads in the preparation of our City's annual budget. I assist each department in the preparation of their expense budget and when the various departments have completed their expense budget, I assist the Mayor and Finance Committee in compiling the various reports of the departments into one overall budget. I have the responsibility of keeping a complete record showing principal and interest requirements of the City's bonded debt. I prepare statements of bonded debt requirements and revenues for the payment of bonded debt when any bond or warrant issues are contemplated. I attend all City Council meetings and in addition to keeping a record of the proceedings of the meetings, I assist in the preparation of all ordinances and resolutions and advise the City Council on many matters that come up at the meetings. I dictate practically all official correspondence of the City, including correspondence from the Clerk's Office, Mayor's Office, and City Council. I have the responsibility for assisting in the preparation of all public improvement ordinances, the advertisement of same, and the setting up of assessment rolls. All collection of assessments on public improvements and the records for same are handled in the Clerk's Office. I have the responsibility of preparing voters' lists and assisting in many other ways in carrying out municipal elections. When the Alabama Legislature is in session, I assist the Mayor and City Council in every way possible to see that a good legislative program is carried out for our municipalities. It is needless to say, that we work closely with the League of Municipalities on this matter. I am also Purchasing Agent for the City of Fairfield.

Mr. Ed E. Reid, Alabama League of Municipalities  
Page Three  
August 30, 1955

I handle all bids for purchases for large items of equipment, bids from contractors on public improvements, and issue purchase orders for the purchase of all supplies. I assist the Auditor (An outside public accounting firm) in the auditing and examination of the City's records each year. I do a few other things which I am not at liberty to mention in this report, perhaps this will be sufficient to cover the matter at this time.

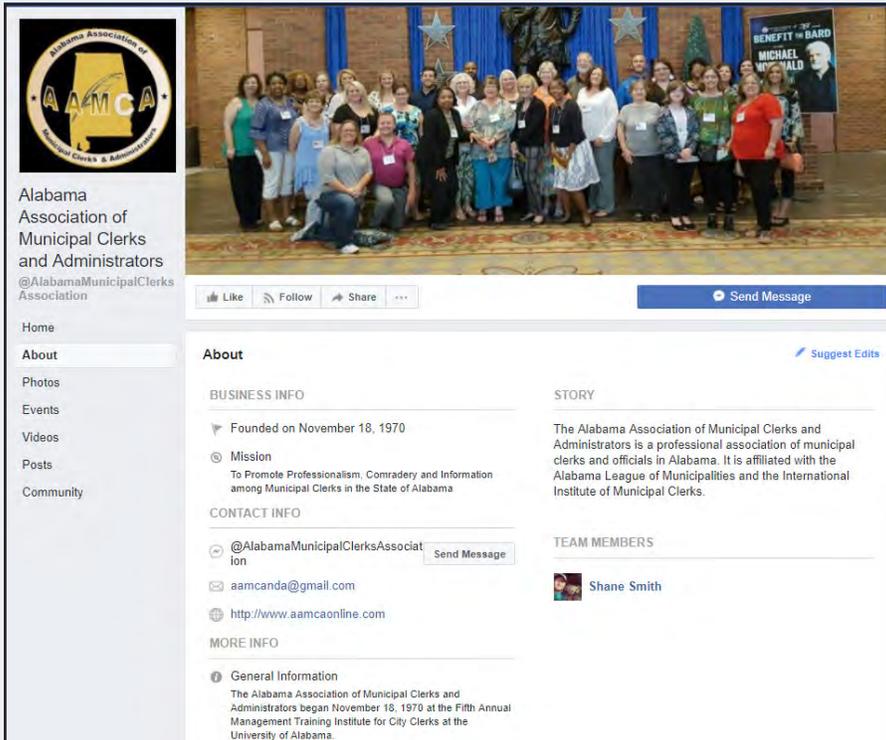
With highest personal regards, and best wishes, I remain.

Very truly yours,

CITY OF FAIRFIELD, ALABAMA

William F. Poer  
City Clerk

WFP:egg



Alabama Association of Municipal Clerks and Administrators (AAMCA)

Alabama Association of Municipal Clerks and Administrators  
@AlabamaMunicipalClerksAssociation

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**BUSINESS INFO**

Founded on November 18, 1970

**Mission**  
To Promote Professionalism, Comradery and Information among Municipal Clerks in the State of Alabama

**CONTACT INFO**

@AlabamaMunicipalClerksAssociation [Send Message](#)

aamcanda@gmail.com

http://www.aamcaonline.com

**MORE INFO**

**General Information**  
The Alabama Association of Municipal Clerks and Administrators began November 18, 1970 at the Fifth Annual Management Training Institute for City Clerks at the University of Alabama.

**STORY**

The Alabama Association of Municipal Clerks and Administrators is a professional association of municipal clerks and officials in Alabama. It is affiliated with the Alabama League of Municipalities and the International Institute of Municipal Clerks.

**TEAM MEMBERS**

Shane Smith

To learn more about the Alabama Association of Municipal Clerks and Administrators (AAMCA), like them on Facebook or visit them online at

[www.aamcaonline.com](http://www.aamcaonline.com)

# Q & A with **Iva Nelson** Clerk, City of Gadsden

*Located on the Coosa River just over 50 miles northeast of Birmingham, Gadsden has nearly 36,000 people and is the county seat of Etowah County.*

## **How long have you been in your position and what did you do prior to working for your municipality?**

I have worked in the City Clerk's office since March 1984 and was appointed City Clerk in April 2002. Before coming to the City of Gadsden, I worked for about six and a half years with Life Insurance Company of Alabama.

## **Why is the municipal clerk's position important?**

Continuity is very important and the clerk, especially one who serves a long period of time, is an integral part of maintaining that continuity. The clerk plays a crucial role in creating the city's history and ensuring that the story is accurately told through minutes and records. The clerk's office is the hub of activity for many functions of city government. In small cities, the clerk is responsible for most or all administrative functions.

## **What are the main duties of your position?**

I have three pages of bullet points concerning duties, so it's hard to know where to begin (and end). Some of the main ones are: supervising two full-time and two part-time staff members; providing clerical support for our seven city council members; coordinating the legislative process between the Legal Department, Mayor, other Department Heads and the City Council; distributing final executed copies of ordinances and resolutions to everyone who implements or is affected by the actions taken; disbursing payroll and accounts payable checks on a weekly basis; receiving and opening sealed bids; and accepting claims and legal actions served upon the City. One of the most important duties is serving as custodian of records and maintaining official documents. The responsibilities of the clerk are seemingly endless for municipal elections and 2018 is our year for Mayor and all City Council seats. I know this year will bring many challenges and opportunities.

## **Briefly describe a typical work week for you as a municipal clerk.**

Our City Council meets every Tuesday, which involves preparation of items for review in work session, council meeting agenda and minutes, numbering, printing and executing adopted



ordinances and resolutions and distributing copies. I spend time every day composing, reading, taking action on and responding to emails because much of our work is accomplished by this method. I interact daily with staff and Councilmembers, as well as citizens – answering questions, conducting research, providing information, setting appointments and meetings, etc. You never really know what a day will bring – sometimes your plan of action is completely set aside by the situations and people you encounter. You can never describe any week as boring!

## **What skillsets and personal qualities are necessary to be an effective municipal clerk?**

You must be a good listener! Honesty and integrity are crucial. It's very helpful to have organizational skills, good memory (or ability to create excellent filing systems), willingness to help others, kindness and patience. You must be able to put your personal feelings and opinions aside and let your primary focus be the role of offering information and support. Making your approach fair and logical will help you avoid the pitfall of inconsistency.

## **How do you stay current in your profession? (professional association, training, etc?)**

Recognizing that the aspects of your profession are constantly changing and evolving is the first step to accepting the concept of lifetime learning. The state and national clerk associations provide excellent educational and training opportunities, which

*continued page 25*

# Q & A with **Louis Davidson** Clerk, City of LaFayette

*Located in East Central Alabama, LaFayette has nearly 3,000 people and is the county seat of Etowah County.*

## **How long have you been in your position and what did you do prior to working for your municipality?**

I've been employed by the City of LaFayette for nine years. Prior to working for the City of LaFayette, I was a math teacher.

## **Why is the municipal clerk's position important?**

The clerk's position is so important because the Municipal Clerk helps facilitate and manage the day-to-day operations of the City. Municipal Clerks are tasked with knowing the various laws and rules of municipal government. As a result, the clerk assists a variety of individuals on a daily basis, whether it be elected officials, city employees, local citizens or newcomers to the area.

## **What are the main duties of your position?**

The main duty of my position is ensuring that the day-to-day operations of the City of LaFayette are performed. This includes the various operations conducted at City Hall as well as working with department heads in their respective departments.

## **Briefly describe a typical work week for you as a municipal clerk.**

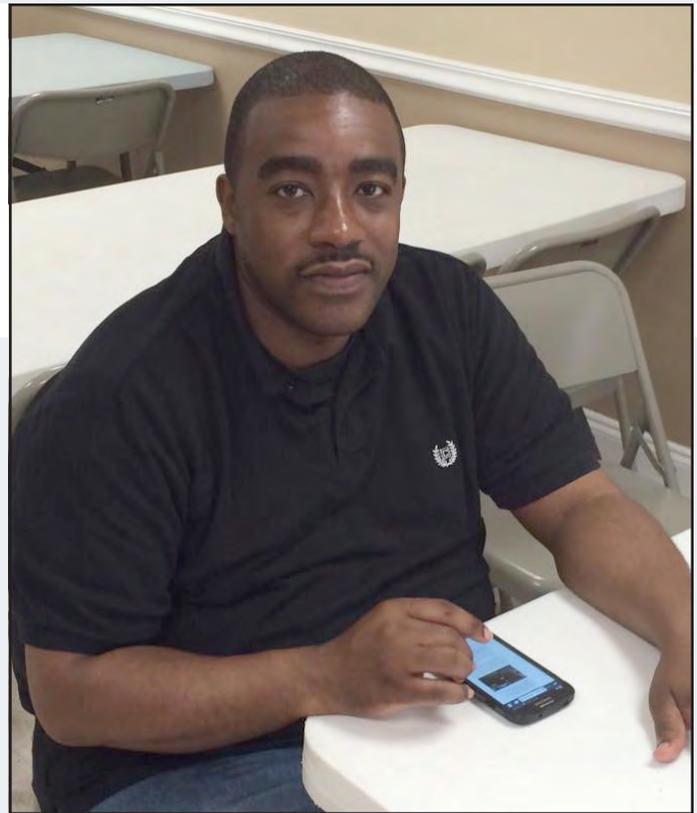
A typical work week for me involves daily activities like calculating daily cash receipts, discussing and advising department heads on the day to day activities of their various departments, meeting with citizens regarding issues ranging from utilities to ideas on how to improve the city, and working with the employees in my department to ensure that the operations of City Hall are being performed correctly, efficiently and in a timely manner.

## **What skillsets and personal qualities are necessary to be an effective municipal clerk?**

Municipal clerks need to be extremely flexible, knowledgeable, personable and must have *patience*. Oftentimes, the interaction that an individual has with the municipal clerk helps shape the basis of his or her opinion regarding the City.

## **How do you stay current in your profession? (professional association, training, etc?)**

I stay current in my profession by being an active member of the Alabama Association of Municipal Clerks and Administrators



(AAMCA), the International Institute of Municipal Clerks (IIMC) and the Alabama League of Municipalities (ALM). All three organizations provide various training sessions throughout the year and, with regards to AAMCA specifically, membership provides access to municipal clerks throughout Alabama as references. In addition, the Alabama League of Municipalities provides resources such as webinars, training classes and knowledgeable attorneys to assist with almost every function of municipal government in Alabama.

## **What is the most challenging aspect of being a municipal clerk?**

The most challenging aspect of being a municipal clerk is the wide range of responsibilities of a municipal clerk. A municipal clerk is required in many instances to be a Jack of All Trades. Knowledge regarding various federal, state and local laws is a must – and not only knowing the laws, but being able to communicate to the public the various laws. Depending on the municipality's size or form of government, the laws might be quite different.

## **What is the most rewarding aspect of your job?**

The most rewarding aspect for me is being able to make a difference in the community that I work for. LaFayette is truly a special place and the citizens are truly special people. It's fulfilling when someone comes to me regarding an issue and I can help them resolve the issue or better understand what's going on. Also, being able to provide my opinion and help work toward goals that will enrich the quality of life for citizens in my community.

*continued page 27*

## Q & A with **Betty Jones** Clerk, City of Guntersville

*Located at the southernmost point of the Tennessee River on Lake Guntersville in North Alabama, Guntersville has nearly 8,500 people and is the county seat of Marshall County.*

### **How long have you been in your position and what did you do prior to working for your municipality?**

I have been with the City 19 years. Previously, I was the bookkeeper for a local, multimillion dollar company for 30 years.

### **Why is the municipal clerk's position important?**

A clerk must maintain the records of the city so that future leaders will know what was approved in the past that will have an impact on the future as well as knowing what has to be followed presently. Clerks manage the City's finances both on a daily and long-term basis. In addition, clerks need to make sure ethics and state laws are followed.

Clerks are the liaison to the public. Guntersville's Mayor and Council are part-time and work at other jobs in addition to their City duties; therefore, many times I am the first point of contact. It is extremely important that the clerk present a helpful, pleasant image to the public and portray a positive image of the city's elected officials to the public. Another important aspect is maintaining continuity. In 2012, a new mayor and four new councilmembers were elected. During my career with the City, I have worked for three mayors and six councils. They are all different! Clerks bring a steadiness and stability that is needed following the election transitions.

### **What are the main duties of your position?**

I write accurate minutes of each council meeting and maintain all records of the City to preserve a true and accurate picture of all actions. In addition, I: assign numbers to ordinances and resolutions; maintain all bank accounts; maintain records on city grants (some are small, others are ongoing year after year), maintain records on city projects (some are small, others carry over several years); submit quarterly reports on some grants; approve purchase orders; and sign all checks. I also handle alcoholic beverage applications, prepare them for Council approval and submit them to the ABC office as well as serve as the liaison for alcohol beverage license holders. In addition, I keep records on sales tax, rental tax, use tax and lodging and tourism taxes; check payroll before it is finalized against the time cards; handle reports to the Council on financial matters; provide packet material for Council meetings; work with Council agenda for the



Mayor's approval; and serve as the liaison with newspapers for information, reporting agendas and open meeting compliance. I also ensure public notices are properly posted; provide notary service for the public; serve as the liaison with city department heads for budget and other issues; file all lawsuits with the city's insurance company and the city attorney and then maintain files to completion of claim; file insurance claims for accidents that damage city property; serve as the back-up person on receipting and helping customers at the window; and handle complaints, calls from the public, city attorney, councilmembers, etc. During business license renewals, I reconcile bank statements and I make all adjustments to the General Ledger as well as oversee city bids.

Less frequently I invest City money in CDs or interest bearing accounts; open any new bank accounts; write resolutions and proclamations; disburse ethics forms and ensure compliance is met annually; maintain City Ordinances in codification books; maintain a current set of Code of Alabama passed by the State Legislature; assist the auditor with City audits; work with the Mayor to prepare a yearly budget by department and by fund; maintain records on various agreements and create files for all new agreements; activate Surplus Property annually; file the Highway Financial Report annually for DOT; make bond payments twice a year; renew City insurance making sure vehicle and equipment lists are up to date; and file an annual survey of employees for the Census Bureau.

During election years, I am responsible for: the voter list; hiring poll workers; giving Notice of Election and numerous date specific public notices prior to elections; accepting Candidates applications, ordering ballots (correctly and timely); having

*continued page 27*

# Q & A with Mary Jackson

## Clerk/Treasurer, City of Monroeville

*Located in Alabama's Black Belt between Montgomery and Mobile, Monroeville has just over 6,500 people and is the county seat of Monroe County.*

### **How long have you been in your position and what did you do prior to working for your municipality?**

I have been the City Clerk/Treasurer for Monroeville for 2.5 years. I was the previous City Clerk for the City of Evergreen for the year prior, for a total City Clerk role of 3.5 years. I feel like I'm exactly where I need to be with my career. I love this job!

Before serving as a municipal clerk, I was a County Commission Clerk and Senior Admissions Counselor for the University of Alabama's Graduate School. I'm a Denver native and before my big move to Alabama, I worked at the University of Colorado Risk Management office performing Executive Assistance type duties for the medical malpractice office. My "claim to fame" job was with the Walt Disney World's College Program as a parade puppeteer in EPCOT's 'Tapestry of Dreams' Parade in 2002. I wore an 18-foot tall puppet and danced around the World Showcase!

### **Why is the municipal clerk's position important?**

The Municipal Clerk's position serves as central command for the City. We see the coming and goings of all levels of management – day-to-day operations, financial (income and expenses), administration – and provide basic support to the Mayor and Council. Our EDA Director recently introduced me as: "She is the City Clerk. She basically holds the City's purse strings, among many other things."

### **What are the main duties of your position?**

A basic analogy of my duties: it's like herding cats. There are many facets to this position, each with their own adventure. The basic duties are record keeping, taking minutes and preparing the agendas for the council meetings, publishing ordinances and bids, preparing budget reports and handling basic day-to-day city operations. I also serve on the Historic Preservation Commission as secretary and CLG contact, Main Street Promotions Committee, Tree Board Secretary, Taste of Monroeville committee and will soon serve as secretary on the Downtown Redevelopment Authority. I prepare the Alabama Centers of Excellence bi-annual report, plan for next fiscal year's



budget, oversee payroll and personnel items, prepare quarterly budget reports, maintain inventory of equipment and property, maintain the new industries financial databases for the mayor and council and am responsible for social media oversight, grant maintenance and basic problem solving.

### **Briefly describe a typical work week for you as a municipal clerk.**

I set out each Monday with a To-Do list of what I would like to accomplish that week. I add to it, but – more importantly – I love to cross things off. I have a staff of three administrative assistants who handle the day-to-day operations such as phone calls, human resources/personnel, payables, revenue and bank reconciliation. There is a monthly To-Do list that I follow to make sure I can prepare for any upcoming reports that need to be completed. I prepare agendas for the boards I serve on; work with the mayor on preparing the agenda for our bi-monthly council meetings; respond to a slew of emails and phone calls; review and approve our weekly accounts payables; oversee our bi-weekly payroll; prepare bid tabulations; and basically try to answer any and all questions – from the general public to the city department heads, mayor and council.

### **What skillsets and personal qualities are necessary to be an effective municipal clerk?**

Effective communication and time management skills, the ability to be transparent in all things, strong writing skills and the ability to handle frequent interruptions. You also need

to be organized, have a good memory and not be afraid to ask questions or to say ‘no’.

**How do you stay current in your profession? (professional association, training, etc?)**

The Alabama League of Municipalities and Alabama Association of Municipal Clerks and Administrators (AAMCA) provide wonderful training opportunities. The Certified Governmental Accounting Technician (CGAT) training and Clerk 101 course are a must for new municipal clerks. Also, the clerk’s email group is fantastic to seek help on an issue. I also find it helpful to ask for documents from other clerks to avoid reinventing the wheel on proclamations, ordinances and resolutions.

**What is the most challenging aspect of being a municipal clerk?**

Keeping current with laws that affect municipalities (and clerks) and how to implement them into our city. Sometimes each law is not tailored to our needs, so we try to make sure we make it fit into our municipality for our citizens and businesses.

**What is the most rewarding aspect of your job?**

Helping the citizens and being part of history. I love when new ideas are presented to our city council to help better our community and I love how engaged our community is to make it a better place.

**Share an experience where you applied new technology or information in your job. How did it help your community?**

We have recently updated our website to provide our citizens with current information, forms, financial statements and other related city business. We also upgraded our 14-year-old software in December and can now provide real-time financial reports upon request. This benefits everyone from the mayor and council to the department heads and staff. It also streamlines our payroll process and accounting processes.

When I started working with the City, I wanted a report that would identify where we were financially and if we were on track with the previous year’s finances. I created a quarterly report versus a 6-month report, which gives me a better understanding of if we need to scale back and a way to report to the council we are being good stewards of the taxpayer’s money. I love seeing where we are each quarter.

**Is there anything else you’d like to share about your experience serving your community as municipal clerk?**

It’s wonderful when all our community leaders – commission, chamber, economic development, main street and council – are on board and supportive of each other’s direction. We are truly blessed to have so many wonderful leaders in Monroe County and Monroeville that support moving forward to improve our quality of life. It’s a true testimony to great teamwork from our leaders when, in one year, three new industries moved into our city and county! ■

**Iva Nelson**

**continued from page 21**

are vital to clerks. Another key component is networking with other clerks, and our email group is a really great way to exchange ideas and information. Conducting your own research by learning to use available resources is also a great tool.

**What is the most challenging aspect of being a municipal clerk?**

For me, it’s time management. There are so many aspects to the job and it is not contained within regular office hours. You have to be willing to devote additional time and dedication to keep everything flowing smoothly. This has definitely been affirmed by many of my fellow clerks, and we strive for excellence in getting the job done to the best of our ability.

**What is the most rewarding aspect of your job?**

To feel that I am contributing, in a real and tangible way, to the successes of my City. It gives me great pleasure to feel that I’ve been able to help someone, whether it be the Mayor, the Council, a staff member, fellow employee or citizens and community leaders.

**Share an experience where you applied new technology or information in your job. How did it help your community?**

I have worked to implement a system for scanning and archiving documents in electronic format. We are able to perform faster searches and retrieve the documents from our desktop. This has allowed us to achieve greater transparency and efficiency in responding to requests for copies of records. We also upload a number of documents to our webpage, which allows 24/7 access to our citizens, including ordinances, resolutions, minutes and final agendas. Final agendas reflect the Council action taken and the numbers assigned to adopted items.

**Is there anything else you’d like to share about your experience serving your community as municipal clerk?**

Over the years, I have stated that I didn’t have much awareness or knowledge about city government until I became involved as an employee. It has been a wonderful learning experience and it’s exciting to be at the center of the system of government that is closest to the people. ■

Public hearings permitting public comment before a public body should be considered a designated public forum for First Amendment purposes. While the city may own or control the property where the public hearing is to be held, it has opened the location for public expression, regardless of whether the public is typically not permitted to enter the property for random expression during public meetings. See *Pleasant Grove City v. Summum*, 555 U.S. 460, 469-70 (2009). Because it is a public hearing, and therefore a public forum during the time of the hearing, municipalities should be particularly cautious about any restrictions placed on the public during the hearing. As discussed more below, content-neutral time, place, and manner restrictions are permitted in a designated public forum if they are necessary to serve a compelling government interest and they are narrowly drawn to achieve that interest. *Id.*

Some public hearings are required by law. For example, Section 11-52-77, Code of Alabama 1975, requires that a public hearing be held before passing any zoning ordinance (or amendments to zoning ordinances). Another example of a mandated public hearing relates to increases in ad valorem taxes. Subsection (f) of Section 217, as amended by Amendment 373 of the Alabama Constitution of 1901, provides that a municipality may, under certain conditions, increase ad valorem taxes after a public hearing.

There are circumstances, however, where even if the law does not require a public hearing, a governmental body may want to conduct a hearing to gauge public opinion on a matter before it takes any formal action. For example, state law does not require a municipality to hold a public hearing before issuing an alcoholic beverage license, but it is certainly prudent for a municipality to hold a hearing and take steps to protect an applicant's due process rights in the event of a denial of a license. In instances like this, the public input and testimony may help support the basis for the council's decision.

## Notice and Location

Consideration should be given as to the location for a hearing before giving notice to the public. Space, furnishings and equipment needs should be assessed as soon as possible keeping in mind the nature of the public hearing and expected attendance, to the extent that it can be ascertained, of people who are likely to provide comment.

Regardless of the reason for the public hearing, the public must be put on notice of the hearing. While particular statutory requirements may come into play in the case of a mandated public hearing, all notices should, at a minimum provide the date, time, and location of the hearing as well

as a brief statement of the purpose of the hearing. Other considerations for the notice include:

- A name and contact information for additional information;
- Information on where copies of relevant documents can be reviewed or obtained;
- Information on how individuals or groups may testify during the hearing including any applicable rules for the public hearing if they are available.

## Establishing "Ground Rules" for the Hearing

In order to run a smooth public hearing and cut down on disorder, it is advisable that the city council, or other governmental entity conducting the public hearing, establish some ground rules which balance the public's right to be heard with the need to maintain order. Keeping in mind, however, that the balance is always in favor of the public's right to be heard, especially with a statutorily mandated public hearing. These rules may be set up in writing and provided in advance of the public hearing or they may be done verbally at the beginning of the public hearing. Whether they are provided in advance or not, the rules should be publicly announced at the beginning of the public hearing and may need to be repeated during the course of the hearing if it is clear that they are not being followed or there appears to be some confusion. As with any rules, they are only effective if they are enforced consistently and fairly.

The rules must respect the public's First Amendment right to free speech given that a public hearing is a designated public forum. As such, any rules or restrictions should only apply to time, place, and manner of the speech as opposed to the content of the speech. In a public forum the government may impose reasonable restrictions on the time, place, or manner of protected speech, provided the restrictions "are justified without reference to the content of the regulated speech, that they are narrowly tailored to serve a significant governmental interest, and that they leave open ample alternative channels for communication of the information." *Ward v. Rock Against Racism*, 491 U.S. 781,791 (1989) (quoting *Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984)).

With this general principal in mind, following is a suggested framework, including some suggested ground rules, for conducting public hearings:

### 1. Opening Comments

The person responsible for conducting the public hearing, such as the chair of the planning commission for zoning public hearings, should welcome the public and state

*continued page 40*

**Share an experience where you applied new technology or information in your job. How did it help your community?**

One example is simply using social media to share announcements of various city activities. It is now a digital world, and more people, especially younger people, are using social media as opposed to conventional print media to stay up-to-date on community events. Events such as the City of LaFayette's Annual Christmas On The Square (of which I am a founding member) are

advertised mainly via social media with enormous success.

**Is there anything else you'd like to share about your experience serving your community as municipal clerk?**

Before becoming a municipal clerk, I had no idea the totality of what the job entailed. However, after nine years, it's the diverse collection of responsibilities that continue to make my job so fulfilling and rewarding. ■

ballots and supplies at the polling place on election day; providing breakfast and lunch to poll workers; posting election results; storing ballots after election and destruction six months later; scheduling the things that take place after the election (taking provisional votes to registrars, counting them when they are returned in front of council, canvassing all votes, disbursement of election materials on a timely basis). I also serve as the Absentee Election Manager responsible for accepting requests by mail for ballots and voters who come to City Hall to vote as well as maintaining accurate records, posting all who vote absentee, keeping ballots under lock and key until election day and delivering ballots to polls by noon. All while maintaining neutrality.

**Briefly describe a typical work week for you as a municipal clerk.**

There is no "typical" work week. I may plan on certain things to be accomplished in my week and usually it goes out the window when I answer that first phone call of the day. It can be doing research for your City Attorney, talking to an upset citizen, a department head request or someone who walks in to see me. There are so many varied duties that it is almost impossible to describe a "typical" week. (See the above list of duties.) However, the unexpected and the variety of things a clerk handles makes our jobs so enjoyable and rewarding.

**What skillsets and personal qualities are necessary to be an effective municipal clerk?**

Integrity! A clerk must be perceived as an honest person, above reproach. A clerk must be neutral and treat all persons the same, with respect to all. Clerks must be a servant, a concerned and caring person. Many times, even when you have to give a "no" answer to a person's problem, if you do it with a caring and understanding spirit, you can make the citizens feel good about the outcome even if you are unable to change the situation. Of course, in the situations where you are able to help, it's important to do so in an efficient, timely manner.

**How do you stay current in your profession? (professional association, training, etc?)**

We are blessed with many opportunities and my City is very supportive. I have been privileged to attend the twice yearly continuing education classes at the University of Alabama in Tuscaloosa. I attend the Alabama League of Municipalities Annual Convention. I attend the Alabama City-County Managers Association training

classes. I attend most Clerk Convention and Clerk's Day training sessions. These are all invaluable! I always learn something from each session and return to my City renewed and recharged to be a better clerk.

**What is the most challenging aspect of being a municipal clerk?**

"Juggling all the balls" of all the many duties. Accuracy. Any time a clerk makes a mistake, it can cost the city money or cause the city a problem with the public. All clerks will tell you the most challenging aspect of our job is election time. The clerks have the responsibility to make sure the law is followed, notices are timely, poll workers are hired, proper information is given to candidates and that ballots are ordered and at the polling place. After the election there is another list of things that must be followed to the letter of the law. Every election the legislature changes something in the rules and usually makes it harder for us clerks. Absentee voting is the clerk's responsibility and every election there is always a weird circumstance that seems to crop up when you think you have "seen it all".

**What is the most rewarding aspect of your job?**

Being able to help people and help my community. I love to see progress in our City and love to be a part of it.

**Share an experience where you applied new technology or information in your job. How did it help your community?**

At a City-County Managers Conference several years ago I saw solar benches demonstrated. This year I was able to convince our City to purchase three. They are nice metal benches, solar activated so there is no ongoing cost to the City, which allows citizens to charge their phones, iPad, computer, etc. We have placed them at our most popular playground and our court house. Also, years ago, I was able to convince my second mayor to use GOVDEALS to sell our surplus. In the past, the city worked for days to hold its own auction and netted a very small amount. Since the City began using this service in 2007, we have realized over \$500,000 in income from surplus sales.

**Is there anything else you'd like to share about your experience serving your community as municipal clerk?**

It is an honor to serve as clerk and to feel that, in some small way, I make my corner of the world a better place to be! ■



*Theater will always be part of Shane's life (pictured right). Performing in his hometown makes it even more fulfilling.*

He's been a great mayor and he picked a great team – and that's what it takes for a mayor to be successful – having a great team to help guide him.”

Heflin is the county seat for Cleburne County. It's population is around 3,500 and growing. Young people are returning to the area and, with its lovely rolling topography, two exits off I-20 and quick access to numerous recreational and outdoor attractions, such as Cheaha State Park, Talladega National Forest, the Loyd Owens Canoe Trail on the Tallapoosa River and the Pinhoti Hiking Trail, it's easy to understand why. “We have a great school system, so for people who want to raise a family, there is excellent quality of life,” Shane said. “We also have a fantastic Parks and Rec program; we have industry coming back – Rusken Packaging, which manufactures shipping containers, opened this year. Our Economic Developer lived in (Washington) D.C. but she moved back here to raise her family. So, there are a number of us who have come back – with a more worldly perspective – and are very involved in the community. Our Industrial Development Board has an average age of 35 – it's young people who want to make a difference and they want their community to thrive. We want to grow, but we want to grow the *right* way. We want

to make sure we have opportunities for our citizens, but we don't want to be like every other city. We're an hour from Atlanta and an hour from Birmingham but we have a great small-town vibe. We also have two wineries in the county that are part of the Alabama Wine Trail.”

### Small City, BIG Job

Shane said he felt living in New York, where he honed his marketing and people skills, helped prepare him for his role as municipal clerk in his hometown. “There was no guide manual when I came in and sat down as city clerk,” he said. “Of course, I read the *League Journal* and *Selected Readings*, which was helpful, but I really learned on my own. Mom and dad have always been very active in the community – everybody knows how they raised their children – so it was fairly easy to take on this role.”

Easy is a relative term; however, Shane loves his community so his passion for his hometown makes the long hours and endless quest to implement and improve quality of life services worth the extra time and energy it takes to be effective. “A small-town clerk wears many hats,” Shane said. “We do pretty much everything. I handle planning and zoning, oversee finances for the city, handle the record keeping for the city, and on days when the mayor isn't here – our mayor is part-time – I'm handling a range of issues. The elected officials aren't in the office all the time and the clerk is there to make sure they're doing the best job for the city. There's a lot on the clerk's shoulders. Sometimes I have to make decisions that are in the best interest of the council and the mayor – when the council and the mayor aren't available.

“There is no typical workweek in my job. I try to have a schedule but it's not possible – you have to be able to jump around and take on different tasks throughout the week because you don't know what's going to come up. You could have an issue with trees and limbs. You could have an issue with the police or fire department. You could have an issue with streets. You could have an issue with stray dogs. And then you've got to deal with planning and zoning, accounting, parks and rec ... so you never know what's going to come in the office. I try to plan out my day, but I rarely get to stick to the plan. There's *a lot* of coming in early and staying late because I can get more done before we open – and then I sometimes stay late to get the rest done before I leave.” And that doesn't include the time he spends after hours monitoring Heflin's social media platforms. “I manage Heflin's Facebook, Twitter and Instagram pages so I'm always *on*,” he said. “Social media is important to have but it needs to be very well maintained and current. If it's

dull, you're not going to get results out of it. You also need to understand what you're doing and why you're doing it."

With less than five years in the position, Shane has already made significant strides for his beloved hometown by spearheading projects that have produced meaningful results. "When I first started working for the city, we didn't have an economic developer," he said. "We didn't have an economic developer for our county. We'd *never* had that. And that's one thing I'm proud of – that I helped to create that position. Heflin is in the spotlight for growth and we were constantly getting requests (from potential business and industry) for RFPs and RFIs. Those take a lot of time to complete and if you mess those up, you lose the industry. So I worked with our industrial board and worked with the mayor and came up with a plan as to how we could hire an economic developer. I'm still heavily involved in our economic development plan for the city. In a small town, the clerk has to be."

Understanding that economic development and quality of life services don't happen in a vacuum, Shane also led the charge for overhauling Heflin's official website – its gateway not only to the region but the world. "We had a website, but it was really out of date and it wasn't user friendly for where we're at today," Shane said. "Before industry looks at your community, they've already done their research. They've gone to your website. They've gone to your social media pages. They've gone to your newspapers. So, if your website looks and performs poorly and is dated, you're going to be knocked off the list. You want something that's vibrant, current and an accurate model of your community. You want to showcase your community in the best light. When we reconstructed our website a few months ago, we were adamant about making sure we highlighted our assets – particularly the programs we've been involved with. We've been an ACE (Alabama Communities of Excellence) community since 2007; our mayor went through DesignAlabama in 2013 and Heflin became a Main Street Alabama community in 2015. We have a beautiful Main Street and we wanted to see it come back to the way it was when I was a kid – people shopping, people walking around, people living, working, playing. We also have a great relationship with Your Town Alabama – we've been attending since it began. Every mayor and clerk has been through the program as has our planning commission. All these elements are essential for economic development. If you're not current, it looks like your community doesn't care."

Shane also serves as Heflin's ACE Local Coordinator, is a member of the Heflin Cultural Arts & Heritage Council and is on the board of Main Street Heflin. In addition he serves on the statewide Main Street Alabama board, which he was asked to join because the organization specifically

wanted input from a municipal clerk's perspective as well as from a local perspective. "I'm a big advocate for Main Street," he said. "For what you pay, I think it's one of the best programs available. The amount of money you put into it, you're going to receive thousands and thousands of dollars in return."

Shane is a Certified Municipal Clerk (CMC), a Certified Municipal Revenue Officer (CMRO) and is very active in the Alabama Association for Municipal Clerks and Administrators (AAMCA) where he currently serves as board president. He said he has plans to expand information exchange for Alabama's municipal clerks as well as promote participation in AAMCA. "This year a goal of mine as AAMCA president is to provide our clerks with more information about upcoming training as well as expand our social media presence and encourage clerks to be active," he said. "We have a Facebook page and a Facebook group. We're also encouraging our clerks to become more active in their districts. I'd also like to expand our leadership training through AAMCA."

Shane emphatically supports training and professional development, which he said are critical not only for the clerk's success but for the success of the community. "Clerks can't make good decisions if they aren't trained and empowered," he said. "I encourage mayors to send their clerks to classes and specific clerks training because things are changing every day and networking with other clerks is invaluable. I'm fortunate to have learned from people like Cindy Osbourne from Southside and Iva Nelson from



Gadsden – seasoned clerks who have nurtured me and who I can call if I have questions.”

He further stressed that municipal officials need to understand the many pressures, challenges and issues the clerk faces daily from the public. “It’s not a job that just anyone can do,” he said. “It requires patience, multitasking, a sense of humor, listening skills, kindness, empathy and the ability to not take things personally.”

### #LiveLocallyAlabama

Shane said the support and information provided by the Alabama League of Municipalities is invaluable. “The League is looking out for the best interests of municipalities to make sure that we understand what is happening in the Legislature and to educate us on things we need to know about – especially the way things are changing,” he said. “Clerks need to make sure their elected officials are taking advantage of the League’s webinars and CMO programs. Being actively involved with the League is educational. Attending the convention is important – not just for the classes but for the networking opportunities with officials and clerks from other cities, as well as networking with the state agencies that attend the Expo. Sharing ideas is *important*. There’s no reason not to take an idea that worked for another community and see how it will work in yours.”

He is also extremely enthusiastic about the League’s recently launched Live Locally Alabama grassroots campaign ([www.livelocallyalabama.org](http://www.livelocallyalabama.org)) that’s designed to encourage civic engagement, instill community pride and highlight the crucial role municipal government plays in the daily lives of Alabama’s citizens. He said #LiveLocallyAlabama will compliment similar initiatives in his area.

“We have a really cool Shop Local campaign called “Keep it in Cleburne” because, unfortunately, we don’t have the big-box retailers,” he said. “We don’t slap people on the hand for shopping elsewhere because we know they can’t get everything here, but what we try to encourage is that, if you can purchase an item here, do that before you pay taxes to another community that’s not giving back to you and your schools. “Keep it in Cleburne” ran a new campaign during the month of December called “Even for Education” where local grocery stores were rounding up the dollar with the money going to the local school system. One business raised \$4,000. So, we try to encourage the local mindset – eat local, shop local, support your local businesses because those are the businesses that give back to the community – Live Locally Alabama!”



### *Every single day my job touches somebody.*

“This has been the best job I’ve ever had,” Shane said. “I don’t just enjoy being city clerk – I *love* it. I take pride in my hometown and I want other clerks to take pride in their hometowns – take pride in where they work. Local government is extremely important. We are the forefront of the things happening in our communities. Local government is the starting point – from city hall you reach out to your county and then your state representatives and then your national officials. Local government is the heartbeat of the people. It can make or break the city.” ■

For information on the  
Alabama Association of Municipal Clerks  
and Administrators:

[www.aamcaonline.com](http://www.aamcaonline.com)



# Spring Cleaning

Chuck Stephenson • Director of Information Technology • ALM

Spring is a great time of year, isn't it? The temperature outside is warming up, the days are longer and the dreariness of Winter is finally starting to recede. This is the season where many of us take up the time-honored tradition of Spring Cleaning – following the example of our parents and grandparents who gave Winter a sendoff by “deep” cleaning the house. If I think about it long enough, I can still smell the ammonia (Phew) ... Baseboards were scrubbed, floors were stripped and a fresh coat of wax applied. Closets were (re)organized and clothes were transferred to younger siblings or other family members. Some of us still take time in Spring to clean our houses and do other things that were difficult to do during the colder months.

The changing of the seasons is also an excellent opportunity to pause and assess your IT structure – to review policies, service contracts, equipment replacement and lease agreements, backup strategies and business continuity/disaster recovery plans and then determine what is working for you, what needs to be tweaked and what needs to be done away with on the IT front. Many of you may already do something like this during budget planning in the late Summer/early Fall; however, the onset of Spring is an additional opportunity to review – when budget deadlines aren't hanging over you. You can also use this time to revisit where you need to be with your budgets when that time of year rolls around.

Let's dig a bit deeper into some of the areas discussed above.

## Policies

In IT, just like the rest of life, things are constantly changing. One example of this is passwords. Last June, the National Institute of Standards and Technologies (NIST) changed their recommendations for how we choose our passwords. The old standard for the past decade has been the complex password requirement. You know the one: uppercase, lowercase, numbers, special characters, at least eight characters long. Then we were supposed to change those passwords every 30, 60 or 90 days. Not only that, but we weren't supposed to reuse any of the last six iterations of our passwords. (How many of you have something that resembles this P@\$\$w0rd!?)

Good news! That standard has now changed. FINALLY! The current recommendation is geared more toward *passphrases* using a minimum of eight characters. Better yet, NIST says that the longer the better – up to 64 characters. Another change that will come as a great relief to most of you is that you no longer need to change your passwords as frequently. Now the recommendation is at least 180 days.

## Terms of the Trade

- **National Institute of Standards and Technologies (NIST)** – a measurement standards laboratory and a non-regulatory agency of the United States Department of Commerce. Its mission is to promote innovation and industrial competitiveness.
- **Password** – a word or string of characters used for user authentication to prove identity or access approval to gain access to a resource (example: an access code is a type of password), which is to be kept secret from those not allowed access. (AKA the annoyance that IT staff come up with to frustrate anyone not in IT...)
- **Backup Strategy** – A good backup strategy is the best defense against data loss – how, when, and where you plan to backup your data.
- **Business continuity** – Encompasses planning and preparation to ensure that an organization can continue to operate in case of serious incidents or disasters and is able to recover to an operational state within a reasonably short period.
- **Ammonia** – a colorless gas or liquid that has a strong smell and taste and that is used especially in cleaning products. (Seriously, *who* tasted it to find out it had a strong taste???)

These changes will be welcome to most of us; however, be sure to clear all of this with your IT Department before you start trying to use the new standards. (Your IT staff probably won't appreciate you telling them, "Well Chuck said...", so don't get me in trouble here folks!)

### **Service contracts, equipment replacement, and lease agreements**

This is a great time to see what contracts you currently have for IT services. Are you using Microsoft Office? Would you benefit from moving from the traditional license to Office 365? What are your mobile device contracts? Is it time to replace your old iPhones with the new model? Can you reduce costs by negotiating a new contract? What PCs need to be replaced this year? Again, this can be an opportune time to look at budget items and get a head start on planning for the next fiscal year.

### **Backup strategies and business continuity/disaster recovery plans.**

One of if not the most important parts of your IT structure are your backup strategies and business continuity/disaster recovery plans. These are constantly changing and evolving. As new systems are added or old systems are done away with, it is *imperative* that your backups reflect these changes.

Have your backups gotten too large for your current storage? These are all items that need to be evaluated.

Likewise, as you evaluate your plans some of the most important plans in your organization are the plans for business continuity and disaster recovery. These plans should be "living documents" as your organization and all the various parts that come together to form that organization change frequently. These plans should, at a minimum, be reviewed every year. Any changes in your organization should be reflected in the revisal of these plans. This should not be limited to just IT.

### **Closing thoughts...**

Spring is a wonderful season! Everything is new. If you aren't already reviewing the items discussed above on a regular basis, what better time to start a little Spring Cleaning than now? I also recommend doing most of these items more than once a year. As we have seen, our organizations are fluid. To ensure that our IT infrastructure and our business continuity don't become disheveled or overwhelmed, these plans and strategies need to be a priority rather than a sterilized system of documents and procedures that are written/implemented and then forgotten.

So, in closing, I will borrow a line from a local newscaster here in Montgomery and say: "CLEAN UP!!" ■

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# Sexual Harassment:

## A Physical, Verbal and Visual Assessment of the Workplace

Barbara Alexander • Operations Manager • ALM

There were many unfortunate news articles in 2017, from mass shootings to devastating wildfires, but one headline that seemed to eclipse them all was the stream of workplace sexual harassment and assault accusations across several industries brought against men who were considered prominent in their fields. Among many questions surrounding this unfortunate topic, there are two that remain pertinent for all employers and employees: *What is sexual harassment?* and *How can we change the dynamics of such behavior?*. Depending on the facts and the complexities of each individual case, numerous answers can be given. Fortunately, there are several safeguards that can be implemented to reduce sexual harassment/assault in the workplace.

### What is sexual harassment?

Sexual Harassment is unwelcome conduct that is sexual in nature, this includes but is not limited to: unwanted sexual advances, requests for sexual favors, repeated requests for dates and other verbal or physical conduct of a sexual nature.



Additionally, sexual harassment does not have to be sexual in nature at all – it can also be an offensive statement toward a specific gender. For instance, statements such as *all women need to be in the kitchen* or *all men have only one thought* can be perceived as sexual harassment. It is also important to

understand that both victim and harasser can be either male or female or they can both be the same sex.

There are two types of sexual harassment: quid pro quo and hostile work environment. According to Title VII of the Civil Rights act of 1964, both are considered unlawful when enduring unwelcome conduct becomes a condition of employment or the conduct is severe or pervasive enough to create an intimidating environment.

### Quid Pro Quo

The more classic harassment of the two types mentioned above is Quid Pro Quo, which simply means “this for that”. In the workplace when a person in authority (supervisor/manager) offers – or merely hints – that he or she will give an employee something (promotion, award, time off, etc.) in return for that employee’s fulfillment of a sexual favor or demand, this constitutes a quid pro quo type of harassment. Quid pro quo can also occur when a person in authority decides not to fire an employee or hire an applicant in exchange for some type of sexual favor. Quid Pro Quo harassment must have certain elements proven by the claimant:

- He/she was an employee or applicant of said company/organization during the time of alleged harassment.
- The alleged harasser was, indeed, an employee of said company/organization in a position of authority.
- The alleged harasser made unwanted sexual advances or engaged in unwanted verbal or physical behavior that was sexual in nature.
- The alleged harasser’s behavior was the factor in causing harm to the claimant.

### Hostile Work Environment

Hostile Work Environment harassment is when an employee is made to feel uncomfortable by a co-worker, supervisor or manager or a contractor, client, vendor or visitor whose actions go beyond the usual casual workplace banter and/or rudeness through physical, verbal or visual contact. This conduct must be severe enough to negatively affect the employee’s ability to perform his/her job functions and is considered intimidating and/or offensive to reasonable individuals. (Petty slights, annoyances and some isolated incidents do not constitute a hostile work environment.) In addition to the employee who is directly harassed, other employees who are impacted by

the harassment (by either hearing or witnessing it) can also be considered victims. Therefore, Hostile Work Environment harassment can affect more people than just the targeted victim. The chart below provides several examples of the three types of Hostile Work Environment.

**Harassment Liability**

According to the FY 2017 EEOC Performance Report, employers are subject to vicarious liability for unlawful harassment by supervisors. The standard of liability set forth in these decisions is premised on two principles:

1. an employer is responsible for the acts of its supervisors, and
2. employers should be encouraged to prevent harassment and employees should be encouraged to avoid or limit the harm from harassment.

In order to accommodate these principles, the court held that an employer is always liable for a supervisor’s harassment if it culminates in a tangible employment action. However, if it does not, the employer may be able to avoid liability or limit damages by establishing an affirmative defense that includes two necessary elements:

- a) the employer exercised reasonable care to prevent and correct promptly any harassing behavior, and
- b) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

According to the U.S. Equal Employment Opportunity Commission, in fiscal year 2017, the EEOC filed 184 merits lawsuits, including 124 suits on behalf of individuals, 30 non-systemic suits with multiple victims and 30 systemic suits. This is more than double the number of suits filed in fiscal year 2016. Additionally, EEOC’s legal staff resolved 109 merits lawsuits for a total monetary recovery of \$42.4 million and achieved a favorable result in 91 percent of all district court resolutions.

**Impact**

The effects of sexual harassment are often overlooked, and the behavior can cause significant issues for the targeted individual, such as emotional, mental, physical and sometimes financial challenges. These symptoms can go on for years after the harassment has ended, wreaking havoc on its victims and their families. Victims are less likely to report the unwelcomed behavior when they have a close relationship to the perpetrator, and more times than not suffer in silence. Although sexual harassment prevails in different industries, according to the

*Wall Street Journal*, only 48 percent of working individuals report having been sexually, verbally or physically harassed at work. And, according to NBC News’ Dr. Helen Wilson, a licensed clinical psychologist specializing in effects of trauma, an individual going through or dealing with the aftermath of sexual harassment may also exhibit symptoms of PTSD, especially if the harassment leads to violence and/or assault.

**What to do if you are sexually harassed?**

Even though Title VII of the Civil Rights act of 1964 serves as protection against behavior such as sexual harassment, there are many individuals who are harassed in the workplace. If you are comfortable, clearly tell the harasser that his/her behavior is unwelcome. Document incident(s): time, location, details and any witnesses. Report incident(s) to your immediate supervisor, and if your supervisor is the harasser, report incidents to the next person in your chain of command or to your Human Resources office. Even though harassment can be overwhelming and intimidating, do not be afraid to tell someone. No one should be made to feel that they will be retaliated against for reporting this type of behavior, and there are policies in place that can/will protect you from such retaliation. The Whistleblower Act of 1989 prohibits reprisal – it is unlawful to take or threaten to take action against an employee due to the fact he or she disclosed wrongdoing.

**So, what is a company/organization to do?**

For starters, the company/organization should develop and implement a solid anti-harassment policy that all employees are given and receive training on. Make it clear that this type of behavior will not be tolerated and do not hesitate to properly investigate any alleged improper conduct. If there is evidence that warrants sexual harassment, take action regardless of the position the individual may have within the company/organization. Be preventative and proactive – that’s the best practice to have when it comes to sexual harassment in the workplace.

**Conclusion**

Sexual harassment is inexcusable, and can cause great suffering to those who are affected by it, be they victim or employer. It is unlawful and should be deemed unacceptable in every aspect. Prevention is the best tool to eradicate this type of behavior in the workplace. No one should be made to feel that they will be retaliated against for reporting this type of behavior. ■

Physical	Verbal	Visual
Touching/caressing	Vulgar language	Obscene pictures/posters
Standing too close	Inappropriate comments	Suggestive gifts and/or emails
Hugging without permission	Sexual innuendoes	Provocative body language
Sexual assault/rape	Repeated requests for dates	Stares or rude gestures

The Office of Water Resources (OWR) might not garner as much attention as some of the other divisions and programs of the Alabama Department of Economic and Community Affairs (ADECA) because much of the division's work is behind the scenes. But because of the importance of water to all facets of a community's life, all of OWR's work benefits Alabama municipalities and the state as a whole.

Buddy Morgan, long-time manager of the City of Montgomery Water Works Board, said people shouldn't mistake OWR's often behind-the-scenes work as an indication of its significance in state government. In fact, Morgan believes the work coming out of the OWR office is some of most important in the state.

"The greatest resource we have in this state is water, and OWR is underfunded to do the things they are called on to do involving that water," said Morgan, who serves on the Alabama Water Resources Commission, an advisory board for OWR. "They provide a great service to us by providing us with information about consumption and alerting us to droughts so we can prepare."

ADECA Director Kenneth Boswell tends to agree that OWR often doesn't get the proper credit given that the division is charged with the mission of planning, coordinating and managing Alabama's water resources to ensure that the state maintains a plentiful supply.

"When you factor in the importance of water to our state and the multiple duties of ADECA's OWR staff in handling water issues, you can see right away that they play a significant role in so many facets of the life of every single person that lives in Alabama," Boswell said.

Water, a sustainer of life on the planet, has so many roles in Alabama. Water produces power that runs cities, it nurtures crops, livestock, fisheries and forests, and it is a vital component in the operation of many factories and plants. Even in this modern age, it is still a major mode of transportation and provides areas for recreation and enjoyment.

One of OWR's primary duties is Alabama Water Use Reporting in which water systems and other major water users report their consumptive use of Alabama water. OWR's also monitors the state's water supply sources. In December the office released the "2017 Alabama Surface Water Assessment Report." The report indicates that Alabama should have a plentiful supply of surface water – lakes, rivers and streams – for the next

20 years to meet consumer, industrial and agricultural needs. The report, available online at [adeca.alabama.gov/water](http://adeca.alabama.gov/water), examines stream flows at more than 200 locations throughout the state and summarizes water availability and demand in every major sub-basin drainage area in the state.



*Above: OWR Division Chief Brian Atkins presents the voluminous Alabama Surface Water Assessment Report to the Alabama Water Resources Commission in December. Also shown is Buddy Morgan, general manager of the Montgomery Water Works Board.*

*Below: Office of Water Resources Staff*





*Flood mapping makes communities aware of areas most prone to flooding*

“This is the first time that something like this has been done as far as providing a summarization of water usage and future water availability,” OWR Division Chief Brian Atkins said. “I am proud of our OWR staff for the work they have

sustain that growth it became apparent the city would need additional water. The Chattahoochee, Tallapoosa and Coosa river systems and basins, which run into or border Alabama, were major sources to meet Atlanta’s thirst.

done and the countless hours they have put into this project. I have to also give thanks for those outside sources that contributed so much to make this report a reality.”

The report, which includes supporting information supplied by the University of Alabama, Auburn University and Troy University, is part of an overall effort to produce a revised statewide water management plan needed to guide the state into the future.

The recent report was one of the primary reasons that OWR was created in the first place, Atkins said. In the late 1980s, questions concerning water allotment of shared water systems among Alabama, Georgia and Florida was coming into question. Atlanta was undergoing tremendous growth, and to

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In 1989 then Gov. Guy Hunt, concerned about interstate water sharing and recent droughts, appointed the Alabama Water Resource Study Commission to examine and make policy regarding the state's long-term water needs. Following up on the commission's recommendations, Gov. Hunt in August 1990 issued an executive order creating the Office of Water Resources. OWR became a permanent division of ADECA following passage of the Alabama Water Resources Act in 1993.

In addition to addressing long-term water needs, OWR continues to play an active role in other issues dealing with water or the lack of water. As part of its duties, OWR works to lessen the effects of drought.



*OWR has a drought management plan to make water users and the public aware of drought situations.*

### **Alabama Drought Planning and Management**

Unlike floods and damaging storms, the effects of drought come on slowly; however, the effects are just as damaging and costly. Crops can be ruined, factories – dependent on water flow for operation – can be forced to temporarily shut down or implement employee layoffs and public water systems initiate conservation measures.

While OWR has since its beginning taken steps to lessen the effects of drought, the division in 2004 began taking extra efforts. Special committees and subcommittees, composed of interested parties, meet at least quarterly and even more often when necessary to monitor drought situations throughout the state and the expected impact.

Atkins said it isn't unusual for one area of the state to be in a severe drought situation while other areas might escape major impacts from drought. As a result, OWR issues notices of drought conditions and impact when needed and makes available a color-coded state map outlining drought severity in counties and regions. This information helps local governments and water systems make decisions related to water usage in their area.

Frank Eskridge, water service manager at the utilities department in Athens, Alabama, said the information passed along to municipal water systems is a tremendous help in preparing for droughts. "The last thing you want to do when you are in a drought is to try to figure out what you need to do in a drought," Eskridge said. "The information we are provided by OWR helps us become aware of and prepare for droughts."

### **National Flood Insurance and the Flood Mapping Programs**

As beneficial as water is to humans, it also has a destructive side. Rain, floods and tidal surges can destroy structures, erode property and cause deaths. In 2003 OWR assumed the responsibilities of managing the state's part of the federal floodplain management program. The program involves two Federal Emergency Management Agency programs that operate hand-in-hand and affect every county and nearly every municipality in Alabama. Those programs are the National Flood Insurance Program and the Flood Mapping Program.

Because stream flows and topography change, the Flood Mapping Program is essential to maintain accurate information involving areas susceptible to flooding. "Floodplain mapping is vital for implementing all floodplain management strategies," said Wanda Ervin, OWR environmental engineering supervisor. "It creates a broad-based awareness of flood risk; provides the data necessary for floodplain management and land-use regulations, hazard mitigation programs, and rating flood insurance for new construction on an actuarial basis; and supports the decision-making process with respect to the natural values of floodplains."

With revised FEMA regulations in 2010, newer floodplain maps are generally confined to watershed or water runoff areas. Lannie Smith, EMA administrator and floodplain manager for the city of Orange Beach, said OWR has been instrumental in helping Baldwin and Mobile counties create updated floodplain maps. "During the mapping process we met and stayed in contact with OWR and FEMA representatives to

make sure all the data that was gathered was incorporated to make it the best it could be,” Smith said. “We worked hand-in-hand with them.”

Smith said that OWR and FEMA helped the municipalities within the counties understand what the changes to the floodplain maps meant and how they affected their area.

The National Flood Insurance Program enables property owners to acquire affordable insurance on structures in areas that are subject to occasional floods. To be eligible for flood insurance, landowners are often required to elevate structures either on earthen, metal or wooden platforms. Because of the restrictions, the National Flood Insurance Program relies heavily on counties and municipalities to adopt and enforce floodplain management regulations which require anyone building in a floodplain to obtain a building permit. With all the particulars in place, flood insurance continues to be not just available, but affordable.

### Interstate Water Issues

After more than 30 years, water issues involving Alabama, Georgia and Florida remain to be resolved. While there are occasional talks among elected officials in each state and in Washington D.C., the courtroom is the primary stage in trying to reach a resolution.

Although serving in the background, OWR provides technical support and pertinent information for the Governor’s Office and the Alabama legal team to make the state’s case in negotiations and litigation procedures. ■



*OWR staff reviews flood prevention methods undertaken by the city of Elba. The south Alabama city has flooded numerous times in its history.*



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# Financial Considerations for your Municipality

By Denise A. Woodham, Spring Creek Investments, LLC



*Denise (Dee) A. Woodham is the Founder and Managing Member of Spring Creek Investments, LLC, an institutional investment consulting firm. She served on the Montevallo City Council, District 5, from 2008 to 2016, the Montevallo Water and Sewer Board from 2012 to 2016 and currently serves on the Montevallo Development Cooperative District and Shoal Creek Park Foundation Board.*

No one can quite prepare you for your role on a city council or as a mayor. You'll have a rich experience interacting with your fellow leaders who have a variety of backgrounds, listening to the CAVEmen audience (citizens against virtually everything) and muddling through the lack of financial knowledge of the entire city council.

Municipal finance and fund accounting are nothing short of bizarre. Who budgets simply to break-even? What entity doesn't have an income statement?? Here are a few ideas for a city finance committee to consider:

1. Think like a business.
2. Make your asset work for you.
3. Build on your strengths.
4. Think creatively.

## 1. Try to view your city like a business.

Look at **trends** and **risks**. Numbers must have context. If you're halfway through the year, a report showing six months' worth of actual data compared to 12 months of the budget isn't very helpful. When you are struggling with your next year's budget, it's not very helpful if you're only looking at the actuals for last year and a projection for this year. You need *context*, so ask for longer term time periods so you can see trends. It's your staff's job to provide this.

Think about risks, even if you can't do much about them. For instance: **sales tax** is the backbone of your revenue. How concentrated are your businesses? Do one or two provide a significant percentage of your revenue? How many grocery stores do you have? What if the state passes the measure to remove sales tax on groceries? What if a tornado destroys your largest sales tax provider?

Do you have a **capital budget**? How do you replace police cars, lawn mowers and other equipment you know must be replaced every few years? Don't wait until something stops running to figure out how to pay for it.

Do you have a **regular reserve**? Auditors usually recommend 3-6 months.

Do you set aside a **maintenance allocation** for your buildings? Roofs, air conditioners, carpet and paint don't last forever. This is especially important when you build or upgrade a building.

The largest expense is **salaries**. How do you stack up? It's especially hard in a small town, but don't employ someone just because he or she can't get a job somewhere else or because the person is someone's fifth-cousin-twice-removed. Its public money; its limited resources; and you never have enough! You must make hard choices – that's why you're earning the big bucks (actually, that's why you ran for office).

**Ask questions.** Don't be scared or embarrassed to ask questions. Once, someone recommended adding to Montevallo's cemetery with the purchase of adjacent land. After asking questions, we realized we had over 75 years of capacity with our existing land. The idea died a silent, yet certain, death.

## 2. Make your assets work for you.

Interest rates on government money market accounts are around 1.25% today, up from .25% a little over a year ago. Where are your capital accounts invested? Make sure your banks understand that everything you do must be competitive. Have you re-financed all your long-term loans? Long-term rates have not risen nearly as much as short-term rates.

## 3. Build on your strengths.

Take advantage of what you have in your own unique

*continued page 41*

the purpose of the hearing. It might also be a good idea to acknowledge the manner in which notice was provided for the hearing and state that everyone wishing to speak on the subject at issue will be given the opportunity to speak. The procedures to be followed for the hearing should be stated clearly and the public should be put on notice that failure to follow the procedures or otherwise disrupt the hearing will lead to them being asked to leave the hearing immediately. For example, if there is a time limit on speaking or a limit on the number of people who may speak on either side of an issue, it should be made clear to attendees up front. This will help the public understand, and hopefully, follow the procedures established.

## 2. Sign Up Sheets

Requiring individuals or groups to sign-up if they wish to speak is a common practice for any public hearing. A sign-up sheet should be easily accessible to attendees at the public hearing and announcements should be made before and during the hearing that if people want to speak, they must sign-up to do so. Also, keep in mind that persons with disabilities must be accommodated with assistance in both signing up to speak and speaking if necessary.

To facilitate maintaining fairness and efficiency, testimony and comments should be taken in the order listed on the sign-up sheet. This also helps avoid people bunching up or crowding at the podium where people are speaking. It is also recommended, unless the circumstances warrant otherwise, that people who wish to speak multiple times must wait until everyone has had their chance to speak initially. Whatever approach is taken, it should be enforced consistently and fairly.

## 3. Limiting Subject Matter

The prohibition against regulating the “content” of speech doesn’t mean that the rules cannot limit speakers at the public forum to the subject matter of the public hearing. The 11<sup>th</sup> Circuit Court of Appeals has held that limiting testimony or remarks to a particular subject matter or topic does not violate the First Amendment to the United States Constitution. *See Jones v. Heyman*, 888 F.2d 1328 (11<sup>th</sup> Cir. 1989). Therefore, if a public hearing involves the potential rezoning of an area of land from residential to commercial, it would be proper to limit comments to this subject. It is important to note, however, that both positive and negative comments on the subject matter at hand must be permitted. *See, e.g. Madison Joint Sch. Dist. No. 8 v. Wisconsin Employment Relations Comm’n*, 429 U.S. 167 (1976) (prohibiting negative comments violates the First Amendment).

## 4. Time Limits and Repetitive Comments

Reasonable time limits on an individual’s comments during a public hearing may be imposed but there isn’t a one size fits all as to the amount of time and this should be looked at carefully depending on the subject matter of the hearing. Unlike permissible public comment at a public meeting, individuals should be given liberal time to express themselves during a public hearing. This must be balanced with encouraging witnesses to be focused and direct. While time limits of three to five minutes during public comment at a public *meeting* might be appropriate, when there are specific parties in interest at a public *hearing* (such as a land use applicant) time limits may need to be considerably longer. A party in interest is one whose property rights are directly affected by or at issue and limiting their time to speak at a public hearing should be imposed only when absolutely necessary. For those persons who are not a party in interest, three to five minutes may be more acceptable depending on the subject matter and nature of the hearing. Another option or consideration, if it appears that there will be large numbers of people wishing to speak, is to limit the time for individuals to speak but allow for written comments to be submitted in addition to their oral comments.

What about limiting the number of times an individual may speak? Again, it is important to keep in mind that the purpose of a public hearing is to allow the public to speak and to gather input and comments from the public. As such, limiting an individual, especially individuals directly affected by the issue at hand, to speaking only once is inadvisable. There is no clear guidance from the courts about limiting the number to times an individual may speak. What is reasonable will depend on the subject matter and whether the individual is simply repeating the same comments over and over rather than adding additional comments. Certainly, if an individual is making repetitive comments that are disruptive and are preventing the hearing from progressing in an orderly fashion then that person may be interrupted and asked to stop.

It cannot be emphasized enough that restricting public comment at a public hearing, especially one required by law, should be done with extreme caution and only with the advice and consent of your municipal attorney.

## 5. Disorderly People

Perhaps the most challenging aspect of a public hearing, especially if the issue is a contentious one, is dealing with disorderly people who refuse to cede the floor when asked or who interrupt and disturb other people who are providing comment. There are numerous ways a person may disrupt a public hearing. They may speak too long, be unduly

*continued page 42*

community. In Montevallo, **MDCD** (Montevallo Development Cooperative District) is a unique partnership between the City, County and the University of Montevallo. The District has completed a multitude of projects, each with differing levels of financial commitment. Montevallo's District was created in 2012 under the Capital Improvement Cooperative Districts section of the Alabama Code 11-99B. The purpose of the District is to promote economic development, tourism, education, recreation, the arts, historic preservation, livability and a healthy and active lifestyle in Montevallo. The district is to undertake the acquisition, construction and installation of capital improvements.

One of the first projects was a building on Main Street, which was renovated for classrooms, forcing university students downtown and, hopefully, to spend money in local businesses. Other projects include a softball stadium, track facility, promenade (linking the University to Main Street to Orr Park) and restaurants on the promenade. The city match to the federal grant for the current Main Street streetscape project was funded through MDCD. A large part of the original borrowing was for paving and the construction of City Hall.

Montevallo has used **classes from the University of Montevallo and the University of Alabama** for class projects. Examples include an analysis of the municipal owned golf course and revenue generating ideas for a new park. This is free consulting – and you don't have to have a university in your city or town to do this.

University of Montevallo professors encourage students to apply for "**Green Fund**" grants. One grant was used for a bio-swale at the park at the building on Main Street discussed above. These types of projects can be done with High School clubs (FFA, 4H, etc.), local Boys & Girls Clubs and Scouts.

Montevallo started a **Junior City Council**, which has raised \$800 to fund batting helmets for the middle school baseball team through a family field day event. The Junior Council also created the Refresh Card, which provides discounts for students to use in businesses after school. Additionally, they are in the process of organizing a fun run to raise money to purchase a projector for outdoor movie events.

If your population ranges between 2,000 and 18,000, consider applying for Alabama Communities of Excellence (ACE – [www.alabamacommunitiesofexcellence.org](http://www.alabamacommunitiesofexcellence.org)). You should also research joining Main Street Alabama ([www.mainstreetalabama.org](http://www.mainstreetalabama.org)) and attending Your Town Alabama ([www.yourtownalabama.com](http://www.yourtownalabama.com)). These organizations are specifically designed to help you look critically at your community and build on what you have.

#### 4. Think creatively.

Don't limit yourself to just public grants. Research **foundations and private individuals** as sources of revenue for specific projects. Montevallo has had private individuals donate significant money for a mural on an historic building, the bicentennial clock and trees with signage to honor people. A foundation contributed to a landscape project and a track facility.

For the long term, work with state legislators and the Alabama League of Municipalities to **reform our state tax system**. The only tax a city can control is sales tax and that is a regressive tax. Currently, cities have no control over on-line sales tax.

Thank you for your service to your communities. No one really understands how much time and effort goes into serving on a city council or as mayor until you've done it and I commend you for your efforts throughout our state! ■

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repetitious, or get completely off the subject matter and start discussing irrelevancies. No one has the right to disrupt a public proceeding (meeting or hearing) and interfere with the business at hand. While an individual has a First Amendment right to free speech and expression, that right does not extend to disrupting proceedings in a manner that prevents a governmental entity from being able to proceed in an orderly manner. In fact, the governmental body may need to act to maintain order so that the rights of others, to speak on the matter at hand, are protected. *See generally White v. City of Norwalk*, 900 F.2d 1421 (9<sup>th</sup> Cir. 1990).

A good practice is for the person responsible for conducting the public hearing to be clear with anyone who interrupts, refuses to cede the floor, or insists on making irrelevant and/or repetitive comments that they must come to order or leave the hearing. If a person is asked to stop their behavior and refuses to do so, he or she should be directed to exit the hearing and if necessary be escorted out by a police officer.

For a more detailed and in-depth discussion about disorderly people in public proceedings, please see the article titled "Council Meeting Procedure and Public Participation" in the *Selected Readings for the Municipal Official* (2016 ed.).

## 6. Recesses/Continuance

Depending on the circumstances and subject matter of the public hearing, it may become necessary at some point during a public hearing to take a recess or even call for a continuation of the hearing at another date and time. In the case of a recess, it should be made clear to everyone in attendance at the public hearing the length of the recess and when it will reconvene. The hearing should not reconvene until the time announced.

If a public hearing has gone on longer than anticipated due to the volume of people who wish to be heard or the length of their comments, it may be necessary to continue the hearing to another date and time. It is never advisable to put an absolute time limit on a public hearing because this could frustrate the purpose of the hearing if people are prevented from being heard. It is certainly acceptable, however, to place a time limit at which a continuation will be called. Should a continuance be necessary, it should be announced to those in attendance, before suspending the hearing, the date, time, and location of the continuation. While a second notice is not specifically required by law, it is always a good practice to formally re-notice the continuation of the public hearing in the same manner as the notice for the underlying hearing.

## 7. Closing the Meeting

A public hearing is concluded when all attendees who wish to comment have been given the opportunity to do so. Generally, there is no vote or action taken at the close of the hearing and the person responsible for conducting the hearing simply calls it to a close. If the public is going to be allowed to submit written comments, it should be announced how long those comments will be accepted and where they should be turned in. It is appropriate to thank the attendees for attending and providing comment and should explain the steps the governmental entity will take to use the information gathered.

## Conclusion

Public hearings are a necessary, and sometimes required, function of a properly administered municipality. Hopefully this article has clarified some of the procedures to assist in running a smooth public hearing. For further questions, please do not hesitate to contact the League Legal Department. ■

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