

The Alabama Municipal JOURNAL

October 2011

Volume 69, Number 4



2012 Municipal Quality of Life Awards

see page 5 for details

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The Alabama Municipal JOURNAL

Official Publication, Alabama League of Municipalities

October 2011 • Volume 69, Number 4

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The Alabama Municipal Journal is published monthly by the Alabama League of Municipalities, 535 Adams Avenue, Montgomery, Alabama 36104.

Telephone (334) 262-2566. Website: www.alalm.org.

Single copies, \$2.00. By subscription, \$24.00 per year. Advertising rates and circulation statement available at www.alalm.org or by calling the above number. Statements or expressions of opinions appearing within this publication are those of the authors and not necessarily those of the Alabama League of Municipalities. Publication of any advertisement should not be considered an endorsement of the product or service involved. Material from this publication may not be reprinted without permission.

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On the Cover:

ALM encourages you to enter your municipality in our 2012 Quality of Life Awards program. See pages 20-21 for details. **The deadline is November 4, 2011!** Cover photo: "Sail Camp 2009" is a member-submitted photo by Jeanne Fitzgibbons from Orange Beach. Showcase your municipality! Submit your photos to the League photo library. See page 30.

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A Message from the Editor

Is your municipality prepared for a natural disaster? Do you have a crisis plan? Is your infrastructure, including your critical data, protected? Many of our cities and towns found out the answer to these questions firsthand when Mother Nature unleashed more than 60 tornadoes throughout the state this past April. These deadly monsters from the sky tracked over 1,200 miles as they hurled across Alabama destroying homes, businesses and livelihoods. Even in areas where damage was minimal, many communities were without power for several days.

Of course, it's impossible to know the impact of a disaster beforehand, but precautions on the front-end could minimize confusion and increase response time once the unimaginable has happened. To that end, the Alabama League of Municipalities is offering several disaster preparedness topics through its October CMO training session: "Monsters from the Sky: Are You Prepared for Disaster?" scheduled for Friday, October 21 in Montgomery and Wednesday, October 26 in Pelham. The cost is \$100 per person, which includes lunch and all training materials. Other topics to be covered include: Public Officials and Harassment; RSA Retirement System Update; and Recent Court Decision: Separation of Powers.

For more information, visit www.alalm.org or contact Cindy Price at 334-262-2566 or via email at cindyp@alalm.org. This is a session you'll definitely want to attend.

2012 Quality of Life Awards Deadline November 4

As I mentioned last month, it's time to start compiling your entries for the League's 2012 Quality of Life Awards. **The deadline is November 4th.** **NOTE:** Call for Entries will **NOT** be mailed this year; instead, the rules and an entry form are included on pages 20 and 21 of this issue of the *Journal*. The 2012 Call for Entries is posted on the League's website at www.alalm.org. Simply click on the link from the homepage (you can't miss it) and print the information. The Quality of Life Awards program was designed to recognize successful, innovative municipal projects that improve the quality of life for citizens and add value to the community by establishing partnerships and building community support. Winners for the three population categories will be featured in a video shown at the League's 2012 annual convention in Birmingham this May. Municipalities that have won a Quality of Life Award in the past three years are not eligible for entry. (This does not apply to Honorable Mentions.) All other League member municipalities are eligible to enter. Start putting your entries together now! If you have questions about this program, please feel free to contact me at carrieb@alalm.org.

In closing, the League congratulates Linda Holcomb, Red Bay city clerk, for earning the prestigious Master Municipal Clerk (MMC) designation and Laura Carmack, Lincoln city clerk, for earning her Certified Municipal Clerk (CMC) designation from the International Institute of Municipal Clerks (IIMC). Well done!

Carrie



The President's Report

Councilmember Thomas O. Moore • Demopolis



2012 Municipal Quality of Life Awards Deadline for entries: November 4, 2011

Since its inception in 1935, the Alabama League of Municipalities has endeavored to be an agent for the exchange of new ideas and innovative programs. To that end, several years ago the League developed a Municipal Quality of Life Awards program specifically designed to recognize innovation in local government while serving as a forum for sharing unique public service ideas throughout Alabama.

The Municipal Quality of Life Awards program is a fantastic opportunity for your municipality to receive the recognition it deserves! Award winners can certainly use their success as a marketing tool for their communities and as a boost to the community's spirit. **The entry deadline for this year's Quality of Life Awards is November 4th.** For your convenience, an entry form has been included in this publication on page 21; however, the information is also available online at www.alalm.org. Click on the link in the middle of the homepage – you can't miss it!

One winner and one honorable mention will be chosen from three population categories:

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

The three winning entries will enjoy statewide recognition at the League's 2012 Annual Convention in Birmingham. In addition, each winning municipality will:

- Receive a special plaque
- Be featured in a video shown at the 2012 Annual Convention
- Be spotlighted on the League's website at www.alalm.org
- Be featured in the *Alabama Municipal Journal*

The three honorable mentions will receive a certificate as well as recognition on the League's website and in the

Alabama Municipal Journal.

Winners will be chosen by a panel of three independent judges who are not employed by the Alabama League of Municipalities. Judging will be based entirely on the written entry and supportive information. Winners will be chosen based on how well entries meet the three main objectives of the awards program:

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

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

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

Rules and instructions as well as an official entry form and complete entry requirements are online. **Municipalities that have won in the past three years are not eligible for entry.** This stipulation does *not* apply to previous Honorable Mentions. Those not eligible for entry this year are: Union Springs, Muscle Shoals, Cullman (2011); Abbeville, Moody, Opelika (2010); Dutton, Jasper (2009). *The League reserves the right not to name a winner in every category.*

The Quality of Life Awards Program recognizes successful, innovative municipal projects that improve the quality of life for citizens and add value to the community by establishing partnerships and building community support. Don't let the size of your municipality stop you from entering! **Again, the deadline is November 4, 2011!** ■



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Large Municipal Court

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- Court Clerk
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- Former Director of Corrections
Large Florida State Court

"We have saved on jail expenses and issued fewer warrants."

- Court Clerk
Large Municipal Court

"...we found that a full service probation provider like JCS can be instrumental in controlling the growth of the jail population and assuring the appropriate use of expensive jail cells."

- Judge
Alabama Court

Benefiting the Defendants...

"JCS has helped me understand the bad decisions I have made in my life. Through their guidance I have been given a chance to start over."

- Emma G., Defendant
Florida State Court

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

- Danny B., Defendant
Marshall County, Alabama

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

- Craig A., Defendant
Foley, Alabama

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Municipal Overview

Ken Smith • Executive Director



Address to the 2011 CMO Graduating Class

The Alabama League of Municipalities was honored to have former Executive Director Perry Roquemore address its 2011 CMO graduating class on August 18 in Montgomery. His commencement message was so well received, we have reprinted it here.

Good morning! I want to welcome the 2011 graduates of the League's Basic and Advanced CMO classes and your families. You have worked hard to get to this day and I want to personally congratulate each and every one of you. I also want to thank you for your dedication and hard work. It is not easy to obtain 40 credit hours for Basic CMO recognition or 80 credit hours for an Advanced CMO recognition. As elected municipal officials, you have plenty of other important things to do for your city or town. Many of you have another job besides your public office, which requires daily attention. Not only that, you also have many responsibilities to your families. So everyone in this audience should be applauded – the officials for their hard work and the family members for their support in helping the officials reach their CMO goals.

This is a special day for me also. Even though I have had the pleasure of attending each CMO Graduation Ceremony since the program began, this is my first ceremony as a Retired League Director. It pleased me very much when Ken and the League staff asked me a few weeks ago to attend and to give this year's commencement address.

You know, when you've been around a long time, you can think back and reflect on what things were like in an earlier day. I remember that during my first two decades with the League, we did a lot of training for municipal personnel – clerks, managers, revenue officers, attorneys, municipal judges, and other similar groups. However, there was a big void in our training programs. There was nothing for the elected municipal officials other than seminars offered at the annual convention. Training once a year for those officials trusted with running municipal governments on a daily basis was not adequate.

I asked the League's Executive Committee to establish a subcommittee to survey our membership on the issue of elected official training. The subcommittee recommended that a training program be established. In 1994, the League Executive Committee established the CMO Program to meet the training needs of elected municipal officials. We were the second League to establish a certification program for elected municipal officials in the country.

I remember teaching a class at the first session in the Elected Officials Training Program which was presented at what was then the Adam's Mark Hotel in Mobile on September 22, 1994. Since that historic beginning, several thousand elected municipal officials have voluntarily enrolled in the program and have attended one or more courses. It was so well received by the officials, that we added an Advanced CMO Program for those officials who have received CMO designations and desired further training. Now, 17 years later, we are gathered to honor the latest graduates in a very successful program.

Over 2,800 mayors and councilmembers are elected by the voters of Alabama to run the 460+ municipalities in the state. Why do they voluntarily run for office and, if elected, serve the people of their community?

Do you run for the money? I guarantee you that every elected official and family member of an elected official seated in this room can answer that question in a hurry. There is no way municipal officials receive a paycheck that adequately compensates them monetarily for the job they have taken on. As I said earlier, the average municipal official has a regular job and a family to take care of. This, in itself, is a pretty full time job. When a mayor or councilmember takes the oath of office, they agree to take on responsibilities for an acquired family composed of the citizens of the municipality on a 24/7 basis.

Do you run for the popularity? The mayor and council members are well known in their communities. A municipal official can't go to the bank, grocery store, hospital, drug store or church without realizing this fact. Citizens know where you live and your phone number. As a public figure, you want to be able to help everyone in the community. This would make you so popular. But that goal rapidly disappears soon after you assume office. You realize quickly that you can't solve everyone's problem. **First**, state law may not allow you to do what the citizen asks you to do. **Second**, the municipal treasury may not have the funds necessary to do what is requested. **Third**, the request may just simply be improper. In my opinion, if you can please about 70 percent of the citizenry, you are doing very well.

Do you run for the knowledge you obtain about your municipality and its people? You learn a lot. You know where every pot hole is located, whose dog is running loose, when utility services are disrupted, and when someone's trash was not picked up. And these are just the basic bits of knowledge you pick up by being an elected official. You also learn that out on the streets

there are many who, without ever serving in public office, know how to do your job much better with less funds. It has always been amusing to me to see candidates running against incumbents on a platform of changing the world. In many instances, these same people, if successful in their campaigns, completely change their outlook in the first few weeks in office.

Do you run for the thanks and appreciation you get for a job well done? We all know how that works. There are many more that criticize than those who give thanks and appreciate your efforts. The articles in the press are not always great. Trouble sells more newspapers and gets more TV viewers than positives.

So, then, why did you run? Why did you want to take on these awesome responsibilities with so little appreciation and compensation?

In my opinion, the answer is that you love your city or town and want to give back to your community. In most cases, you grew up in the community and want to make it better. I know this answer is especially true for those graduates here today. You have voluntarily spent many hours of time and money to attend the CMO courses. Why? You wanted to learn more about municipal government. You wanted to have better tools in your arsenal to help you perform your elected duties. You had a desire to become a strong leader in your community, because strong leaders usually produce great results.

Carl Neu is President of Neu and Company and director for the Center for the Future of Local Government. He is also a former councilmember in Lakewood, Colorado. In an article printed in *Texas Town and City*, June 2010, Mr. Neu said that effective leaders and stewards, especially at the local level, must learn, exhibit, and master at least the following seven attributes.

1. Leaders engage people and their energies rather than give them ready answers and “quick fix” solutions.
2. Leaders inspire themselves and others to their very best efforts.
3. Leaders focus on the future and get agreement on common vision, goals, priorities, and direction.
4. Leaders empower and support – rather than control and direct – people toward achieving desired outcomes.
5. Leaders engender a perspective of “we” and partnership.
6. Leaders are principled persons possessing moral behavior, character, values and integrity.
7. Leaders promote mutual respect and civility in all relationships.

All these essential elements, according to Mr. Neu, can be preserved, even in instances of controversy and disagreement, by discussing the issues rather than attacking and belittling those with whom we disagree or whose opinions differ from ours.

Mr. Neu spoke of seven essential attributes of good leadership. Similarly, in 2008, Dorothy Burton, a professional speaker, writer, and councilmember from Duncanville, Texas, spoke to the Maine Municipal Association on the “Seven Sins of Leadership”. She listed those sins as follows:

1. The first sin of leadership is the mother of them all – **Arrogance**. People admire confidence, but not cockiness.
2. The second sin of leadership is **Foregoing purpose for popularity**. No one can be all things to all people. Your purpose

should never be about you, but always about those you serve.

3. The third sin of leadership is **Ignoring your core** (i.e. your conscience). The depth of our conscience determines our character.

4. The fourth sin of leadership is **Lying**. While lies are cheap, the maintenance and embarrassing aftermath are so very costly.

5. The fifth sin of leadership is **Ruling out the Rules**. Follow the rules – don’t bend them, don’t break them and don’t cover for those who do.

6. The sixth sin of leadership is **Underestimating Risk**. When confronted with a situation where there is doubt, take this simple advice because it works every time – when in doubt – don’t.

7. Lastly, the seventh sin of leadership, as a public servant, you need to **Know Your Rights**. You have the right to remain silent. Every e-mail and every text can and will be used against you in the court of law or in the court of public opinion. Sometimes no response is the best response and the delete key is better than the send.

To quote Ms. Burton, “Public servants must lead and serve with integrity, must lead and serve with honesty, and must lead and serve with transparency. Because so many people are depending on you.”

I have no doubt that each member of the League’s CMO Basic and Advanced Graduating classes will exhibit the seven attributes of great leadership and avoid the seven sins of leadership.

Congratulations again to each member of the 2011 Basic CMO Class and the 2011 Advanced CMO Class for your efforts in reaching this goal. It required a lot of hard work and a lot of your time to accomplish completion of this program. Your constituents should be proud to have officials such as you guiding their cities and towns. ■

Monsters
from the **Sky:**

Are You Prepared for Disaster?

CMO Session 34

Topics include: Emergency Preparedness;
Public Officials and Harassment;
RSA Update; and Recent Court Decision:
Separation of Powers.

**October 21 in Montgomery and
October 26 in Pelham**

Contact Cindy Price cindyp@alalm.org
for more information.



The Legal Viewpoint

By Tracy L. Roberts
Deputy General Counsel



Meeting a Quorum

Municipal councils, especially in smaller municipalities, often have problems with attendance of its members – so much so that it is often difficult to gather a quorum. Regular monthly council meetings are required under Alabama law; however, many municipalities actually go months without a council meeting because they lack a quorum. This article will address certain meeting requirements, attendance necessary to establish a quorum and vacancies on the municipal council.

Meeting Requirements

A meeting is defined as “the gathering, whether or not it was prearranged, of a quorum of a governmental body or a quorum of a committee or a subcommittee of a governmental body during which the members of the governmental body deliberate specific matters that, at the time of the exchange, the participating members expect to come before the body, committee, or subcommittee at a later date.” Section 36-25A-2(6), Code of Alabama 1975. The Alabama Open Meetings Act recognizes three basic types of meetings; regular meetings, special meetings and emergency meetings.

A regular meeting is a meeting at a time and place which is set by law or operation of law and requires posting of notice at least seven calendar days prior to the meeting. See Section 36-25A-3(a), Code of Alabama 1975. Examples of regular meetings are the organizational session, which is held on the first Monday in November after an election, and the council meetings required to be held each month. City Councils in Alabama are required to have two regular meetings each month, while towns are required to meet at least once each month. “There shall be at least two regular meetings of the council in each month, except that in towns (*municipalities of less than 2,000 inhabitants*) there shall be at least one regular meeting of the council in each month, however, the council of any town may, by ordinance, mandate at least two regular meetings of the council in each month.” Section 11-43-50, Code of Alabama 1975. The council must determine the time and place of holding its meetings, which at all times shall be open to the public. See Section 11-43-49, Code of Alabama 1975. When establishing the time and place for holding regular meetings, it is a good idea to build in an automatic continuance clause in case the meeting date falls on a holiday.

A special meeting is any called meeting whose time and place is not set by law or operation of law and requires posting of notice as soon as practicable after the meeting is called and in no event less than 24 hours before the meeting is scheduled to begin. See Section 36-25A-3(b), Code of Alabama 1975. Special meetings may be called by the presiding officer (usually the mayor) or at the request of any two councilmembers. “The presiding officer of the council shall call special meetings whenever in his opinion the public interest may require it and whenever two councilmembers or the mayor request him in writing to call such meeting. Upon the failure or refusal of the presiding officer to call such meeting when requested, the two councilmembers or the mayor making the request shall have the right to call such meeting.” See Section 11-43-50, Code of Alabama 1975. A vote of the council is required to cancel or reschedule a special called meeting, and it must be remembered that the council may only vote in an open meeting.

An emergency meeting is a special called meeting that falls into one of the following two categories: (1) a meeting held solely to accept the resignation of a public official or employee, or (2) a meeting where at least 24 hours notice is prevented by emergency circumstances requiring immediate action to avoid physical injury to persons or damage to property. Notice of an emergency meeting must be given as soon as practical, but in no case less than one hour before the meeting is to begin. See Section 36-25A-3(b), Code of Alabama 1975.

Attendance

A quorum is necessary in order to have a meeting and conduct business. In all towns or cities, a majority of the whole number of members to which such corporation is entitled, including the mayor in towns and cities of less than 12,000 population, is necessary to constitute a quorum. See Section 11-43-48, Code of Alabama 1975. The number of members required to make a quorum does not change when a council has vacancies. For example, if the council consists of five members and a mayor who is eligible to vote, then a quorum will always be four, since four is a majority of six. Councilmembers who are present at a council meeting that have a conflict of interest on a particular issue can be counted for purposes of establishing a quorum even though they cannot vote on a particular issue. All elected officials must receive notice of meetings and be

given an opportunity to attend. This guarantees all citizens the right to participate in the affairs of the government through their representatives

But what can be done if members of the council fail or refuse to attend council meetings? The lack of a quorum due to a refusal of councilmembers to attend meetings can seriously hamper the functioning of the council. The council may compel the attendance of absent members in such manner and under such penalties as it may prescribe. See Section 11-43-51, Code of Alabama 1975. When adopting rules of procedure, the council could consider providing authority for a committee or less than a quorum, in attendance at a regular meeting, to compel the attendance of absent members in order to establish a quorum. It should be noted that, any ordinances, resolutions or official action of the council can only take place if a quorum is present. However, the council or a committee thereof, duly authorized by resolution, may summon witnesses and compel their attendance and compel witnesses to testify and produce books and papers and may punish them by imprisonment, not exceeding 10 days, for failure to attend or refusal to testify or produce books or papers. See Section 11-43-163, Code of Alabama 1975.

Another avenue to encourage attendance is to tie attendance of meetings to the official's salary. Section 11-43-2, Code of Alabama 1975, provides that the salaries of councilmembers must be fixed by the council at least six months prior to each general municipal election. This is also true for mayors. See Section 11-43-80, Code of Alabama 1975. When setting these salaries it is suggested that municipalities strongly consider including a

provision tying the salary to council meetings attended. Such a provision should, of course, limit the number of paid meetings that may be held during each month. This action encourages officials to attend the meetings and participate in governing the municipality. A sample ordinance to pay officials for meetings attended is provided in the elections manual published by the League entitled "Procedures for Holding Elections in Mayor-Council Municipalities."

Vacancy

Many times a lack of quorum is due to vacancies in office. A vacancy may occur for a variety of reasons, including death, resignation, military service, impeachment and automatic removal. Once a vacancy occurs the council will need to take action to fill the position, so it is important to know exactly when the vacancy occurred. Obviously a vacancy occurs on the date of an official's death while in office, but other situations require a closer examination.

The resignation of an official becomes effective immediately unless otherwise stated in the resignation. When a public official transmits a resignation without an effective date and without a condition, the resignation is effective at the point he or she transmits the resignation, and the resignation does not need to be accepted. See AGO 2003-065. If however the resignation is conditioned on becoming effective on a date in the future, the prospective resignation of the public official may be withdrawn at any time prior to its acceptance or the effective date. See *Ex Parte Rhea*, 426 So.2d 838 (Ala.1982). Where there was no



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acceptance of a resignation prior to its effective date, or prior to the withdrawal thereof, the resignation may be validly withdrawn. See *McPherson v. Mims*, 385 So.2d 44 (Ala.1980). A resignation would not be allowed to be withdrawn after it has been accepted. See AGO to Hon. Roger Sharp, March 14, 1983. The vacancy occurs on the date the resignation becomes effective.

With regard to vacancies in any municipal office due to military service, the governing body of the municipality or other appointing authority, upon being advised in writing by an elected or appointed official that the official has or will enter the active military of the United States and desires to avail himself or herself of the privileges and immunity granted under Alabama law or upon failure of the official to so advise, the municipal governing body or other appointing authority within a period of 30 days after his or her entry into the service, may appoint a temporary acting official who shall be clothed with all the powers, privileges and duties regularly exercised by the official in whose place he or she is acting. The temporary acting official shall receive the same compensation payable in the same manner and from the same source as the official in whose place he or she is serving. Any person vacating an office pursuant to these provisions may recommend to the appropriate appointing authority the name of a person to fill his or her vacancy. The tenure of any temporary acting official appointed under these provisions shall be during the absence of the regularly elected or appointed official while in service and until the expiration of 30 days from the date that notice in writing is given to the appointing power by the regularly elected or appointed official of his or her intention to return and resume the duties of his or her office, at which time the powers, privileges and duties of the temporary acting official shall automatically end. See Sections 36-8-1 thru 36-8-4, Code of Alabama 1975.

Numerous absences of a councilmember could result in an action against the official filed in Circuit Court. Willful neglect of duty is one of the grounds for impeachment found in Section 36-11-1, *et seq.*, Code of Alabama 1975. An action for impeachment may be brought by the Attorney General, the District Attorney or by any five resident taxpayers of the municipality. See Sections 36-11-4 and 36-11-6, Code of Alabama 1975. Also a determination by the courts that the office has been abandoned, or a mandatory injunction by a court to compel attendance in order to establish the necessary quorum, may be pursued. In these situations the vacancy occurs on the date specified in the Court Order.

The council may not prescribe by ordinance that continued absence of a councilmember automatically vacates the office. See AGO to Hon. Lorenzo D. Allred, August 2, 1955. However state law now provides for the automatic removal of a mayor or councilmember, whose presence or absence is counted toward establishing a quorum, when they are continually absent. Section 11-40-25, Code of Alabama 1975, states that, "Any elected municipal official who misses all regular and special called council or commission meetings for 90 consecutive days, beginning on the date of any absence, shall be removed from office by operation of law." The municipal clerk is required to make a record of all elected municipal officials present or absent at any scheduled meeting regardless of whether or not a quorum is present. At the next council or commission meeting following

the date an elected municipal official has been removed from office pursuant to Section 11-40-25, the council or commission may vote to reinstate the elected municipal official removed from office, for any mitigating or extenuating circumstances as determined by a majority vote of the remaining voting members of the council or commission, including the mayor if the mayor is a voting member of the council. If the council or commission does not reinstate the removed elected municipal official under this procedure, the council or commission shall fill the vacancy as otherwise provided by law. Section 11-40-25 does not apply to any elected municipal official whose absence from any council or commission meeting is a result of military service.

When a vacancy of the mayor or a council seat occurs, the position should be filled as soon as possible to prevent the crippling effect of not having a quorum to do business. In most municipalities, vacancies in the office of mayor are filled pursuant to Section 11-43-42, Code of Alabama 1975, except in Class 7 and Class 8 municipalities where a vacancy in the office of mayor is filled using the provisions of Section 11-44G-2, Code of Alabama 1975. Generally, a vacancy in a council position is filled according to Section 11-43-4, Code of Alabama 1975. However vacancies on the council in Class 7 and Class 8 municipalities are filled pursuant to Section 11-44G-1, Code of Alabama 1975. Time restrictions are imposed on the council's ability to fill vacancies in the office of mayor or councilmember in Class 7 and Class 8 municipalities; therefore it is important to be aware of exactly when the vacancy has occurred. If the council does not fill the vacancy within 60 days after it occurs in a Class 7 or Class 8 municipality, the council, by default, loses its right to thereafter fill the vacancy. See AGO 1999-168. In the event a vacancy in the office of councilmember is not filled within 60 days after it occurs in a Class 7 or Class 8 municipality, each existing council member, including the mayor, may submit a name to the governor for appointment. If the Governor fails to make an appointment from any submitted names within 90 days after the vacancy occurs, the judge of probate must call a special election to fill the vacancy.

Summary

A municipality should make every effort to meet the requirements of regular monthly meetings. A city is required to have at least two regular meetings of the council in each month. Towns, or municipalities of less than 2,000 inhabitants, must have at least one regular meeting of the council in each month; however, the council of any town may, by ordinance, mandate at least two regular meetings of the council in each month.

A quorum is necessary in order to have a meeting and conduct business. The council may compel the attendance of absent members in such manner and under such penalties as it may prescribe and may establish a salary ordinance tying the salary to council meetings attended. Many times a lack of quorum is due to vacancies in office. A vacancy may occur for a variety of reasons, including death, resignation, military service, impeachment and automatic removal. When a vacancy of the mayor or a council seat occurs, the position should be filled as soon as possible to prevent the crippling effect of not having a quorum to conduct business. ■



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TPSC Committee Minutes • August 25

By: Tracy L. Roberts, Deputy General Counsel, ALM

The League's Committee on Transportation, Public Safety and Communication met at 9:30 a.m. on August 25, 2011, at League of Municipalities' office in Montgomery, Alabama, with Chair, Councilmember Jeddo Bell of Greenville presiding.

Also present were Vice Chair, Mayor Gary Livingston of Eva, Secretary Tracy L. Roberts, Deputy General Counsel for the Alabama League of Municipalities. Committee members present were Mayor Loretta Presnell of Citronelle, Mayor Tim Kant of Fairhope, Councilmember Roger Adkinson of Flomaton, Councilmember Sidney Butler of Saraland, Mayor Wess Etheredge of Daleville, Councilmember Charlie Johnson of Luverne, Councilmember Fred Watts of Millbrook, Councilmember Ed Hanson of Piedmont, Mayor Allen Dunavant of Glen Allen, Councilmember Donald Livingston of Priceville, Councilmember Tommy Perry of Priceville, Mayor Don Stanford of Decatur, Mayor David H. Bradford of Muscle Shoals, Mayor Melton Potter of Scottsboro, Councilmember George E. Johnson, Sr., of Tusculumbia, Mayor Paul D. Jennings of Argo, Councilmember Jeffrey M. Denton of Chelsea, Mayor Billy Joe Driver of Clanton, Councilmember Marva Gipson of Aliceville, Councilmember Samuel Sanders of Marion and Councilmember Alberta Dixon of Thomasville. Also present was Greg Cochran, Director of Intergovernmental Relations for the League.

Resource advisors present were John T. Jenkins - Deputy Director of the Alabama Department of Homeland Security, Ed Paulk - Alabama State Fire Marshal, Cecil Colson of the Alabama Department of Transportation, Scott Overby of the Alabama Department of Transportation, Chris Hodges of the Alabama Department of Transportation, Yasamie Richardson of the Alabama Department of Emergency Management, Avery Morris of the Alabama Criminal Justice Information Center (ACJIC) and Anna Tadlock of the Alabama Criminal Justice Information Center (ACJIC)

Councilmember Jeddo Bell called the meeting to order and welcomed those present. He called attention to the Policies and Goals and encouraged participation. He then called on the Resource Advisors to make their presentations.

J.T. Jenkins, Deputy Director of the Alabama Department of Homeland Security spoke on Emergency Preparedness as well as the new Immigration Law set to take effect on September 1st. The Alabama Department of Homeland Security (ADHS) is working to coordinate with local authorities and to establish and implement rules for enforcement of the act. ADHS is preparing for the presentation of training programs for the officials and employees subject to the act and to establish easy access to the e-verify system.

Cecil Colson with the State Transportation Department discussed the partial loss of funding for the SAFETEA-LU program. He also discussed the Rails to Trails program. Scott Overby with the State Transportation Department presented a slide show on Railroad Crossings. He emphasized safety at grade

crossings and the municipal authority to close railroad grade crossings and be compensated for doing so.

Ed Paulk, the Alabama State Fire Marshall, spoke on Code Enforcement, Fire Prevention and the regulation of fireworks. The Fire Marshall has adopted the 2009 International Fire Code and the 2009 International Building Code. He emphasized that most buildings larger than 2500 square feet must be designed by a qualified design professional who must supervise the construction. He requested the committee to reconsider Policy P-3.4.

Yasamie August, Public Information Manager with the Alabama Emergency Management Agency spoke next. She had a slide presentation on the events of April 27, 2011. She informed the committee of the AEMA's response to the disaster, assessment of damages and recovery efforts. She also informed the committee that the deadline for Mitigation Applications had been extended for September 1st to October 27, 2011. She also urges municipalities to have a Mitigation Plan in place.

Avery Morris from the Alabama Criminal Justice Information Center (ACJIC) presented a slideshow overview of the agency's involvement as a case proceeds through the criminal justice system, as well as other programs offered by ACJIC. ACJIC lost 20% of its funding which in turn caused the loss of 14 ACJIC employees. Rates and response times for ACJIC may be affected. Crime states are accessible on the LETS system for Administrative purposes. He also discussed the Alabama Background Check System, Alacop, Mobile Capabilities, the Jail Inmate Management System, LETSdig and MobileNCIC. Anna Tadlock of ACJIC recommended amending Policy P-6.9 to add the word statewide to the policy.

Chair Jeddo Bell thanked the Resource Advisors for their valuable contributions and the Chair opened the floor for discussion of amendments, additions or deletions to the Policies and Goals.

Policy Changes

A motion to **delete P-3.4** was made by Councilmember Jeffrey M. Denton of Chelsea and seconded by Mayor Lorretta Presnell of Citronelle. The motion was passed by a majority vote.

A motion was made to **amend P-6.9** to read as follows, "That the League support **statewide** legislation to provide municipalities with the authority to photograph cars which fail to stop at red lights and send tickets to the vehicle's owner." The motion was made by Councilmember Jeffrey M. Denton of Chelsea and seconded by Councilmember Marva Gipson of Aliceville. The motion was passed by a majority vote.

The changes will be considered at the business session during the League Convention in Birmingham. ■

FAIR Committee Minutes • August 19

By: Ken Smith, Executive Director, ALM

The League's Committee on Finance, Administration and Intergovernmental Relations met at 9:30 a.m. on August 19, 2011, at League of Municipalities' office in Montgomery, Alabama, with Chair, Councilmember David Hooks of Homewood presiding.

Also present were Vice Chair, Councilmember Adam Bourne, Chickasaw; Mayor Charles Murphy, Robertsdale; Councilmember Veronica Hudson, Saraland; Mayor Jay Jaxon, Eufala; Mayor Lew Watson, Lincoln; Councilmember Claude Kitchen, Lincoln; Mayor Leon Smith, Oxford; Councilmember Jenny Folsom, Cullman; Councilmember Larry Waddell, Priceville; Councilmember Robert Avery, Gadsden; Councilmember Donald Myers, Guntersville; Councilmember Charles Black, Priceville; Mayor Dwight Tankersley, Hartselle; Councilmember Karyl Rice, Pelham; Councilmember Teresa Nichols, Pelham; Councilmember E. Lee McCarty, Wilsonville; Councilmember N. Craig Sanderson, Irondale; and Councilmember Charles Allen, Thomasville. Also present were Alton Craft, Oxford; and League staff members Lori Lein and Tracy Roberts.

Resource advisors present were Bob Young and Britton Hoenig, Frazier, Lanier Company; James R. Mayberry, Alabama Department of Revenue, Sales, Use and Business Tax Division; Will Martin, Alabama Department of Revenue, Property Tax Division; Bob Hill, ABC Board; and Angelo Trimble, Coalition Against Domestic Violence.

Councilmember Hooks called the meeting to order and welcomed those present. He called attention to the Policies and Goals and encouraged participation. He then called on the Resource Advisors to make their presentations.

Bob Young said that we are seeing record low interest rates. He said that investors are watching job rates and that 400,000 is the magic number. Less than 400,000 people unemployed is seen as putting people back to work. He noted that Alabama municipalities are getting good ratings from the rating agencies because cities in Alabama have faced up to the problems and are not trying to borrow to solve shortfalls. Instead, they are learning to live within their means.

James Mayberry said that the new Streamlined Sales Tax Commission will meet in September to start working toward Alabama's possible participation in the national program. On-line filing will be part of this system. He encouraged Alabama municipalities to prepare for this. He said that the state is looking at reducing costs for collecting taxes for municipalities as well.

Will Martin said that his department agrees with the League Policy Statement that requires full disclosure of real estate purchase prices. The current process requires his department to work hard to confirm a sales price. He noted that DOR tries to keep up with annexations and deannexations, but encouraged municipalities to let their county tax collectors know of any changes. This will help keep state tax distributions accurate. He said that property values in Alabama are going down in many areas due to a decrease in property values.

Bob Hill said that the ABC board regulates sales of alcohol to adults and for drug sales related to pseudoephedrine. His department busted 12 stills last year. He said that the reduction in the population requirement for holding wet/dry elections has caused the number of wet cities in dry counties to increase from 18 to 41. He noted that 11 cities have also voted to remain dry. He said that while the ABC board looks at opening stores in wet cities, they don't want to overlap market areas. His department is also seeing increases in the areas that want to legalize Sunday sales and the sale of draft beer. He stated that there is still an effort made to privatize alcohol sales, but that states that have removed state regulation have seen increased social consequences and reductions in revenue.

Angelo Trimble said that he has booklets available that will enable a person to tell if they are being abused and assist them in locating a shelter. He said that he didn't suggest any new policies but encouraged municipalities to develop a benchmark to see how well they deal with domestic violence over the years. He said that Alabama has strong laws in this area and that they are getting stronger. Violators of court orders can now be arrested without a warrant. Crime punishments have been elevated. And the crimes of strangulation and interfering with E911 calls have been created.

Mr. Trimble noted that the problem in the domestic violence area is not with the laws, but with the fact that courts do not communicate well with each other. He and the FAIR Committee members wanted to call special attention to Policy Statement F-10.42, which encourages sharing of information by courts. The Committee requested that this Statement be included verbatim in the minutes:

F-10.42. That the League urges municipalities to share municipal court information by utilizing the State Judicial Information System as a centralized repository. The League encourages municipalities to recognize the serious and severe lack of information available to law enforcement and the courts due to the lack of a central repository of data on pending and adjudicated cases. Currently, defendants can have similar cases in two or more courts without either court's awareness of the other cases. Municipalities are encouraged to work with their court automation services providers and the Administrative Office of Courts (AOC) to ensure that case information is electronically provided to the AOC mainframe on a regular basis so that historical information from all municipal, district and circuit courts may be electronically available to courts and law enforcement agencies. Advantages of such sharing of information can include improved collection of municipal court fines and costs, greater accountability for offenders, and improved safety of victims and the public. (August 2008).

Chair David Hooks thanked the Resource Advisors for their valuable contributions and the Chair opened the floor for discussion of amendments, additions or deletions to the Policies and Goals.

Councilmember Jenny Folsom made a motion to **delete**

continued on page 23

Protecting Your Workplace

Cyber Security Guidance



Employees

- Make your passwords complex. Use a combination of numbers, symbols and letters (uppercase and lowercase).
- Change your passwords regularly (every 45 to 90 days).
- Do NOT give any of your user names, passwords or other computer/website access codes to anyone.
- Do NOT open e-mails or attachments from strangers.
- Do NOT install or connect any personal software or hardware to your organization's network or hardware without permission from your IT department.
- Make electronic and physical back-ups or copies of all your most important work.
- Report all suspicious or unusual problems with your computer to your IT department.

Management & IT Department

- Implement Defense-in-Depth: a layered defense strategy that includes technical, organizational and operational controls.
- Establish clear policies and procedures for employee use of your organization's information technologies.
- Implement Technical Defenses: firewalls, intrusion detection systems and Internet content filtering.
- Update your anti-virus software daily.
- Regularly download vendor security "patches" for all of your software.
- Change the manufacturer's default passwords on all of your software.
- Monitor, log and analyze successful and attempted intrusions to your systems and networks.

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LEGAL CLEARINGHOUSE

NOTE: Legal summaries are provided within this column; however, additional background and/or pertinent information will be added to some of the decisions, thus calling your attention to the summaries we think are particularly significant. We caution you *not* to rely solely on a summary, or any other legal information, found in this column. You should read each case in its entirety for a better understanding.

ALABAMA COURT DECISIONS

Searches and Seizures: An affidavit upon which a search warrant was issued did not facially indicate that it was based upon fresh information, and the affiant could not recall discussing facts with the issuing magistrate that would cure the deficiency, and, thus, the affidavit lacked probable cause. Even though the affidavit indicated that a deputy explained to the affiant that a confidential informant told the deputy that she had observed methamphetamine at defendant's residence, and the affidavit indicated that the information was "fresh within the last 24 hours," it did not state when the informant allegedly observed the methamphetamine, or whether it was informant's observation or her call to deputy that had occurred within 24 hours. *McIntosh v. State*, 64 So.3d 1142 (Ala.Crim.App.2010)

Worker's Compensation: The employer at the time of injury, rather than a subsequent employer, is responsible for workers' compensation benefits due to an employee, where substantial evidence indicates that the employee suffered from continuing pain from the date of her injury until the date of trial. The last-injurious-exposure rule was inapplicable when the employee did not suffer a new injury or aggravation of a previous injury while working for the subsequent employer, but only a recurrence or a continuation of her original injury. *Stein Mart, Inc. v. Delashaw*, 64 So.3d 1101 (Ala.Civ.App.2010)

UNITED STATES COURT DECISIONS AFFECTING ALABAMA

Americans with Disabilities Act: Voting machines are not "facilities" under ADA regulation requiring altered facilities to be accessible to and usable by individuals with disabilities. *American Ass'n of People with Disabilities*

v. Harris, --- F.3d ----, 2011 WL 3117872 (11th Cir.2011)

Insurance: The Patient Protection and Affordable Care Act's individual mandate, which required that individuals purchase and maintain health insurance from a private company for the entire duration of their lives, operated as a civil regulatory penalty, not a tax, and therefore could not be authorized pursuant to Taxing and Spending Clause and exceeded the boundaries of Congress's enumerated power under the Commerce Clause. *Florida v. US Dept. of Health and Human Services*, --- F.3d ----, 2011 WL 3519178 (11th Cir.2011)

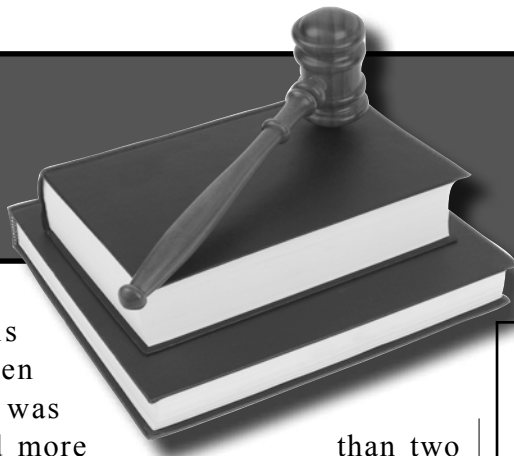
DECISIONS FROM OTHER JURISDICTIONS

Public Records: Companies that purchase personal information from state driver's license databases for use in the future for statutorily permitted purposes, do not violate the Driver's Privacy Protection Act. There is no problem with a company obtaining the personal information for potential future use, even if they may never use it. *Howard v. Criminal Information Services, Inc.*, --- F.3d ----, 2011 WL 3559940 (9th Cir.2011)

Searches and Seizures: Generally, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred. Any ulterior motive a police officer may have for making the traffic stop is irrelevant. Where a delay in an investigative stop can be characterized as de minimis under the totality of the circumstances, it will not be recognized as a Fourth Amendment violation. A delay involved in a traffic stop was not de minimis, and thus did not excuse the officer's extension of the stop for purposes of the Fourth Amendment, where the officer engaged in extensive and time-consuming questioning unrelated to any investigation of a traffic infraction, and instead related to drug investigation, and a driver's license check did not even begin until approximately ten minutes into the stop, and, in fact, was never completed. *U.S. v. Digiovanni*, --- F.3d ----, 2011 WL 3000496 (4th Cir.2011)

ATTORNEY GENERAL'S OPINIONS

Ad Valorem Taxes: The provisions of section 40-10-101, Code of Alabama 1975, bar a refund being issued to a tax sale purchaser after two years from the original



sales date. This rule applies even where the sale was declared invalid more than two years after it occurred. The purchaser may, however, have a remedy under section 40-10-71 of the Code. AGO 2011-085

Ad Valorem Taxes: The excess funds arising from a tax sale should not be paid to the original owner of the property sold for taxes when the original owner has conveyed all rights to the property to another. AGO 2011-087

Tort Liability: The Alabama High School Athletic Association (AHSAA) is a private organization whose membership adopts its own rules and regulations that govern its members. Generally speaking, an individual school or a school system is not the governing body of a sport or recreational organization unless those entities act independently to sponsor athletic programs or hold school-sponsored athletic or recreational events. AGO 2011-088

Retirement System: Overtime payments are not salary as that term is used in section 36-27-24(b) Code of Alabama 1975, and may not be used for retirement calculation purposes. AGO 2011-090 and AGO 2011-091 ■

May municipalities donate municipal funds to a booster club, non-profit organization or any other private entity?

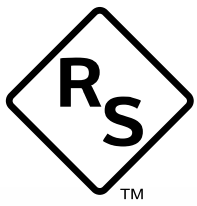
Section 94 of the Alabama Constitution prohibits abuses resulting from the unwise and reckless expenditure of funds. In the absence of a special constitutional grant of power (a few Alabama cities have such grants), a municipality generally has no power to donate or grant public money or things of value, issue bonds, subscribe to stock or otherwise aid a private entity.

F.A.Q. Continued

Section 94.01 (Amendment 772) of the Alabama Constitution allows a municipality to lend its credit to or grant public funds and things of value in aid of any individual, firm, corporation or other business entity, public or private, for the purpose of promoting the economic and industrial development of the municipality. Before this can be done the municipality must pass a resolution, at a public meeting, containing a determination by the governing body that the expenditure of public funds for the purpose specified will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities. In addition, at least seven days prior to the public meeting, a notice must be published in the newspaper having the largest circulation in the municipality, describing in reasonable detail the action proposed to be taken, a description of the public benefits sought to be achieved by the action and identifying each individual, firm, corporation or other business entity to whom or for whose benefit the municipality proposes to lend its credit or grant public funds or thing of value.

Under the Public Purpose doctrine a municipality may donate public money to organizations that have a lawful public purpose, such as volunteer fire departments or rescue squads, which benefit the general public and are not engaged in private enterprise. The paramount test should be whether the expenditure confers a direct public benefit of a reasonably general character, that is to say, to a significant part of the public, as distinguished from a remote and theoretical benefit. See *Slawson v. Alabama Forestry Commission*, 631 So.2d 953 (Ala. 1994).

Since *Slawson* the Attorney General has consistently held that the determination of whether an expenditure is for a public purpose is a factual one and can only be made by the governing body of the local government making the expenditure. See AGO 2003-074. The League strongly recommends the creation of a contractual relationship before the municipal governing body approves an expenditure of appropriation to a private individual, corporation or association. ■



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EENR Committee Minutes • August 16

By: Greg Cochran, CAE, Director of Intergovernmental Relations, ALM

The Energy, Environment and Natural Resources Policy Committee (EENR) met at 9:30 a.m. on Tuesday, August 16, 2011, at the Offices of the Alabama League of Municipalities in Montgomery.

Present at the meeting were: Councilmember Dean Argo, Prattville, Chairman; Mayor Rusty Jessup, Riverside, Vice-Chair; Councilmember Joe McDonald, Saraland; Councilmember Kenneth Mount, Andalusia; Mayor Johnny Smith, Jacksonville; Councilmember Billy Pearson, Lincoln; Councilmember Bill Stewart, Gadsden; Councilmember Hermon Graham, Florence; Councilmember Joe Pampinto, Muscle Shoals; Mayor Dennis Stripling, Brent; and Councilmember Willie Jackson, Marion.

Resource advisors present included; James Dailey, ADEM SRF Program Manager; Lisa Cole, ADEM Air Division; Daphne Smart, ADEM Clean Water Division; Dennis Harrison, ADEM Drinking Water Division; Phillip Davis, ADEM Land Division; Brent Watson, ADEM Land Permit Enforcement Division; and Dave Bolin, Alabama Oil & Gas Board.

Also present were Ken Smith, Lori Lein, Tracy Roberts and Gregory D. Cochran, CAE of the Alabama League of Municipalities.

Reports of the Resource Advisors:

Mr. James Dailey from the Alabama Department of Environmental Management State Revolving Fund (SRF) Program discussed Clean Water (CWSRF) and Drinking Water (DWSRF) low interest loan programs intended to finance public infrastructure improvements in Alabama. The SRF program is offering loans to qualified applicants at 3% fixed rate for 20-year terms. The CWSRF has financed 210 loans totaling \$992 million since 1987. The DWSRF has financed 124 loans totaling \$331 million since 1999. Mr. Dailey said the 2011 capitalization of the CWSRF program is \$35 million and the DWSRF program is \$28 million. Application time lines for new loans are as follows: pre-application is due by December 31, 2011 and full application is due by May 1, 2012, with selected loans closing in late summer and early fall of 2012. In closing, Mr. Dailey said federal and state funding cuts to the SRF programs are expected in coming years as well as more emphasis placed on applications from disadvantaged communities in lieu of applications for green projects.

Ms. Lisa Cole from the Alabama Department of Environmental Management Clean Air Division discussed the attainment issues relating to revised Ozone and Fine Particle National Ambient Air Quality Standards (NAAQS). Ms. Cole said EPA is proposing new NAAQS for 2012 that will lower the standard to between 70ppb – 60ppb. Under these proposed standards, 11 counties would fall in non-attainment status at 60ppb, while only four counties would be in non-attainment at 70ppb. She said the EPA has proposed new standards for Particulate Matter (PM) at 12PM2.5. Only two counties, Jefferson and Russell, would be in non-attainment under this proposed standard. In closing, Ms. Cole said Alabama communities have done an excellent job of reaching each and every new air quality standard imposed by EPA and ADEM.

Ms. Daphne Smart from the Alabama Department of Environmental Management Waste Water Division discussed the new organizational changes taking place at ADEM. Division Chief James McIndoe will head the Water Division with branch directors reporting to him. Dennis Harrison, Drinking Water; Glenda Dean, Industrial/Municipal; Chip Crockett, Stormwater Management; and Lynn Sisk, Water Quality, will head the program branches. The full organizational chart with area contacts is available on the ADEM webpage at adem.alabama.gov.

Ms. Smart said the department has implemented a new electronic complaint system for reporting by citizens and officials. The goal of the program is to produce transparency in the processes. EPA is developing new nutrient criteria for water bodies. The new numerical nutrient criteria (chl-a) proposed regulations should be ready for introduction by 2013. Ms. Smart said EPA is proposing the monitoring of enterococci bacterial indicators for coastal water bodies and fecal coliform and ecoli monitoring in non-coastal water bodies. Currently, only Cahaba and Coosa rivers have nutrient TMDL attainment issues. Ms. Smart said ADEM is developing an Electronic Reporting process for sanitary sewer overflow (SSO) events. The electronic Discharge monitoring reports (e-DMR) have been successful in reporting events. This e-program assists with reporting deadlines, lessens errors and may become a mandatory process for reporting events. In closing, Ms. Smart said ADEM has proposed application fee increases of 19% on all new permitting. ADEM developed this increase formula based on a 5% cost of living increase and the 14% cuts in State funding. Public comments on the fee increases can be submitted at the public hearing on September 12, 2011. The last increase of permitting fees was in 2008.

Mr. Dennis Harrison from the Alabama Department of Environmental Management Water Division discussed updates to the drinking water program. Currently public water systems serve over 4 million Alabama citizens. Mr. Harrison discussed the new rules status of Stage 2 Disinfection By-Products and Lead and Copper Rule Changes. He also discussed the common enforcement problems experienced by ADEM, late Monthly Operation Reports (MOR's), late CCR's and incomplete Bacteriological and Chemical Samples. In closing, Mr. Harrison said the hot issues for drinking water systems are: the economy, drought, cold weather, hurricanes, PFOA & PFOS, vandalism and the challenges brought on by natural disasters.

Mr. Phillip Davis from the Alabama Department of Environmental Management Solid Waste Division discussed updates to the recycling and remediation programs. He said the recycling program provided nearly \$3 million in grant funds during 2009 and 2010 and nearly \$2 million in grants has been awarded in 2011. Mr. Davis stressed that partnerships and regionalization of recycling programs can enhance the success of these programs by consolidating costs of operations and receipt of grant funds. He said grant funds are also available for scrap tire remediation and that ADEM's scrap tire fund awarded grants for 25 projects totaling \$385,000 in FY2010. ADEM funded 17

continued on page 23

2012 Municipal Quality of Life Awards

The three Winning Entries will enjoy statewide recognition at the League's 2012 Annual Convention. In addition, each winning municipality will:

- Be featured in a video shown at the 2012 Annual Convention
- Receive a specially designed plaque
- Be spotlighted on the League's Website – www.alalm.org
- Be featured in the *Alabama Municipal Journal*

The three Honorable Mentions will receive a certificate as well as recognition on the League's website and in the *Alabama Municipal Journal*.

Rules and Instructions (for complete brochure, visit www.alalm.org)

1. Entering municipalities must be a member of the Alabama League of Municipalities. If you are not sure about your municipality's member status, call the League at 334-262-2566.
2. Only one entry may be submitted per municipality. Those municipalities that have won a Quality of Life Award in the past three years are not eligible. (Does not apply to Honorable Mentions.) Those not eligible for entry this year are: Union Springs, Muscle Shoals, Cullman (2011); Abbeville, Moody, Opelika (2010); Dutton, Jasper (2009). *The League reserves the right not to name a winner in every category.*
3. Each entry must include *all* required information (see "Entry Requirements" listed in brochure on www.alalm.org), such as the completed entry form, a concise 1,200 word or less description of the project, at least three pictures depicting the project and five (5) copies of the entry packet in addition to the original. **NOTE: Entries that do not include all required information, including the five additional copies and both the mayor and clerk's signatures, will automatically be disqualified. Entries received after the November 4 deadline will be disqualified.**
4. Narratives should be typed, double-spaced on white 8.5" x 11" paper. No more than 1,200 words. Please include a word count.
5. Supportive material is limited to ten 8.5" x 11" pages (single-sided only). The entry must include at least three photographs depicting the project within the supporting materials.
6. Entries may combine several projects grouped under a common theme. An example of a common theme would be downtown revitalization – projects under that umbrella could include installing sidewalks and seating areas, providing incentives for businesses to remodel their exteriors, burying the power and telephone lines and organizing the merchants to promote downtown. These entries still must adhere to the written entry's space requirements of 1,200 words, three photographs and no more than 10 pages of supporting material.
7. Each entry submitted must be approved by the city council and certified by the city clerk (see entry form next page). The mayor's signature is also required on the entry form. The mayor's signature indicates his or her commitment to attend, or send a representative to attend, the League's Award Ceremony at the 2012 Annual Convention, should your municipality win an award. *The League reserve the right not to award a winner in every category.*
8. **Entries should be sent certified mail and must be received by November 4, 2011. Entries received after the deadline will be disqualified.**

2012 Municipal Quality of Life Awards



DEADLINE: November 4, 2011

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

Municipality

Address

Mayor's Signature*

Mayor's Printed Name

Clerk's Signature**

Clerk's Printed Name

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

Contact's Telephone Number

Email Address

Title of Project

* The mayor's signature indicates his/her commitment to attend or appoint a representative to attend the League's Municipal Award Ceremony during the 2012 League Convention in Birmingham should your municipality win an award.

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

Remember to include:

- 1,200-word or less typed narrative, double-spaced on white 8.5" x 11" paper. (Include word count at the end).
- At least three (3) photos depicting the project in your supportive material (see next bullet).
- Up to 10 pages of supportive information such as newspaper clippings, photos, letters from constituents or other items that help document the program submitted on 8.5" x 11" paper, single-sided.
- One original entry packet and five (5) copies (including supportive information). Include a copy of this form with each of the additional copies.

Entries should be sent ***certified mail*** and ***must*** reach the League office by Friday, November 4, 2011.

Hand-delivered entries must be received in the League's office by 4:00 p.m., Friday, November 4, 2011.

Entries received after November 4, regardless of postdate, will be deemed ineligible.

Mail Entries to:

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F-2.9 as the bonds mentioned in this Statement no longer exist. Councilmember Craig Sanderson seconded the motion, which passed unanimously.

Councilmember Teresa Nichols made a motion to **add F-5.16**. Councilmember Karyl Rice seconded the motion, which passed unanimously. **New Statement F-5.16** reads as follows:

F-5.16. The League urges municipalities to conduct audits of their life insurance policies to include riders for the deaths suffered by employees in the line and scope of their duties. (August, 2011)

Councilmember Adam Bourne made a motion to **add F-12.20**. Councilmember Craig Sanderson seconded the motion. The motion passed. Councilmembers Teresa Nichols and Karyl Rice voted no. **New Statement F-12.20** reads as follows:

F-12.20. The League opposes legislative efforts to increase the population threshold necessary to start a municipal school system. (August, 2011).

Other Business:

Mayor Leon Smith made a motion to encourage the Legislative Committee to include **F-5.12** in the League Legislative Package for the 2012 Regular Legislative Session. Councilmember Jenny Folsom seconded the motion, which passed unanimously.

At the request of the Committee, Councilmember Hooks asked the League staff to study the following issues for possible inclusion as Policy Statements:

- Opposing Legislative efforts to have municipal bids reviewed or posted by the Department of Revenue;
- Authorizing the use of red light cameras by general law rather than state law;
- Requiring the federal government to share any tariff money with the state and local governments;
- Simplifying notice procedures for out-of-state property owners before condemning their property;

- Permitting local governments to purchase property from the state without reimbursing the state for back taxes if the state acquired the property through foreclosure.

The changes will be considered at the business session during the League Convention in Birmingham. ■

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projects in FY2011. Approximately 57,200 passenger tires have been removed from illegal sites since the program was established. Mr. Davis said ADEM funded 50 solid waste remedy projects in FY2010 totaling \$1,580,000 and 75 projects were funded in FY2011 totaling \$2,050,000. In closing, Mr. Davis said ADEM had conducted over 500 solid waste inspections and 1,092 scrap tire site inspections in FY2010.

Mr. Dave Bolin, Deputy Director with the Alabama Oil and Gas Board said the Privilege Tax Revenue Disbursements for the State General Fund, counties and municipalities were \$85,000,000 for FY2010. He said the Oil and Gas Trust Fund has a fund balance of \$3.39 billion. In closing, Mr. Bolin stated the near term outlook would be reduced coalbed methane activities; increased oil field development; continued price moderation; and continued revenue moderation.

At 12:10 p.m. Chairman Argo thanked the resource advisors for the presentations and the committee recessed for lunch.

Following lunch, Vice-Chair Jessup led the discussions with the committee members on changes to existing and adoption of new Policy and Goal statements. The committee, having discussed and adopted new and amended policies and goals by unanimous vote, adjourned at 1:15p.m.

Changes to EENR Policies and Goals

Amend: E-2.10 That The League urges municipalities to adopt stringent anti-litter ordinances. The League further urges the state legislature to adopt stringent legislation modeled after successful legislation passed by states such as Colorado, Michigan and Texas. The League further urges that any anti-litter legislation passed carry strict penalties designed to stop the act of littering in the state. (August 2011)

New: E-1.9 The League urges municipalities to utilize the ADEM electronic reporting tools available to local drinking and clean water systems. (August 2011) ■

HD Committee Minutes • August 22

By: Twanna Walton, League Researcher, ALM

The Committee on Human Development of the Alabama League of Municipalities met at the League headquarters in Montgomery, Alabama on Monday, August 22, 2011. Councilmember Tayna Rains of Dutton, Committee Chair, called the meeting to order at 9:30 a.m. She began by welcoming all those present and asked the Human Development Committee Acting Secretary, Twanna Walton, to call roll.

The following persons were present: Councilmember Tanya Rains, Dutton, Chair; Councilmember Lewis Washington, Wetumpka; Councilmember Lisa Hansen, Dauphin Island; Councilmember Barbara Turner, Monroeville; Mayor Howard Rubenstein, Saraland; Councilmember Will Sconiers, Andalusia; Councilmember Clementine P. Pugh, Georgiana; Councilmember Jimmy Young, Pinckard; Councilmember Sadie Britt, Lincoln; Mayor LaFaye Dellinger, Smiths Station; Councilmember Councilmember Manuel Smith, III, Sylacauga, Councilmember Deborah Chambers, Valley; Mayor Tom Henderson, Center Point; Mayor George Evans, Selma.

Also present were state agency resource advisors: Mr. Jamey Durham, Alabama Department of Public Health; Ms. Aquenetta Knight, Alabama Department of Public Health; Mr. Dennis Hopper, Alabama Department of Economic Development.

Mr. Durham from the Alabama Department of Public Health began by touching on key items that his state agency is addressing this year. He informed the Committee that the criteria for the ALL Kids Health Insurance Program now gives a family of four and earning \$67,000.00 annually eligibility status. Mr. Durham also stated that this is open enrollment season and applications can be taken online.

He also informed the Committee about the Adolescent Reproductive Health Summit on September 15, 2011. A collaborative effort from agencies across the state, this pilot training program has been designed, Mr. Durham stated, to decrease teen pregnancy and sexually transmitted disease by enlightening adolescences on the benefits of abstinence. He also informed the Committee of the 'Living Well Alabama' program. BIRTHED out of the Community Transformation Grant, this 6-week program will teach those with chronic health issues such as hypertension, tobacco, obesity, asthma, diabetes, heart disease, and the like just how to create action plans for better managing their health. Mr. Durham further stated that this program can do the workshops in cities, towns, as well as churches. The effort is to come into environments that are conducive to those wanting to make life-style changes. The contact person is Ms. Wright-Meyer.

Mr. Durham gave his contact information to the Committee: (334) 206-5634. His email address is: jammey.durham@adph.state.al.us. He also stated that the information packet that

he brought, as well as other information is available on the Alabama Department of Public Health's website: www.adph.org. The Committee was also informed of flu shots being available at the end of September. Mr. Durham also spoke to the Committee about swimming pool protection. With the outbreak of ecoli and similar diseases, it is important to maintain a safe ph. level in the swimming pools, as described on the handout Mr. Durham provided. This same handout was available to post near pools. Mr. Durham also mentioned a teen driving survival guide available by the Department of Public Health. This guide is another benefit from a Community Transformation grant.

Ms. Aquenetta Knight spoke on behalf of the Alabama Department of Mental Health. She began by stating that her department has recently suffered 582 layoffs. Ms. Knight also stated that the Department of Mental Health had been assigned the duty to transition persons with mental health disabilities into independent living facilities. Of the 582 persons being laid off, the majority are coming from the Partlow Developmental Center in Tuscaloosa, Alabama. This facility serves persons with intellectual disabilities.

Ms. Knight also informed the Committee that Bryce Hospital in Tuscaloosa, which serves persons with mental disabilities, is down-sizing as well. She further stated that persons with mental illness tend to die 25 years sooner than others. Ms. Knight also added that the violent stereotype of persons with mental illness is not correct. She continued by stating that her agency is concerned about the critical needs of persons with intellectual disabilities. In this light, those persons who are being transitioned out of Bryce Hospital are given a case manager to: support these persons regarding housing; learning how to budget an account; to help them make health appointments, and similar activities. Ms. Knight also stated that money for housing has been given by HUD. The landlord is able to get the rent paid and have a case manager as a 'go-between' to assist the person being assimilated and the landlord, she said.

Regarding the 582 employees who were laid off, many were transitioned to local community positions. ADECA's Workforce Development Division provided assistance through job fairs, training, and other actions. Ms. Knight also informed the Committee that the old Bryce hospital was sold to the University of Alabama and a smaller building was built for those in need of long-term care needs. Many of the patients who were being transitioned into communities from Bryce had been at Bryce all their lives Ms. Knight stated.

Ms. Knight prepared recommendations to changes in the Human Development Committee's Policies and Goals and left them with the Secretary and Chairperson Tanya Rains. She also informed the Committee about the SOAR program, an entitlement program through SSDI that assists in providing housing. SOAR assists persons with intellectual disabilities in qualifying and quickly securing housing. Ms. Knight also

mentioned the Committee her agency's collaboration with the Department of Public Health. She shared her agency's website: www.mhalabama.gov. Her direct contact information is: (334) 309-6632; aquanetta.knight@mh.alabama.gov.

Mr. Dennis Hopper was the last speaker, representing ADECA's Workforce Development Division. He began by stating that his division is federally funded and replaced the CETA program with job training and the Partnership Act. Under Titles I-IV, the following provisions are made: adult education; post-secondary education; job training; rehabilitation services; and unemployment benefits. Such assistance, Mr. Hopper stated is given to: dislocated workers; those persons 16-21; and low-income individuals. He continued by informing the Committee his division provided rapid response to the dislocated Bryce employees. Within a 60-day notice of a lay-off, the Workforce Development Division comes in to the distressed place of employment and provides services. The Workforce Development Division operates from a \$40 million dollar budget and is distributed amongst career centers in Birmingham, Mobile, and the 65 counties.

Other funds include: individual training programs (ITA's) such as scholarships to attend community colleges and receive 2-year degrees. On the job training (OJT) is also available for those eligible for the Workforce Development Act, reimbursing 50% (or more in some cases) of the cost. He also stated Alabama received a \$6.1 million dollar grant from the National Emergency Grant as a response to the oil spoil. Of that grant \$1.4 million dollars was given to the OJT program. It now gives employers with 50 employees up to 90% for on the job training reimbursement; 75 employees: up to 75% of reimbursements and employers with 250 employees up to 50% in reimbursements. These persons must be unemployed 18 or more weeks.

The career centers throughout Alabama provide resume assistance to those seeking employment. Mr. Hopper indicated his agreement of the Committee's Policies and Goals. Mayor Rubenstein mentioned the lack of teaching positions available in Alabama. Councilmember Washington inquired if Elmore County was given money for summer jobs. Mr. Hopper responded by stating that while most of the federal monies available for summer teen employment was gone by 2011, every county received some funds during the two prior summers. Mayor George Evans commented that his city (Selma) did in fact receive funds; and that it benefited unemployed youth. Lastly, Councilmember Young commented that the Workforce Development Division assisted his place of work when General Electric dislocated workers.

The Chair thanked every resource advisor for their participation. After engaging in lengthy discussion about its Policies and Goals, the Human Development Committee made several policy changes to the Human Development Policy Statement. The 2011-2011 year recommendations of the Committee on Human Development are attached and made a part of these minutes.

There being no further business, the meeting adjourned at 11:59 A.M.

Committee Recommendations

H- 2. Community Services and Welfare

1. That policy position **H-2.6** be amended by deleting the following after the word "with" on line 4: "mental retardation and mental disabilities", and by adding the following words: "intellectual disabilities."
2. The Committee recommended the following new policy statement:

H.2.20 That any legislation requiring drug testing to receive benefits must require adequate state funding for treatment programs as well as provide adequate safeguards for families and children harmed by the loss of those benefits. (August 2011)

H-7. Mental Health

3. That policy position H-7.1 be amended by deleting the following after the word "and" on line 5: "mental retardation", and by adding the following words: "intellectual disabilities".
4. That policy position H-7.3(a) be amended by deleting the following after the word "of" on line 7: "alcoholic personnel", and by adding the following words: "persons with alcoholism."

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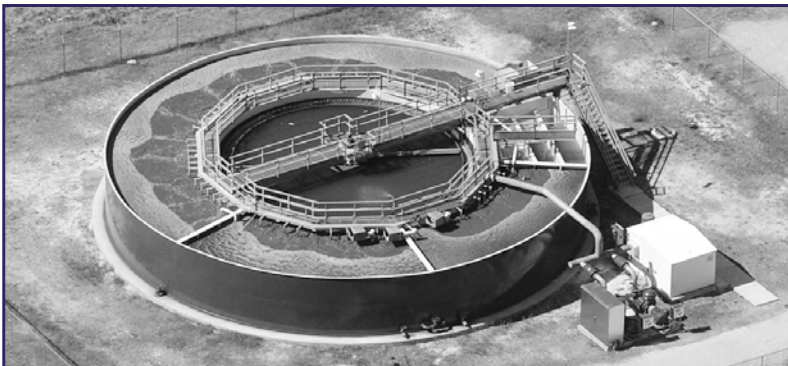
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CED Committee Minutes • August 30

By: Lori Lein, General Counsel, ALM

The Community and Economic Development Committee met at 9:40 a.m. on Tuesday, August 30, 2011, at the offices of the Alabama League of Municipalities in Montgomery, Alabama with Chairperson Phil Segraves, Mayor from Guin, presiding.

Present at the meeting were: Committee Chair Mayor Phil Segraves, Guin; Councilmember Carolyn M. Doughty, Gulf Shores; Councilmember Verdell Dees, Mount Vernon; Councilmember Edward H. Carroll, Sr., Orange Beach; Councilmember Luther Upton, Evergreen; Mayor Robert Williamson, Florala; Councilmember Gary Moore, Tallassee; Mayor Charles C. Gilchrist, Glencoe; Mayor Alberta C. McCrory, Hobson City; Councilmember June Land Reaves, Oxford; Councilmember Walter Jacobson, Sylacauga; Councilmember Ray Edwards, Valley; Councilmember O'Neal Shaw, Valley; Mayor Roy Dobbs, Berry; Councilmember Elaine W. Junkin, Guin; Councilmember Mignon Bowers, Athens; Mayor Billy Shoemaker, Tuscumbia; Councilmember James Stewart, Irondale; Councilmember Susan Carswell, Leeds; Councilmember Katrina R. Hennings, Springville; Councilmember Jocelyn Tubbs, Marion; Councilmember Roberta Jordan, Pine Hill;

Resource advisors present included: David Hutchinson and Gary Faulkner, Alabama Development Office; Ronald Davis, USDA Rural Development; Hollis Wormsby, U.S. Department of Housing and Urban Development; Jim Byard and Shabbir Olia, Alabama Department of Economic and Community Affairs; and Ron Scott, Economic Development Association of Alabama. Also present was Lori Lein, General Counsel, Alabama League of Municipalities.

Chairperson Segraves called on Mayor Charles Gilchrist of Glencoe to deliver the invocation.

REPORTS OF THE RESOURCE ADVISORS

David Hutchinson with the Alabama Development Office (ADO) was the first resource advisor to address the committee. He introduced Gary Faulkner of ADO and thanked the committee and the League for continuing to include ADO in the committee process. He also told the committee that the new Director of ADO, Greg Canfield, sent his greetings. He told the committee that there was a 13-14% increase in economic development project activity over last year despite the current economic situation facing Alabama and the nation. As with years past, he took the opportunity to point out many economic positives in Alabama including the expansion of Mercedes to include production of the C-Class, the Hyundai and Toyota engine expansions and the impact the Toyota Corolla plant in Mississippi was having on Alabama. He also mentioned the expansion of the Australian company Austal in Mobile including a maritime training facility. The primary markets that ADO is currently working include the automobile industry, bio-tech and life sciences, shipbuilding, aerospace, distribution centers, steel, forest products and renewable energy. He also discussed the benefits of an increase in Chinese investment in Alabama. He

concluded his comments by encouraging municipalities to utilize the Economic Development Partnership of Alabama (EDPA) and to check out the resources available at www.edpa.com

Ronald Davis, the Alabama State Director of USDA Rural Development, addressed the committee next. He began his remarks by noting that USDA Rural Development would not be getting any additional funding for disaster relief in the coming year but would have to assist with the rebuilding process in those communities affected by the April tornados with the funding already budgeted and available. He then talked to the committee about the various funding programs available through USDA Rural Development including: Housing (single and multi family), Business Development, Utilities/Infrastructure and Community Facilities. Mr. Davis went through a comprehensive list of projects that have been funded by the community facilities program such as police and fire stations, recreational centers, senior centers and even cemeteries. He then briefly discussed the utilities and infrastructure program and its emphasis on broadband. He concluded his remarks by outlining the locations of the various USDA Rural Development Offices throughout the state.

Hollis Wormsby, with the U.S. Department of Housing and Urban Development (HUD) addressed the committee next and began his remarks by notifying the committee that Cindy Yarbrough had retired from HUD after 36 years of service. He then presented to the committee a brief outline of the wide variety of programs offered by HUD including finance and refinance opportunities for homeowners. He specifically emphasized HUD's rehabilitation loan program for homeowners needing financing to upgrade and rehab existing homes. He then provided the committee with an update and recap of the monies distributed by HUD as a result of the American Recovery and Reinvestment Act (ARRA) and the Housing and Economic Recovery Act (HERA). Mr. Wormsby had no suggested changes or additions to the policies and goals.

Jim Byard and Shabbir Olia with the Alabama Department of Economic and Community Affairs followed HUD. Jim Byard, former Mayor of Prattville and current director of ADECA introduced Shabbir Olia to the committee and told the committee that Shabbir's department was currently reviewing the non-entitlement city CDBG grant applications and that decisions would be made on funding by mid-September. After that introduction, he emphasized for the committee the strong partnerships that ADECA has with all of the resource agencies represented at the committee meeting including ADO, USDA Rural Development, HUD and EDPA. He then briefly outlined the various programs administered by ADECA and informed the committee that ADECA had been named by the Governor as the lead agency in the long-term community recovery activities of the state following the deadly tornados that struck Alabama in April. Neither he nor Mr. Olia had any recommended policy changes for the committee.

Ron Scott, Executive Director of the Economic Development

Association of Alabama addressed the committee last by very briefly explaining to the committee what EDAA was and how they operate much like many associations like the League of Municipalities. He expressed his appreciation for the invitation to speak to the committee and make recommendations to the League's policies and goals from the standpoint of economic development. He requested that the League strongly consider appointing an elected official to EDAA's committees on rural and retail development as he felt their input would be of great benefit to those committees. As to the Leagues policies and goals he recommended amending C-5.3 to include the Community Leadership Training program offered by EDAA. He also recommended amending C-5.13 to update it and include the Economic Development Alliance. In addition, he recommended the committee consider new policies and goals to urge municipalities to utilize EDAA when looking for an economic developer and to have the League support the recruitment efforts of the Alabama Film Office.

At noon, Chair Segraves thanked the resource advisors for their presentations. After some discussion from the committee, the following policies and goals were recommended for changes by League Staff and the committee's resource advisors.

Policy Changes

Amend: C-5.3. The League offers its full support to assist The Alabama Development Office, The Alabama Department of Economic and Community Development, the U.S. Department of Housing and Urban Development, all institutions of higher education, the Alabama Association of Regional Councils and the Economic Development Association of Alabama in the

continuation of a training program for industrial development representatives as well as the Community Leadership Training offered by the Economic Development Association of Alabama. (August 2011)

C-5.13 ~~The League supports the on-going economic development planning process currently led by the Alabama Commerce Commission and the Alabama Association of Regional Councils activities of the Economic Development Alliance.~~

Amend: C-5.20 That the League strongly urges the Alabama Legislature to provide adequate increased funding to the Alabama Development Office for marketing and staffing purposes so that ADO may continue to market Alabama to potential businesses and industries worldwide. (August 2011)

Add a new C-5.17 and renumber the remaining policies and goals accordingly:

C-5.17 That the League encourage municipalities to utilize the Economic Development Association of Alabama to access professional economic developers. (August 2011)

New policy: **C-5.24** That the League support the Alabama Film Office in its efforts to recruit the film industry to Alabama including post production opportunities. (August 2011).

All the above deletions, changes and/or additions were moved for approval by Councilmember Roberta Jordan of Pine Hill and were seconded by Councilmember Verdell Dees of Mount Vernon. The committee then unanimously approved the motion.

Chair Segraves thanked the committee members for their participation and adjourned the meeting at 12:20 p.m. ■

HD Minutes

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5. That policy position H-7.3(b) be amended by deleting the following after the word "seek" on line 2: "alcohol and substance abuse", and by adding the following words: "substance use disorders".
6. That policy position H-7.4 be amended by deleting the following after the word "illness" on line 2: "or mental retardation", and by adding the following words: "substance use disorders".
7. That policy position H-7.5 be deleted and be replaced with the following new policy statement:

H-7.5. That the League urges municipalities to encourage local civic groups and citizens to support persons with mental illness, substance use disorders and those with intellectual disabilities as they live in local communities. Further, that the League encourages municipalities to assist in the elimination of barriers that people with mental illness, intellectual disabilities and substance use disorders face in their need for affordable and adequate housing.

8. That policy position H-7.6 be amended by adding the following after the word "health" on line 2: "intellectual disabilities and substance use disorders."
9. That Committee recommended the following new policy statement:

H-7.9 That the League encourages the diversion of all funds saved by the disclosure of inpatient mental health treatment facilities for use by local communities for outpatient mental health services. Further, the League encourages continued efforts toward development of unified mental health courts across the state (just as there are drug courts) to divert unnecessary burdens from the corrections system. (August 2011) ■

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Electric Reel (Optional)

Hannay electric hose reel with 50' x 3/4" hose.

Electric Reel EF 4000 Series

Foam System (Optional)

Scotty "Around-the-Pump" foam eductor/mixer

Foam System 4071-NH

Scene Lighting (Optional)

Akron Low Profile Beta 12 volt light with Extenda-Lite® Push-up pole.

Electric Scene Lighting E4150-FM

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Photos Wanted!

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The Alabama League of Municipalities is seeking photos for use on its website and in its publications. **Spotlight your municipality by sending us your photos!** Photos must be of an Alabama city or town and follow a municipal theme: municipal buildings, parks, street scenes, downtowns, city festivals, etc. Photos do not have to be taken by a professional photographer; however, they must be submitted on a CD or emailed as a high resolution JPEG or TIFF file. (High resolution files are necessary for print quality purposes.) Each entry must include a photo description as well as photographer's name and contact information. Email submissions to karlf@alalm.org or mail cd submissions to:

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AMFund Chairman Roy Dobbs, Mayor of Berry (left), with Mayor Phil Segraves of Guin (right)



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