

The Alabama Municipal JOURNAL

January/February 2015

Volume 72, Number 4

Economic Development

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On the Cover:

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The League at 80

stronger than ever

Carrie Banks • Communications Director • ALM

After several failed attempts to organize during the early years of the 20th Century, a small cadre of mayors resolved to find an effective mechanism to provide Alabama's municipalities with a voice in state government. To that end, the Alabama League of Municipalities was officially formed in 1935 and retained the services of Ed E. Reid, an energetic 25-year-old with a background in journalism and government, as its first director. Reid's charisma and political acumen would define the organization for decades as he built a solid, respected, *effective* association that is now entering its 80th year. (For a detailed history of the League, visit alalm.org.)

For the better part of a century, the League has worked to strengthen municipal government through advocacy, training and the advancement of effective local leadership. As the recognized voice of Alabama's cities and towns, ALM's 452 member municipalities benefit from a variety of member programs, services and activities that are impossible to accomplish alone. As we head into a new year – one certain to be fraught with many challenges as state legislators struggle with enormous budget deficiencies – it's an appropriate time to review the many facets of the League and how this organization is designed specifically to strengthen Alabama's local governments.

Legislative Advocacy

Since its inception, the League has served as the primary legislative advocate for Alabama's municipalities, representing its members at the Alabama Legislature, in Congress and with numerous administrative agencies. ALM annually supports legislation that has statewide impact on municipal government. Legislative priority initiatives are determined and approved by member municipalities at the yearly Legislative Committee meeting before the Regular Session of the Alabama Legislature. The ALM staff diligently monitors all legislative activities and actively works with League members to defeat any legislation considered harmful to municipalities or the function of local government. ALM prepares and distributes a weekly e-newsletter, *State House Advocate*, throughout the Regular Session and during Special Sessions as necessary. (Sign up to receive the League's e-newsletters through the League's website at alalm.org.)



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

Guidance on Governing & Management

ALM's Legal Department responds to thousands of member inquiries each year ranging from simple sample municipal ordinance requests to complex questions requiring considerable research.

The League's website, www.alalm.org, provides a surplus of information on a variety of topics. The site is user-friendly, responsive to tablets and phones, updated regularly and an invaluable resource for municipal officials and employees. The League also has an official Facebook page at [facebook.com/ALALM](https://www.facebook.com/ALALM) featuring a variety of posts during the week.

The Alabama Municipal Journal is published and mailed six times per year to each mayor, councilmember, municipal clerk, municipal attorney and municipal judge. Previous issues of the *Journal* are also posted online at www.alalm.org.

This Week, ALM's weekly e-newsletter, is sent every Tuesday morning to subscribers and provides important meeting notices, upcoming training and conference information as well as other information pertinent to municipal officials and employees. (Subscribe to *This Week* from the home page of the League's website at alalm.org.)

ALM publishes a variety of useful reports, handbooks and surveys made available in electronic format to League members (for a complete list, visit our website): *Handbook for Mayors and Councilmembers* – a complimentary electronic copy is provided to each mayor, councilmember, municipal clerk, municipal attorney and municipal judge; *Selected Readings for the Municipal Official* – a complimentary electronic copy is provided to each mayor, councilmember, municipal clerk, municipal attorney and municipal judge; *Handbook for Municipal Clerks* – a complimentary electronic copy is provided to each municipal clerk; yearly municipal salary surveys; and an annual directory of municipal listings.

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The President's Report

By Mayor Wally Burns, Southside



Why Your League Membership Matters

This year the Alabama League of Municipalities celebrates its 80th anniversary. Quite a milestone! Formed in 1935, our League is a proven, well respected organization that serves as the unified voice for municipalities throughout Alabama as well as the lead advocate for our cities and towns in a number of different ways.

Many years ago, when I started my political adventure, I don't believe I understood fully the importance of the League. Municipal services that strengthen and support municipal government are vital to *all* municipal leaders, and for 80 years, the League has been doing just that – creating and expanding services nearly every decade. Not only does the League provide education, information, and assistance to officials, it serves as a voice for each of its municipal members in the legislative, administrative and judicial processes that affect them.

It goes without saying that we are all affected by state and federal decisions, and the League understands issues important to municipalities. Our League staff members are outstanding municipal activates, lobbying and interacting with decision makers such as state legislators, congressional members and leaders of state and civic organizations regarding changes that might affect our communities. The staff keeps track of bills and legislation that might be critical to the cities we serve and are a forceful presence when new legislation or policy changes are introduced that will ultimately affect our municipalities.

Of course, we – the members of the League – are vital to successful outcomes during the legislative process. The League relies on *us* when it comes to lobbying our legislators – whether we are supporting or in opposition to a certain bill being introduced during the session. If you are signed up for our League e-newsletter, *State House*

Advocate, you already know our staff keeps us informed about everything that relates to local government, particularly when an important bill is coming up in the legislative session that will affect our communities. Therefore, when League staff asks for our immediate help in lobbying our local legislators, we must be prepared to take immediate action. Local legislators will listen to us as community leaders. Our engagement makes a difference!

In addition to year-round lobbying efforts, the League does extensive research on old and new laws and pursues and presents state policies that will benefit the future needs of our state. They actively work to defeat any legislation considered harmful to municipalities or the function of local government.

Almost every question of importance to the cities and towns in the state of Alabama are discussed at League meetings. The information presented is designed to develop municipal leaders with the knowledge necessary to address the needs and interests of the citizens we serve. Equally significant is the extensive amount of information provided on the League's website, which is updated on a regular basis and is a useful resource for municipal officials and employees.

Perhaps one of the most vital and immediately tangible benefit to League membership is our access to the programs and services specifically developed to strengthen municipalities such as the Municipal Workers Compensation Fund (MWCF), the Alabama Municipal Insurance Corporation (AMIC), the Loss Control Division, the Alabama Municipal Funding Corporation (AMFund) and the Alabama Association of Municipal Attorneys (AAMA) and Association of Municipal Judges (AMJA).

continued next page

These programs can save cities a substantial amount of money each year while providing significant guidance in strengthening and protecting our communities.

Indeed, the benefits of being a member of the League are numerous. I encourage each mayor, councilmember, municipal clerk, revenue officer and attorney to take advantage of what our League has to offer. The staff is comprised of experts who understand municipal government and provide invaluable guidance to our cities and towns. Complete staff bios and contact information is available at www.alalm.org.

I also encourage you to becoming *involved*. As a municipal official, being involved and serving on one of the many committees will heighten your skills and provide valuable insight on difficult public, financial, and economic issues that frequently arise in municipal government. Brainstorming and discussing challenges

members might be facing often leads to solutions that will benefit all municipalities as a whole. Gaining access to different perspectives and networking with fellow peers is vital in becoming a well-informed leader. The League has five policy committees and I encourage you to contact the office if you're interested in serving. If you are interested but don't want to call the League, then let me know and I will relay your desire to serve on a committee. My email is wburns@cityofsouthside.com.

I want to thank all of you for your support of our League. I know our 80th year will be successful as our outstanding staff in Montgomery continues to create and expand services and programs – while answering our questions, training us to be better officials and maintaining those vital relationships that ensure our relevance for many years to come! ■

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Municipal Overview

By Ken Smith, Executive Director



Economic Development and Municipal Officials

Although municipalities and businesses are often perceived as adversaries, nothing should be further from the truth. Successful municipalities and businesses have a similar goal of better serving their citizens and customers. Although one acts as the political entity created to represent their interests and the other acts from a motive of profit, the goal is the same – the people they serve will appreciate the services or product they provide. As such, business and municipalities depend on each other to reach this target.

Businesses are the primary source of revenue for municipal governments, either from direct payments by the business itself or by taxes they collect from their customers. Local governments use these revenues to provide services for their citizens. Municipalities depend on businesses to provide jobs for their citizens.

Similarly, businesses often choose to locate within municipal corporate limits for very logical reasons – that’s where their customers are. That’s where the workers they need live. That’s where transportation and infrastructure to support their business and shipping needs are met. That’s where their quality-of-life needs are met.

The number of people choosing to live within municipal corporate limits continues to rise. In many ways, we are witnessing a resurgence of municipal growth after decades of suburban sprawl. Businesses and municipalities must work together to meet the continuing needs this increasing population creates in today’s population centers.

But what can you do as a local official to better serve the businesses and industries that seek to locate in your municipality?

10 Factors

One of the most important factors in successful economic development is strong, strategic leadership. A strong community requires interaction and collaboration among many groups, including local business leaders and local officials.

Often, members of these groups fail to understand each other. Ask a community business leader about local government and in many cases, their answers will be far from accurate. But in all fairness, many municipal officials would also be hard-pressed to answer questions about the way their local businesses operate. What do they do? Who do they employ? How do they contribute to the community? What support can we provide that will help them grow and thrive?

There is likely no one who knows a community better than its local officials. And these local officials are in an ideal position to promote economic development in their communities. Economic development is about jobs and future prosperity – two things local elected officials and their constituents take very seriously, especially in today’s economic climate.

With that in mind, it is also a complex policy area that needs long-term vision and commitment, and that suffers from urgent calls for results, often from understandable reasons like high unemployment. This makes economic development susceptible to fads and short-sighted programs.

Given the dueling needs for patience and the pressure for results, governmental leadership is consistently identified as a crucial factor for economic success. Forward thinking elected leaders are needed to help develop and communicate a common vision, provide committed policy and regulator support and motivate stakeholders into action.

To help local officials better understand their role in promoting local economic development, the National League of Cities studied successful municipal practices and interviewed economic development professionals, elected leaders, academics and business organizations. This study produced a list of 10 things elected officials should know about economic development. This list can be useful in initiating conversations with and answering questions from key players in the economic development process.

1. Know your local economic strengths and weaknesses. Your community’s strengths and weaknesses, such as quality-of-life amenities, infrastructure and

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MEET US IN TUSCALOOSA



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2015 ANNUAL CONVENTION

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Photo courtesy of Tuscaloosa Tourism and Sports Commission



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Photo by Elmore DeMott

Online registration begins January 30, 2015

For more information, go to our website: www.alalm.org

The Legal Viewpoint

By Lori Lein, General Counsel



Your League Legal Department

2015 will mark the League's 80th Anniversary of providing advocacy and educational services to Alabama's cities and towns. This year also marks my 14th year with the League and my 4th year as your General Counsel. As General Counsel, I am privileged and honored to lead a talented team of dedicated, hardworking people who work diligently for you and your municipality every day.

Rob Johnston, Assistant General Counsel, has been with League for three years and brings many years of legal experience to the legal department. Prior to joining the League, Rob was the elections attorney for the Alabama Secretary of State and we are grateful that he chose to share his talents with us and Alabama's municipalities. Tenee' Frazier, Assistant General Counsel, is celebrating her one-year anniversary this January. Tenee', who worked for the City of Tuskegee prior to law school, has proven to be a delightful and indispensable addition to our department. However, the person who really keeps the legal department running smoothly is Sharon Carr, our Legal Services Administrator, who has been with the League 13 years. Sharon keeps the attorneys straight by facilitating all the legal calls that come into the League and serving as the primary meeting planner for the Alabama Municipal Attorneys Association (AAMA) and the Alabama Municipal Judges Association (AMJA). To learn more about your legal team, please visit the staff section of our webpage at www.alalm.org.

Speaking of AAMA and AMJA, both programs continue to expand and succeed at providing vital training for your municipal attorneys, prosecutors and judges. Over the past two years the attendance at our training sessions has grown significantly. In fact, at our 2014 Fall Law Conference in Orange Beach, we had almost 180 in attendance, which was a record number for us! Typically, we consider 100-120 registrants to be a successful event. We're currently planning our Spring Law Conference, which will be held in North Alabama at the Marriott Shoals in Florence in April 2015. Please encourage your attorneys, judges and prosecutors to attend. As the details become available, they will be posted to our website.

As many of you are already aware, one of the League's most important functions is responding to legal inquiries from its member municipalities. This past year the Legal Department handled approximately 5,000 legal inquiries via telephone, email and fax. This number does not include the hundreds of questions we answer face-to-face with our members at meetings and training sessions. In addition to responding to your legal questions, we were also involved heavily with our Governmental Affairs Department in providing assistance with legislation, lobbying on behalf of the League and working closely with other groups and associations on legislation affecting Alabama's municipalities during the 2014 Regular Session. We also filed several briefs with the Alabama Supreme Court on issues important to our member municipalities such as employee liability and protecting your authority to authorize alcohol sales in your jurisdiction. The legal department also logged a lot of time on the road in 2014 speaking to and providing training for various groups including the League's CMO program, the municipal clerks association, the municipal revenue officers association, planning groups, parks and recreation groups and libraries.

One of the most exciting things we worked on in 2014 was the development of **League Law**. This groundbreaking online legal research system will allow you to search selected Alabama and Federal cases affecting municipalities including summaries of Alabama Attorney General's opinions, Ethics Commission opinions and Alabama and Federal court opinions. With ALM's subscription-based League Law, you simply type the word, phrase or topic you're seeking and all references will appear on your screen. League Law will also allow you to access PDFs of two critical publications: *Selected Readings for the Municipal Official* and *Handbook for Mayors and Councilmembers*. You will be receiving more information on subscriptions and access to League Law in the months ahead so please keep an eye out for it.

While the legal department has many roles, with over 450 members – representing literally thousands of officials, employees, board members and others who may make

requests – there are limits to what the department can do. Some of you may be familiar with how to use your League legal department but it is important to be reminded every now and again about the services we provide and the limitations on those services. The following information will help you make the most effective use of the legal department. It is intended simply as a guide, and should be read that way. Because our goal is to serve our member municipalities, League attorneys attempt to remain flexible in the services we provide.

What Services Are Available?

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

In addition to providing direct legal assistance, the Legal department provides other services, such as: preparation of *amicus curiae* (friend of the court) briefs in appellate cases; preparation of monthly summaries of court decisions and Attorney General's Opinions for the League magazine

and League Law; monthly legal articles in the *Alabama Municipal Journal*; drafting manuals explaining the duties and responsibilities of municipal officials and employees; providing sample and model ordinances; conducting educational and training seminars; managing the Alabama Association of Municipal Attorneys (AAMA) and the Alabama Municipal Judges Association (AMJA); and assisting with the League's lobbying efforts.

Who Can Inquire?

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

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



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

How to Use the Legal Department

Whether you inquire by telephone, e-mail, letter, or fax, the following guidelines will help us give you the most prompt, accurate response:

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

Municipal officials and employees are welcome to discuss matters in person at League headquarters in Montgomery. Please call in advance to make an appointment. If your questions involve a review of documents, we may ask that they be forwarded prior to the meeting so that we may review them.

Telephone Inquiries

As noted above, the legal department's primary goal is to have an attorney available by telephone every day during business hours. Of course, there are exceptions, such as during the League's convention or when we are trying to meet a publication deadline, or on hectic meeting days of the

Alabama Legislature. We try to return calls either the same or the following day and we try to give an answer over the telephone. However, not every question has a clear legal answer. In these cases, we will try to give you our best legal opinion, based on years of municipal legal experience and knowledge of state and federal laws.

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

Written Inquiries

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

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generally best to work with your local attorney if a quick response is needed.

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

E-mail

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

Amicus Curiae Briefs

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

Sample Ordinances

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

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

We are often called upon to review ordinances or to interpret a word or phrase in an ordinance. While we can offer a cursory reading of an ordinance, we cannot be familiar with the circumstances which require the adoption of an ordinance, nor can we investigate facts which might influence

the meaning of specific words or the inclusion of specific sections. Our interpretation is not intended to be definitive and should be used merely as a second opinion for your local municipal attorney. He or she is in the best position to provide you with a detailed analysis of your ordinance and provide you with a final answer.

Coordination with Local Attorneys

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

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is open to interpretation or factual matters require further development. Of course, we are always happy to discuss an issue with local attorneys or to verify their interpretation of a statute or case.

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

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

Local Political Disputes

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

Coordination with Other Agencies

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

seminars run by these agencies. Because of our relationships with these agencies, we may refer you to one of them if we feel they can assist you with your questions.

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

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

Limitations

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

Further, it is important to remember we cannot take sides with one municipality or one official against another, and we generally cannot respond to questions regarding the League's worker's compensation or liability programs. Inquiries on these programs should be directed to the appropriate representative.

Have a Question? Don't Hesitate to Call

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



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workforce skills, determine the potential of your local economy to support economic growth. This economic profile lays the foundation for creating a realistic vision and strategic direction for economic success that is unique to your community.

With the assistance of your economic development staff and input from stakeholders, you can identify factors you can control and, sometimes even more importantly, which factors you cannot control, and how these factors impact and shape your local economy.

As a result of this process, you will have a stronger sense of your unique local assets, as well as what you can and should be doing to build on strengths and mitigate weaknesses. A strong understanding of your community's economic profile will help you create a realistic vision and strategies for economic development. Identifying strengths and opportunities is crucial, but local officials also should pay attention to weaknesses and potential threats.

2. Understand your community's place in the broader regional economy. It is important to understand how your strengths and weaknesses compare to those of other communities and how they fit into the context of broader economic trends.

Although increased competition for jobs, tax base and private investment can put political pressure on elected officials to go toe-to-toe with neighboring jurisdictions, the reality is that local economic success often depends on regional economic success. With a firmer grasp of how your community fits into the broader region, you're better prepared to work with other jurisdictions to share responsibility for regional economic success.

3. Know your community's economic development vision and goals. A primary challenge in the practice of economic development is choosing among many competing priorities and various activities. Is your goal to develop your downtown area into a haven for retail development, or do you need more industry to drive your local economic engine? A clear economic vision and goals are needed to provide a framework for strategically assessing and coordinating your efforts. The vision stems from the community's values, its collective sense of local economic strengths and weaknesses and consensus on a desired future.

If your city already has an economic development vision, make sure your policy decisions reflect the principles in the vision. In cities that do not have an economic vision, local elected officials can help initiate a community visioning effort. A well-designed visioning process will produce an array of ideas, opinions and objectives from a diverse group of stakeholders. Local elected officials can play a key role in

building consensus for a vision and goals that provide clear direction for local economic development.

4. Develop your community's strategy to attain its goals. A strategic approach means linking economic development goals to specific activities, allocating a budget and staff to these activities and evaluating performance based on measurable outcomes.

Once the economic development vision and goals are defined, it is important that they not be shelved, but that they guide and determine your community's economic development strategy. Strategic implementation of the economic development vision involves linking economic development goals to specific activities, allocating a budget and staff to these activities and evaluating performance based on specific, measurable, agreed-upon outcomes. If the community has been involved in the process and believes in the vision and goals, residents will hold political leadership accountable for putting them into practice.

Elected officials should also work with their staff to determine a set of expected outcomes, the necessary level of resources (staff and budget) needed to achieve these outcomes and performance metrics to evaluate and measure them. In the context of short-term political cycles, it may be tempting to stray from the strategy and only consider economic development in terms of traditional, more tangible successes, such as attracting a new, large employer. For this reason, it is important that elected officials and staff agree upon, are committed to and accurately measure even incremental economic achievements. This will allow political leaders to demonstrate success and champion all various ways the community is supporting economic activity.

5. Consider the connections between economic development and other city policies. When crafting economic development policies, it is essential to consider how other city policies support or discourage your economic development goals. For example, are your transportation initiatives supporting local retail? Are your local workforce training programs aligned with your sustainability plans? Is the regional housing stock adequate to meet the needs of workers in your community? By thinking about policies holistically, you can avoid detrimental policy interactions and create an environment for different policies to support and enhance each other.

6. Examine your regulatory environment. For business leaders, time is money. Your community's regulatory process should allow for timely, reliable and transparent resolution of issues facing businesses, while still remaining true to your long-term economic development vision and the need to protect of your community and its citizens.

When examining your regulatory process, be mindful not to throw the good out with the bad. Not all development is good development, and it is important that your regulatory processes reflect your long-term economic development and quality of life vision so you can safeguard against detrimental projects. The key for your city is to find a balance and remove unnecessary delays and hurdles while still preserving the integrity of the community.


7. Know your local economic development stakeholders and partners. Local officials should think strategically about who needs to be involved, the resources they bring to the table and what it will take to get them engaged. These include both large and small businesses, nonprofit organizations, workforce and training organizations, universities, department staff and many others. Economic development partnerships will likely change depending on the activity, so it is important to think strategically on a project-by-project basis about who needs to be involved and the resources they bring to the table.

8. Examine the needs of your local business community. Local officials can help create an environment that supports the growth and expansion of local businesses simply by opening – and keeping open – lines of communication. It is important for local elected officials to bring the same commitment and enthusiasm to existing business as they

do to new business prospects. Municipalities often create incentives or other policy packages to attract new employers and celebrate new developments with ribbon cuttings and stories in the local media. By similarly celebrating the accomplishments of your existing local businesses, you show the city's support, increase the business's profile and draw attention to economic development success stories that often go unnoticed.


By making the effort to reach out and communicate with your local business community, whether through your local chamber of commerce, organized events or visiting businesses individually, local officials can gather input to help improve local business policies and demonstrate that the community cares about the success of their business. By publicly highlighting the achievements of your local companies, you will build your city's reputation as a business friendly community.

9. Promote your community's economic development message. Strong communications and a compelling message are vital to successful economic development and are a key role for local elected officials. You need a clear, accurate and compelling message that reflects your local vision and that helps ensure broad support for economic development projects undertaken by the city and its partners. Local elected officials can use public speeches, interviews and other communication methods to rally the community around



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their economic development message. In addition to publicly promoting the message, local elected officials can work with their staff to ensure that all economic development partners have the information that they need to support the message or to accurately convey the message to others. These small steps go a long way in generating a positive reputation of your community.

10. Know your economic development staff. Local elected officials will be more effective in leading economic development activities when they forge strong relationships with staff members who work on these issues on a daily basis. Local officials are generalists out of necessity – keeping track of the daily details of every issue facing the municipality is a daunting – and even overwhelming – task. Your goal as a local official is not to become an expert in economic development, but to lead, communicate and help direct local development efforts.

Local officials should begin building a strong relationship with economic development staff at the beginning of a political term or new project. Economic development is a complex topic; most newly elected officials may not have an in-depth understanding of the current economic policies or the city’s long-term vision and strategy. By forging a relationship early on, local officials can come up to speed more quickly and are able to make better policy decisions in the long run.

Community 101

Diana Smith, Business Development Director for MRB Group Engineering, Architecture and Surveying, P.C., former mayor of Seneca Falls and Past President of the New York Conference of Mayors, suggests developing what she calls a “Community 101 Toolkit.” A community’s toolkit should include demographic information, geographic highlights, economic information and trends, local government costs and impact (permitting, license information, fees and so on) and information on local businesses and employment.

She notes that it is important to promote existing businesses. This helps create a welcoming environment for potential investors. She states that “a strong community, one with a clear sense of core values and how to preserve them, will attract” new business. It is important for local officials to make it clear that they are open for business. They need to be able to show that they have the infrastructure necessary to support development, or that the appropriate infrastructure is demonstrably planned. Communities must be proactive rather than reactive to avoid feelings insecurity, risk and high cost.

What You Can and Cannot Do

Alabama law provides a broad range of tools municipalities can use to promote economic development.

Municipalities can create Downtown Redevelopment Authorities, Commercial Development Authorities and Industrial Development Boards, among other entities, to help them with various aspects of local development.

Alabama statutes allow for tax abatements in certain circumstances. Section 94.01, Constitution of Alabama, 1901, allows for the use of public funds for certain economic development purposes. Municipalities can develop infrastructure needed by local businesses in many instances. The list goes on and on. The legal environment for business in Alabama is very welcoming.

However, these tools are not without limits. As you work to promote economic development, it is very important to work with your city attorney to better understand what you can and cannot do under Alabama law. Not every incentive is legal. Before making an offer to bring business to your community, make sure you have the legal authority to provide it. Doing so will, at a minimum, keep you from the embarrassment of having to withdraw the offer. Even more importantly, it will help keep you out of jail.

Conclusion

Municipal officials have a key role in helping promote development efforts. Municipal leaders should learn to think like business owners. What does a business owner look for when trying to decide whether to locate in a community? What does he or she want? What can the community provide to help them?

Use the Internet and other research resources to explore similar development projects elsewhere. What problems did they encounter? What can we do to prevent that from happening here? Just showing an awareness of potential problems can catch the attention of potential investors and demonstrate the community’s willingness to help address those issues.

Identify the stakeholders in each project you undertake. Work to understand their goals and desires. Doing this will help build consensus and demonstrate the community’s willingness to work with, rather than against, economic development. Economic development should be everyone’s concern. By taking the time to explore the options local officials have to help promote development and working together, you strengthen your efforts to bridge the gap between public and private concerns. It takes a concerted effort by all parties to help a local economy grow and remain strong. ■

Training & Conferences

In 1994, ALM established its Certified Municipal Official (CMO) training program, a voluntary educational service provided to mayors and councilmembers who wish to receive formal training in municipal government. Credit hours are earned by attending League CMO sessions as well as other approved League training, National League of Cities conferences or through service on League committees and boards. Outside credit is also awarded for attendance at approved seminars. Officials who earn 40 credit hours in the program are awarded the designation of Certified Municipal Official (CMO). With an additional 40 credit hours, officials receive the Advanced Certified Municipal Official designation.

Each spring, ALM hosts its annual Convention and Expo, providing timely general and concurrent sessions, access to municipal vendors and state agencies as well as outstanding networking opportunities for municipal officials and employees. The 2015 convention will be held May 16-19 in Tuscaloosa (see page 40 for a Convention Quick Guide).

All League-sponsored/endorsed training is posted at www.alalm.org and includes:

- Semi-annual training for municipal attorneys and judges via the Alabama Association of Municipal Attorneys (AAMA) and the Alabama Municipal Judges Association (AMJA).
- National League of Cities (NLC) meetings, conferences and training sessions.
- Risk Management training through the Loss Control Division (www.losscontrol.org), including seminars, Proactive Driver Training (SkidCar), Fire Arms Training System (FATS) and access to the Safety DVD Library.

Cost-Saving Programs and Services

Over the years, ALM has created a number of programs and services to aid municipalities. In many cases, these programs save Alabama's cities and towns a substantial amount of money each year. Since 1942, the **Municipal Revenue Service** has collected unpaid and escaped delinquent insurance license taxes from insurance companies doing business in Alabama's municipalities. The **Municipal Workers Compensation Fund, Inc.** (MWCF) was established in 1976 to provide workers compensation insurance to municipalities, housing authorities, utility boards and other city and state agencies. The **Alabama Municipal Insurance Corporation** (AMIC) was founded in 1989 as a mutual insurance company that writes all lines of insurance and is owned by its member municipalities.

In 2002, AMIC and MWCF created a joint **Loss Control Division** to provide additional staff and expanded services at a much reduced cost to their members. The Loss Control Division has

11 dedicated staff members and offers a variety of services, including onsite risk management reviews, an Employee Practices Law Hotline, a DVD Safety Library, regional and training programs on a number of loss prevention topics as well as exclusive, state-of-the-art training such as the SkidCar defensive driving program and the Firearms Training System (FATS).

The **Alabama Municipal Funding Corporation** (AMFund) was created in 2006 to assist Alabama's municipalities with refinancing existing debt and funding local projects and purchases through cost-effective financing. The **Alabama Association of Municipal Attorneys** (AAMA) and the **Alabama Municipal Judges Association** (AMJA) are open for membership to municipal attorneys, prosecutors and judges and provide joint legal training twice a year.

In January 2015, ALM launched **League Law**, an online legal research system allowing subscribers to search selected Alabama and federal cases affecting municipalities, including summaries of Alabama Attorney General's opinions, Ethics Commission opinions and Alabama and federal court opinions. Later this year, the League will begin testing a pilot version of its most recent endeavor, **Alabama Debt Recovery**, a program designed to allow local governments to recover a portion of the outstanding debts they had previously deemed lost. The League staff is currently working closely with the Alabama Department of Revenue to develop a comprehensive system for this new program. Great care is being taken in its implementation to ensure it adequately addresses the needs of League members while protecting the rights of citizens. There are many details and legal issues to be addressed before the program can be officially launched so the goal is to implement a pilot program

continued on page 23



A new League headquarters building at 535 Adams Avenue, within walking distance of the Capitol and the State House, was dedicated in October, 1970.

photo by Elmore DeMott

ADECA – Building Better Alabama Communities



By: Carrie Banks • Communications Director • ALM

Created by an act of the Legislature in 1983, the Alabama Department of Economic and Community Affairs (ADECA) administers a broad range of state and federal programs that contribute to the Department’s mission: *Building Better Alabama Communities*. Led by a director who is appointed by the Governor and a 10-member Legislative Oversight Commission, the Department is divided into six divisions – Community and Economic Development; Energy; Law Enforcement and Traffic Safety (LETS); Water Resources; Workforce Development; and Surplus Property – each managed by a chief hired under the state merit system.

Each year, ADECA distributes hundreds of millions of federal dollars to Alabama’s municipalities and counties as well as several nonprofit agencies to support economic development and infrastructure projects, law enforcement and traffic safety, job training, recreation development, energy conservation and assistance to low-income families. In addition, ADECA monitors and protects Alabama’s water resources as well as distributes state and federal surplus property to local governments and other qualified organizations. ADECA has provided administrative support to projects aimed at increasing development in rural areas and Alabama’s Black Belt and has helped the state cope with numerous natural disasters, including assistance with rebuilding after the devastating April 2011 tornado outbreak.

“The basic goal of ADECA is to take block grant dollars that come to the state and award those competitively or discretionarily to the cities, towns and counties of Alabama – those are our customers,” said Jim Byard, Jr., who was appointed ADECA Director by Governor Robert Bentley in January 2011.

Byard said ADECA works with local leadership to form a partnership. “It’s not for ADECA to go into a city or town and tell somebody what they should be doing,” he said. “It’s up to that local leader – whether they’re elected or a civic leader – to tell us what they want to do and we’re their partner to help them get the funding – for anything from a pure infrastructure project like streets, water and sewer to a community enhancement project like a senior center, community center, community park or fire station – any type of community development project.”

Uniquely Qualified

After serving nine years with the Alabama Highway Department (now the Department of Transportation) and 19 years in local government, Byard is no stranger to municipal

challenges. Voters first elected him to the Prattville City Council in 1992 at age 26 where he served two terms, one as council president. He became the youngest mayor in the city’s history when elected in 2000. Throughout his municipal government career, Byard was active with the Alabama League of Municipalities, receiving both his Basic and Advanced CMO designations, chairing League committees and serving as League president from 2004-05. When an F3 tornado struck Prattville in 2008, Byard learned firsthand about responding and recovering from a natural disaster.



Thanks to his long-term tenure in local government, Byard understands the importance for him as ADECA Director to be accessible to municipal officials. “When you’re a mayor, you’re on the line every day,” he said. “Your constituents test you every day. When I came over to ADECA, I’d had 12 years of being tested every day as mayor. When I interviewed with the Governor, he said ‘I want a local official to run ADECA because a local official knows how to leverage a federal dollar – and that’s what you do at ADECA.’ So I think the governor knows the value of our local



Former League past presidents ADECA Director Jim Byard (2004-05) and Mayor Johnny Ford (1989-90) discuss economic development opportunities for the City of Tuskegee. Photo by ADECA.



Auburn University students involved in a three-year community development and civic program visit with ADECA Director Jim Byard to present him with a copy of Auburn University's Living Democracy, a magazine that chronicles the students' 10-week stay in several Alabama municipalities: Collinsville, Elba, Linden and Selma. The program's goal was to help students understand the assets of small communities while becoming involved in local projects that benefited the areas. Photo by ADECA.

officials because he reached out and got a local official to run the agency that interfaces with our local governments. ADECA will travel wherever we need to travel to visit a community that needs our assistance.”

Byard said one of the most rewarding parts of his job is the opportunity to work in every part of the state visiting with local leaders in order to understand the pressures they have at home and then to have some role in solving a problem. He also enjoys being involved in the enhancements happening throughout Alabama. “There are some exciting projects happening,” he said. “Small and large, I’ve gotten to visit with leaders across the state and affect something in their communities as they work on projects that develop a sense of pride and a sense of place in their hometown. And that’s awfully important. There are still elected officials in office I knew when I was mayor of Prattville and when I was president of the League of Municipalities who I get to interface with and who visit me and I appreciate that – it’s fun to work with the people I served with.”

Community and Economic Development

Community and Economic Development is ADECA’s largest division. The agency awards Community Development Block Grants (CDBG) as well as grants from the Appalachian Regional Commission and the Delta Regional Authority to complete projects needed to attract new industry or improve quality of life.

CDBG funding supports projects that boost employment, help address chronic community development needs and improve living conditions. Grants typically range from \$200,000 to \$500,000 and are awarded to local governments using funds provided to Alabama by the U.S. Department of Housing and Urban Development (HUD). To qualify for CDBG funding, a project must meet at least one of three criteria: 1. at least 51 percent of beneficiaries are from low and moderate income households; 2. reduce or prevent slums/blight; or 3. meet an urgent community need that poses a serious threat to the health and welfare of a community where adequate resources are not available.

CDBG grants are generally used for infrastructure projects that improve roads, drainage and public water and sewer services. Funds are also awarded for neighborhood and downtown revitalization projects and to rehabilitate homes occupied by low-to-moderate income households.

ADECA distributes CDBG money through several different funds. **Competitive** grants are awarded annually in three categories: counties, large cities with populations greater than 3,000

and small cities with populations of 3,000 or less. **Economic Development** grants are awarded to local governments for infrastructure development needed to support new or expanding industry to create or retain jobs. **Community Enhancement** grants support projects beyond infrastructure needs and are used to improve quality of life. **Planning** grants are awarded to help communities adequately plan for growth.

According to Byard, there is generally a time limit for grant implementation as well as a matching requirement. “That match



Mayor Phil Segraves of Guin discusses economic development opportunities with ADECA Director Jim Byard. Photo by ADECA.

is not always a cash match,” he said. “Many times it’s an in-kind match. For CDBG, 20 percent is generally the required federal match, but it’s not always striking a check. If a city had to rent a piece of equipment, the rental for that equipment could be applied as the match. Or if they had to acquire property, the price of that acquisition could be the match. Volunteer hours and donated materials can be used towards a match.”

CDBG funding is versatile and can be a tremendous resource, especially for smaller communities. “What the state gets from HUD is a formula grant.” Byard said. “The last two years we’ve had in the neighborhood of a little over 21 million dollars. We take 5 million of that and set it aside for economic development only. The rest – in 2014 it was a little over 18 million dollars – is competitive. So that five million in economic development is used strictly for job creation awarded at the Governor’s discretion. We’ve used CDBG for Golden Dragon in Wilcox County. We’ve used it for a Love’s Truck Stop ... basically what happens is that a local official will come see us and say we’re getting a Love’s Truck Stop and we need a water line or an entrance road or something of that nature. Usually with a Love’s Truck Stop there are 25 to 30 jobs created, and – in a small community – that’s definitely economic development. It’s providing sales tax and jobs.”

In addition, CDBG Disaster Recovery Grants are administered through ADECA and can be used for projects such as repairing/replacing water and sewer lines, road construction, single and multi-family housing assistance and economic assistance to businesses. “We’re still working on rebuild projects nearly four years after the 2011 tornadoes,” Byard said and referenced the recently completed Cordova Piggly Wiggly – the town’s *only* grocery store – that reopened this past November after it was completely destroyed along with several other buildings during the tornado outbreak.

“We worked in every community affected by the 2011 tornadoes,” he said. “What the governor did after the tornadoes was to establish a long-term recovery section of ADECA (which was operational through the end of 2014). We had three employees whose jobs were to make sure that the mayor or commission chairman in the affected areas had a community liaison – so whatever problem they had with the state or federal government they had a liaison to call. Our people were in the community, attended their meetings and were part of their meetings to support whatever the need was in that community.”

Byard said the ADECA staff understands their efforts are local. “What’s a priority in one community is definitely not a priority in another,” he said. “We’ve got urban issues we work with and rural issues we work with – we’re the State’s department of local government. We’re the agency that takes block grant dollars from the federal government, and all the regulations that come with it, and makes sure the cities and towns can handle it.”



Graysville Mayor Mary Sue Morgan and ADECA Director Jim Byard discuss community development initiatives. Photo by ADECA.

ADECA supports a number of quality of life programs throughout Alabama through its Recreation and Conservation unit. Drawing from two federal grant programs – the U.S. Department of Interior’s Land and Water Conservation Fund (LWCF) and the U.S. Department of Transportation’s Recreational Trails



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Former League past presidents Mayor Bobby Payne (1996-97) and ADECA Director Jim Byard (2004-05) discuss energy projects for the City of Tallahassee. Photo by ADECA.

Program (RTP) – ADECA helps Alabama communities expand outdoor recreation opportunities from developing areas such as parks, playgrounds, ball fields, camping areas and wildlife refuges to developing and improving trails for walking, jogging, cycling, backpacking, horseback riding and other activities.

“We have a tremendous trail network across the state with some really cool projects,” Byard said. “It always amazes me to see a community unite on trail projects. It’s a way for communities – small communities, especially – to have some pride and an individual sense of place. The trails program has been in place for a while but what we’ve started trying to do is focus on destination trails – so you’re not just walking in a circle, you’re actually walking from Point A to Point B. Elkmont in Limestone County is a case study in what a trail can do. It’s a tiny little town that had four or five empty buildings that are now filled. It was an entrepreneurial spirit along a trail that has now become a known destination. We are currently working with the University of Alabama to develop a statewide trail app.”

Statewide Reach

ADECA has 200 employees who are responsible for everything from interfacing with local leaders to managing an annual budget of \$350-\$400 million. A portion of ADECA’s budget also helps fund several quasi-governmental entities such as Main Street, Alabama Communities of Excellence, Design Alabama, the 12 Regional Planning Commissions and the 23 community action agencies across Alabama. In addition, ADECA works closely with nearly every state department – from the

Department of Commerce on economic development initiatives to the Department of Conservation and Natural Resources on park and trail projects, the Department of Transportation on roads and transportation issues and the Alabama Law Enforcement Agency on traffic safety grants.

“ADECA has an important role to play and we’re very serious about our role,” Byard said. “You don’t see many projects around the state or in communities that ADECA doesn’t have some hand in.”

Maintaining the integrity of each grant is also a critical element for the ADECA staff. “We have a set of accountants, a set of attorneys and a set of the “back office staff” that handle the very important work of making sure these grants are managed in a legal manner – because if a community mismanages their money, the state’s on the line for that back to the feds,” he said. “Awarding the grant is the easy part. Making sure that you build the project to specs and manage it correctly is much more challenging. Every penny we award is from the taxpayer and so the taxpayers of Alabama deserve to know where that money went. We’re very cognizant of our projects: are they wise, are they legal and is there a return on investment for the taxpayers?”

Commitment to Alabama’s Communities

Byard is committed to helping Alabama’s communities – all of them. “What I tell every mayor is, if you didn’t get funded – with CDBG, LWCF, RTP or any program that we run – if you didn’t get funded, call me. I, *myself*, along with whoever runs that program, will come to your community and we will visit with you. We will look at your application and we will tell you to either expand or narrow your scope and how to write a better application for the

next year. We will travel wherever we need to travel to visit a community that needs our assistance.”

When asked what he’s most proud of from his four years with ADECA, Byard answers very simply that he’s proud of the continuity he’s brought to the department. As of January 21st, he is the longest serving ADECA Director in its nearly 32-year history. “You cannot expect an organization to be successful with a leader that changes every 18 months and, for a while, ADECA had a lot of change,” he said. “In the 12 years before I got here, there were seven ADECA Directors. The department needed some consistency and the employees deserved consistency.”

Byard looks forward to another four years serving Alabama’s communities. “It’s extremely rewarding to be able to travel the state and meet with local leaders,” he said. “I didn’t realize before I got here the breadth of ADECA. I knew CDBG grants and a little bit about workforce development but ADECA touches a *lot* of lives *every* day.” ■

ADECA is housed in the Alabama Center for Commerce building at 401 Adams Avenue in downtown Montgomery. For more information on ADECA, its departments and available grants, visit www.adeca.alabama.gov or give the agency a call at 334-242-5100. ADECA also has a Facebook page that is updated throughout the week: facebook.com/ADECAgov.

The League at 80

continued from page 18

this year tentatively followed by the complete operational program in early 2016.

Get involved to get the most out of your membership!

Of course, the League’s most valuable asset – and where it draws its greatest strength – is its membership. The League relies on *your* active participation to remain viable and relevant. Join a Policy Committee (for a complete list of the League’s five policy committees, visit alalm.org). Become a Certified Municipal Official. Take part in League lobbying efforts. Attend the Annual Convention and other training sessions. Sign up for the League’s e-newsletters. Like our Facebook page. Read *The Alabama Municipal Journal*. Visit www.alalm.org often.

After nearly 80 years, the League remains a vibrant, dynamic organization – one that continually evolves to support the needs of Alabama’s municipalities. We look forward to a successful 2015! ■

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Legal Clearinghouse

Rob Johnston, Assistant General Counsel

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

ALABAMA COURT DECISIONS

Airport Authority: An unoccupied house purchased by airport authority was a “building” for purposes of burglary, even though the house was scheduled for demolition and subject to restricted use under contract. Plain language of the statute did not include an exception for an abandoned building awaiting demolition, and although statutory Commentary purported to create such an exception, the language of the Commentary did not override the plain language of the statute. *Sanders v. State*, 145 So.3d 92 (Ala.2013)

Public Works Bid Law: Tender of ownership of waterlines by developer to a city water utility pursuant to a contract between developer and utility was rendered invalid by judicial finding that the contract was entered into in violation of statute mandating that all public-works contracts in excess of \$50,000 be advertised for sealed bids. Therefore developer held ownership of waterlines, where contract was sole basis for transfer of ownership of waterlines and judicial finding rendered contract invalid. The city water utility was not entitled to recover any money it paid to the developer under the agreement *Lake Cyrus Development Co., Inc. v. Attorney Gen. of State of Ala. ex rel. Bessemer Water Service*, 143 So.3d 771 (Ala.2014)

Employees: For purposes of local-government health-insurance plan’s provision stating that health benefits would be modified when retired employee became entitled to Medicare, retired city police officer was entitled to Medicare even though the officer never paid Medicare taxes during employment and thus could not obtain premium-free hospital coverage. He was still eligible to participate in Medicare by enrolling and paying applicable premium. *City of Gadsden v. Boman*, 143 So.3d 695 (Ala.2013)

Tort Liability: Police officer who was responding to an emergency call at the time of a traffic collision was entitled to state agent immunity. *Ex parte Coleman*, 145 So.3d 751 (Ala.2013)

Regulatory Takings: Constitutional provision for compensation upon a municipal corporation’s taking of property did not allow for compensation for administrative or regulatory taking. The eminent domain provision of state constitution did not apply to preclude town from adopting regulations preventing intended use of private property as rock quarry. *Town of Gurley v. M & N Materials, Inc.* 143 So.3d 1 (Ala. 2012)

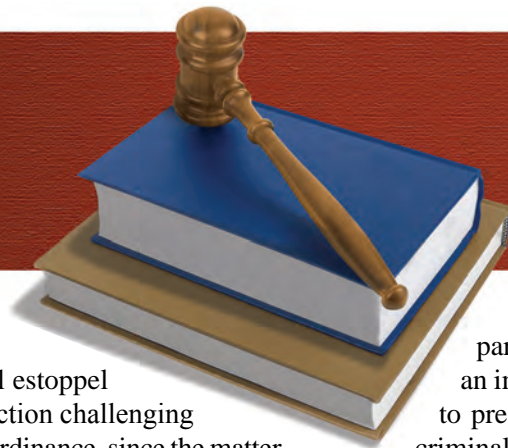
UNITED STATES COURT DECISIONS AFFECTING ALABAMA

Litigation: Plaintiffs were entitled to limited participation in a hearing involving common questions of law and fact addressing the adequacy of city’s current or proposed policies and procedures as they related to the collection of court-ordered fines and costs. The hearing was directly relevant to and could potentially affect plaintiffs’ claims, and minimal risk of prejudice or confusion due to plaintiffs’ involvement in the hearing for the limited purpose of addressing the legal sufficiency of the city’s proposed plan would not outweigh the significant value of eliminating unnecessary repetition, reducing the risk of inconsistent adjudications, and conserving judicial resources. *Cleveland v. City of Montgomery*, 300 F.R.D. 578 (M.D.Ala.2014).

Employees: A city resolution increasing firefighters’ contribution rates into a state-administered retirement fund was not legislation, and thus did not implicate the Contract Clause of federal and state constitutions. Where state law permitted, but did not require the increase, the passage of a resolution involved less solemnity and formality than an ordinance or a statute, and the city acted as a board of directors faced with a decision about how to best manage the affairs of a corporation. *Taylor v. City of Gadsden*, 767 F.3d 1124 (C.A.11 Ala.2014)

DECISIONS FROM OTHER JURISDICTIONS

Americans with Disabilities Act: Under Title II of the Americans with Disabilities Acts (ADA, which prohibits disability discrimination in the provision of public services, local governments must maintain accessible on-street public parking, even in the absence of regulatory design specifications for on-street parking facilities. *Fortyune v. City of Lomita*,



766 F.3d 1098 (C.A.9 Cal.2014)

Sign Ordinances: Collateral estoppel barred property owner's § 1983 action challenging the constitutionality of a city sign ordinance, since the matter had already been adjudicated in state court. *Baxter v. City of Hernando, Miss.* 997 F.Supp.2d 463 (N.D.Miss.2014)

Tort Liability: Police officers acted reasonably in using "flash bang" device to gain entry into bedroom in which subject of arrest warrant was hiding, and thus they were entitled to qualified immunity against § 1983 claim alleging excessive force, in violation of Fourth Amendment. Where officers were faced with troubled young man who was resisting arrest, threatening to shoot them, expressing his willingness to die, and refusing all requests to surrender peacefully, they sought to minimize risk of injury to themselves and others by waiting until suspect appeared to be asleep and confirming that suspect was hiding in closet. There were no indications that suspect had health problems that could be triggered by device, nor that condition of room would create other problems when device was ignited. *Krause v. Jones* 765 F.3d 675 (C.A.6 Mich.2014)

First Amendment: City's anti-panhandling ordinance, which prohibited oral requests for immediate payment of money, but permitted signs requesting money and oral requests to send money later, was content-neutral, and thus did not violate free speech rights. Ordinance did not regulate speech by pitch used, and it was indifferent to requester's stated reason for seeking money, or whether requester stated any reason at all. *Norton v. City of Springfield, Ill.*, 768 F.3d 713 (C.A.7 Ill.2014).

First Amendment: Business of tattooing is protected by the First Amendment as speech, to the same extent that the tattoo itself is protected. City's denial of the tattoo artist's application for special-use zoning permit to open a tattoo parlor violated the First Amendment. First Amendment protection of tattoos, as speech, does not mean that cities and states cannot regulate tattoo parlors with generally applicable laws, such as taxes, health regulations, or nuisance ordinances. *Jucha v. City of North Chicago*, --- F.Supp.2d ---, 2014 WL 4696667 (N.D.Ill.2014)

First Amendment: City's sexually-oriented business ordinance did not unconstitutionally infringe on sexually-oriented entertainment club's free speech rights. The ordinance was content-neutral in light of the city council's goal of combatting pernicious secondary effects coupled with a lack of evidence to establish improper motive on the

part of city council. The ordinance furthered an important governmental interest of attempting to preserve the quality of urban life and reducing criminal activity which was unrelated to any desire to suppress speech, any incidental restriction on speech caused by the ordinance was no greater than essential to further the governmental interests, and the ordinance's application was narrowly tailored to modes of expression implicated in the production of negative secondary effects, those establishments that provided alcohol and entertainment that required an adult entertainment license. *Trop, Inc. v. City of Brookhaven*, --- S.E.2d ---, 2014 WL 4958232 (Ga.2014)

Inverse Condemnation: Landowner who had an option contract with a cellular telephone company to install a tower on their property, had no property right that was taken by the county when it entered into an agreement with the company to install a tower on the county's nearby property. Thus, the landowners failed to support their inverse condemnation claim against the county for their alleged lost business opportunity. Landowners did not have a lease with the company, but rather merely had expectation of a lease, which was extinguished when the company chose not to exercise its option, as was its right. *Pennington v. Gwinnett County*, --- S.E.2d ---, 2014 WL 5032375 (Ga.App.2014)

Tort Liability - Civil Rights: Private foster care agencies that allowed a foster parent to fraudulently obtain foster care custody of children with special needs and subject them to abuse, neglect, torture, imprisonment, and deprivation of educational and medical care were state actors, as required to support the children's section 1983 claim against the agencies for alleged violation of substantive due process rights by failing to protect the children from harm while in the agencies' custody. *S.W. ex rel. Marquis-Abrams v. City of New York*, --- F.Supp.2d ---, 2014 WL 4627747 (E.D.N.Y.2014)

Elections: The at-large voting system used for city council elections diluted votes of the Latino population, supporting a vote dilution claim under Section 2 of the Voting Rights Act. The city's Latino population was sufficiently large and geographically compact to allow it to form a majority of voters in a single-member district. *Montes v. City of Yakima*, --- F.Supp.2d ---, 2014 WL 4199364 (E.D.Wash.2014)

ATTORNEY GENERAL'S OPINIONS

Tags: A city is authorized to retain within its coffers the amount of the issuance fee levied by its city council. A municipal license-plate issuing official is required to remit all

continued on next page

other taxes and fees in the same manner as the county license-plate-issuing official. If a city retains fees and commissions that are required by general law to be allocated to the county, an audit conducted by the Alabama Department of Examiners of Public Accounts would determine any shortages. Section 2(a) of Act 2012-196, as amended by Act 2014-007, states that the city is responsible for any shortages as determined by an audit. AGO 2014-098

DUI: Under the provisions of Act 2014-222, a judge can order the installation of a DUI interlock device, thereby allowing an individual to apply for a restricted interlock license to operate a motor vehicle prior to the individual completing a DUI or substance abuse court referral program (“CRO program” or “CRO”). The Department of Public Safety (“Department” or “DPS”) may reissue an unrestricted driver’s license under Act 2014-222 only if an individual has completed the requirements of section 32-5A-191(k) of the Code. AGO 2015-002

E911: An emergency communications district is entitled to receive 100 percent of its initial base distribution amount for each fiscal year beginning October 1, 2013, payable in 12 equal monthly installments. Because of collection and remission delays contemplated by section 11-98-5.2 of the Code of Alabama, however, distributions from the Statewide 911 Board to the District may be made in the following fiscal year. AGO 2015-003

Conflicts of Interest: State law does not prohibit the spouse of a police captain from serving as a court clerk and magistrate for the municipal court. If appointed, the

magistrate should recuse himself or herself in matters where the police-officer spouse is involved in the matter being presented to the magistrate. AGO 2015-005

Utilities: A member of the Alabama State Legislature may serve as the Wastewater Treatment Plant Superintendent for a city. AGO 2015-006

Public Works: A project for maintenance of multiple water tanks that exceeds \$50,000 is subject to the Public Works Law. The project may not be divided into parts. The tank maintenance contract cannot be renewed without competitive bidding. AGO 2015-008

Boards of Education: A local board of education may determine what constitutes the teaching day for purposes of providing teachers with a minimum of 30 minutes of time free of instructional or supervisory responsibilities each teaching day. AGO 2015-011

Rules of the Road: In general, a bicycle may not be used on a sidewalk except where the sidewalk is crossed by a driveway. If a sidewalk that is adjacent to a road has been designated by a city council as a public path for bicycle and pedestrian use, a bicycle must be used on the public bicycle path and not on the adjacent roadway. AGO 2015-012

E911: A county emergency management communications district may enter into an exclusive contract for ambulance service within the county for emergency and non emergency dispatches. Incorporated municipalities with the county may, by ordinance, elect to enter a joint agreement with the county emergency management communications district to competitively bid a contract for exclusive ambulance service within their respective jurisdiction. AGO 2015-014 ■



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F.A.Q.

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

Vacancies

How does the Council fill a vacancy in the office of the mayor or in its membership?

If the vacancy is in the office of the mayor, for cities with a population of under 12,000, the council can fill the vacancy either from its own membership or from outside the membership of the council. Section 11-43-42, Code of Alabama 1975. However, any person appointed by the council to fill such a vacancy must meet all of the qualifications prescribed for the office of mayor. [Note: Some cities are required by state law to hold elections to fill vacancies in the office of mayor.]

For cities with a population of 12,000 or more, the president of the council succeeds to the office of the mayor for the unexpired term. Section 11-43-42, Code of Alabama 1975. [Note: Special procedures are set out for Class 3 municipalities. Section 11-43-87, Code of Alabama 1975.]

If the vacancy is in the office of a councilmember, it must be filled by the council at the next regular meeting or any subsequent meeting of the council. Section 11-43-41, Code of Alabama 1975. When a council vacancy occurs, the council must declare the council seat vacant. The council may declare the seat vacant at any regular or special meeting. At the next regular or special meeting held after the meeting at which the vacancy was declared, the council may vote to fill the vacancy. The vacancy cannot be filled at the same meeting at which the vacancy is declared. The newly appointed councilmember holds the office for the unexpired term. AGO to Hon. Charles Belew, April 30, 1957. [Note: An alternate procedure for filling vacancies in a Class 6 municipality are provided for in Section 11-43-65, Code of Alabama 1975.]

A majority vote of the present council is required to fill a vacancy on the council. Where the present council consists of the mayor and four councilmembers, a vote of three members would constitute a majority to elect a nominee to fill the vacancy. Section 11-43-4, Code of Alabama 1975; AGO to Hon. E. B. Overton, April 23, 1957 and to Hon. Venia P. Hutchinson, October 15, 1973.

Further, a vacancy in a Class 7 or Class 8 municipality must be filled within 60 days after it occurs, or each existing council member may submit a name to the governor for appointment. Section 11-44G-(1)(2), Code of Alabama 1975. If the governor fails to make an appointment from the submitted names within 90 days after the vacancy occurs, the judge of probate must call a special election to fill the vacancy. If the council does not fill the vacancy within 60 days after it occurs, the council, by default, loses its right to fill the vacancy. AGO 1999-168. [Note: An alternate method for filling council vacancies that have existed for more than 60 days is provided for Class 5 cities. Section 11-43-18, Code of Alabama 1975.] ■



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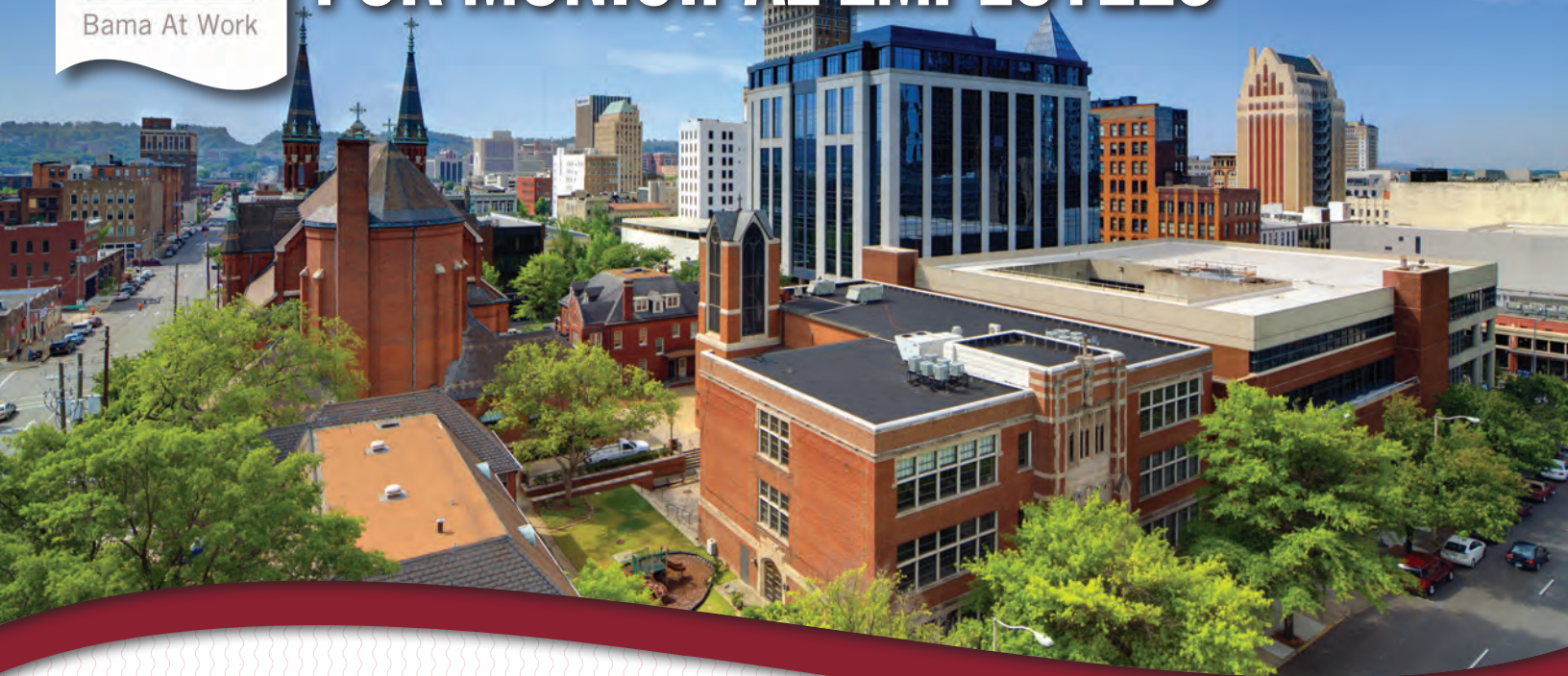
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THE UNIVERSITY OF
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Homelessness in Alabama & America

The way to Zero goes through Cities

**By Elisha Harig-Blaine • Principal Housing Associate
(Veterans & Special Needs) • National League of Cities**

During the 1980s, 90s and into this century, as homelessness rose in cities across the country, many thought it was an intractable problem. However, in recent years, there has been dramatic progress across the nation in the effort to end homelessness thanks to bold leadership, unprecedented community collaboration and historic levels of federal resources. These elements are being paired with data-driven strategies and have resulted in a decline for one sub-population that we can all celebrate. Since 2010, Veteran homelessness has declined by 33 percent, paving the way for progress in other sub-groups of the homeless population.

Dedicating More Resources

Data from the U.S. Department of Housing and Urban Development (HUD) shows fewer homeless veterans than chronically homeless individuals or people in families. The lower number of homeless veterans comes because of historic levels of resources dedicated to this subpopulation and the use of proven strategies such as uniform and coordinated assessment, rapid re-housing and Housing First. Broad bi-partisan Congressional support exists for programs, administered by HUD and the U.S. Department of Veterans Affairs (VA), that span the spectrum of housing need. As the capacity of programs such

as HUD-VASH, Supportive Services for Veteran Families (SSVF) and the Grant and Per Diem (GPD) program have increased; the number of homeless veterans has steadily fallen.

Since fiscal year 2008, Alabama has received 959 HUD-VASH housing vouchers. These vouchers are exclusively for veterans and are provided by HUD, while VA provides supportive services. In addition, just in 2014, the VA has provided Alabama non-profits with more than \$5.56 million to prevent the homelessness of veterans or rapidly re-house them through the SSVF program.

Federal resources have been complemented by philanthropic commitments. The Home Depot Foundation alone has committed more than \$83.7 million that has helped cities build or preserve more than 13,000 units of housing for veterans. In addition, volunteer groups of Home Depot associates known as Team Depots have worked on more than 3,780 projects building or improving homes for veterans. In Alabama, The Home Depot Foundation has invested more than \$327,000 and/or provided volunteer support for 46 housing projects benefitting veterans.

When these federal and philanthropic investments are combined with the unique health and service benefits available to Veterans and mainstream anti-poverty resources, cities are showing they have the necessary resources to end veteran homelessness.

Achieving “Functional Zero”

In Phoenix and Salt Lake City, Mayors Greg Stanton and Ralph Becker have stepped forward and joined the efforts of local stakeholders to improve the community coordination of these resources. As a result, Phoenix and Salt Lake City began a concerted push to house all chronically homeless veterans in their communities. In the last year, both cities reached a point called “functional zero.” The

housing systems in each city ensure that a homeless veteran has access to a housing solution in less than 30 days after being identified as being in need and wanting assistance. By reaching this point, these cities can credibly claim they have ended chronic veteran homelessness.

Nashville is nearing this milestone as well. Earlier this year, the city's efforts were highlighted on *60 Minutes*. Nashville is providing the staff and capacity support for the How's Nashville campaign. The campaign has brought the city together with the area housing authority, private landlords, the VA, and other service providers to prioritize people for housing based on how likely they are to die on the street.

Local Leaders Step Forward

To build on the progress of the past four years and meet the federal goal of ending Veteran homelessness by 2015, First Lady Michelle Obama has announced the creation of a Mayor's Challenge to End Veteran Homelessness. To date, more than 225 mayors, county officials, and state leaders have pledged their support. In Alabama, the Mayors of Anniston, Birmingham, Bessemer, Huntsville, Mobile, Selma and Tuscaloosa have joined the challenge.

As elected leaders pledge their support, they are finding community organizations with new federal resources and national partners, such as the National League of Cities, equipped with best practices developed from across the

country. In addition, leaders from HUD, VA and the U.S. Interagency Council to End Homelessness are actively engaged to provide leaders with the support needed to ensure effective collaborations are in place.

After more than a decade of war, veterans are returning to cities in the thousands and the public is all too aware that they are owed nothing less than the nation's best opportunities. The national decline in Veteran homelessness and the success in cities like Phoenix, Salt Lake City and Nashville show that homelessness, as we know it, can end. As more cities focus on ending veteran homelessness, the improvements can be extended to other segments of the homeless population.

People will always fall into homelessness, but just as roads, bridges, and sewers need on-going maintenance, so do service systems. Cities are showing that by developing and maintaining effective and efficient service systems, we can rapidly end homeless episodes. If communities can make the necessary system changes to join with public will and increased federal resources to end homelessness for our veterans, we will have seized this unique opportunity to demonstrate that we can end homelessness for anyone.

For information on the Mayor's Challenge to End Veteran Homelessness, visit www.onecpd.info/homelessness-assistance/mayors-challenge/. For information on how the National League of Cities can help your community end Veteran homelessness, email harig-blaine@nlc.org. ■



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BUILDING WITH PURPOSE

ACE Program Helps Small Cities Foster Growth/Leadership



Established in 2002, Alabama Communities of Excellence (ACE) is a 501(c)(3) organization that provides technical assistance to select communities with populations ranging from 2,000 to 18,000 in an effort to strengthen long-term economic success. Through a comprehensive, three-phase approach, ACE uses the collective expertise of its 18 partner organizations – ranging from state agencies and associations to banks, utilities, universities and others – to foster community development programs.

The ACE program offers a systematic approach with the necessary technical resources and tools to help Alabama’s small cities promote growth and prosperity by focusing on their distinctive assets and resources. ACE understands the uniqueness of each community, recognizing that every city has different assets, values, concerns and priorities. The ACE Team, comprised of technical discipline experts ranging from economic and industrial development to education, healthcare, historic preservation, leadership development, planning, tourism and community development, assists each participating city with developing a vision based on its own unique sensibilities and assets. At its core, ACE principles include the active involvement by community stakeholders across a broad demographic spectrum coupled with development of local leaders and leadership capacity and an emphasis on the importance of developing and implementing short and long-term plans to further the realization of the municipality’s vision. In addition to technical assistance, an *Alabama Community of Excellence* designation is given to each city that completes the three-phase program.

Since the program’s inception, 26 cities have been designated as ACE communities. Currently, six municipalities are working towards an ACE designation: Alexander City, Elba, Fairhope, Helena, Rainsville and Saraland.

Application and Selection Process

ACE targets communities with populations ranging from 2,000 to 18,000. Each January, applications are mailed to the mayors of these communities which can then be completed and submitted online or by mail. Citizens from the community

may assist in completing the application; however, it must be endorsed and signed by the mayor. Applications are then reviewed by an ACE Review Committee and candidates are selected by the ACE Board of Directors based on local community commitment and capacity to support the ACE program. For complete information on the application process, visit www.alabamacommunitiesofexcellence.com.

Phase I

During Phase I, the ACE Team visits each community to develop a comprehensive “report card” detailing city assets and recommending possible strategies. Prior to the visit, a self-assessment survey is sent to members of the local community to gather their impressions. The Assessment Visit also includes a public, open-forum community meeting where residents receive an overview explanation of the ACE process; the results of the self-assessment survey are presented; and stakeholders are asked to share their perspectives and opinions about the community with each other and with the ACE Team.

Based on the information and impressions received during the Assessment Visit, the ACE Team prepares an Assessment Report summarizing the Team’s findings and impressions and outlining several recommendations for the municipality’s consideration. This Assessment Report is presented to the community, typically at a City Council meeting. After receiving this Assessment Report, the city is invited to move into Phase II and a Memorandum of Understanding is executed documenting the community’s desire to continue into Phase II of the program.

Phase II

With the guidance of a skilled ACE facilitator, the municipality develops a formal vision statement and strategic plan during Phase II that includes goal statements and strategies to achieve those goals, as well as action items for implementing the strategies. Although the planning horizon for a strategic plan is typically three to five years, the plan should be reviewed and updated at least annually. The ACE

Team is available to advise each participating city's Strategic Plan Committee on selecting effective strategies and locating resources needed for implementing the plan.

Establishment of a formal, active leadership development program is a key requirement for communities during Phase II of the ACE program. If the city does not have a leadership program, the ACE Team will provide consultation and assistance to establish a leadership program that meets ACE standards. Leadership development programs are the key to building a core nucleus of citizens whose awareness of current issues, knowledge of the community, leadership skill sets and experience working with one another prepare them to step forward and assume leadership roles in the community. If the participating community has an existing leadership program, an ACE leadership specialist will determine if it meets the ACE standards. If the current leadership program does not fulfill ACE requirements, the leadership specialist will make recommendations that will enable the community to enhance the existing program to satisfy ACE requirements.

During Phase II, ACE also oversees the designation or creation of a nonprofit development organization representing public and private interests that can seek funding for community development initiatives. If the city does not already have a suitable nonprofit organization in place, ACE can direct the municipality toward resources to assist in the establishment of a nonprofit development organization. There are several advantages to having an organization deemed a tax-exempt charity under IRS code section 501(c)(3). Individual and corporate donors may be more likely to support organizations that have nonprofit charity status with the IRS because their contributions can be tax deductible as charitable donations. Also, certain grants are available to nonprofit organizations that are not available to a city government.

Phase III

During Phase III, the community will work on implementing the strategic plan developed during Phase II and will begin developing a comprehensive plan. While the strategic plan is relatively short-term – usually covering a three-to-five-year period and updated at least annually – a comprehensive plan provides a long-term guide for the community to develop its infrastructure and other community facilities, promote good design principles and maximize its physical features and assets for future growth and development. The planning horizon for a comprehensive plan is typically 10 to 20 years and it is only updated every five years. The strategic plan and comprehensive plan should work together to help the community achieve its vision. To complete Phase III of the ACE program, each participating community should have in place both a planning process and a targeted implementation plan.

Before graduating from the program and receiving the *Alabama Community of Excellence* designation, the city will be able to demonstrate that it knows how to access resources to achieve its goals and is committed to moving forward. The ACE Team emphasizes public/private partnerships and funding initiatives which may be related to physical infrastructure, business development, education, health or other issues unique to the community.

ACE Designation

When a candidate community completes the three phases of the ACE program it will be declared an *Alabama Community of Excellence*. Graduating communities are recognized at the Alabama League of Municipalities' Annual Convention held each Spring. As a newly designated ACE community, the city receives a plaque commemorating its achievement and a Department of Transportation approved highway sign that can be mounted at the community's gateway. ACE communities are promoted on the ACE website (www.alabamacommunitiesofexcellence.com), which features information about attractions, festivals and events occurring in ACE communities. They also receive periodic notifications about various grants, networking and training opportunities. In addition, ACE occasionally offers scholarships available exclusively to ACE community representatives to attend workshops and conferences such as Your Town Alabama and the Alabama Community Leadership Network.

Recertification

In order to maintain the *Alabama Community of Excellence* designation, communities must be recertified within three to five years from their original designation. To achieve recertification, communities are required to submit semi-annual progress reports, update their strategic plan, provide annual documentation of the leadership program, have a current comprehensive plan and be able to demonstrate progress toward achieving the goals set forth in their strategic and comprehensive plans.

Conclusion

While ACE is not a subsidiary or affiliate of any national organization, it often works in collaboration and cooperation not only with its funding partner organizations but various community development service providers and organizations including the Alabama Community Leadership Network, Auburn University Urban Studio, Design Alabama and Your Town Alabama. ACE services and operations are predominately performed by unpaid volunteers who serve on the ACE Associate Council and donate their time and expertise to assist communities.

For additional information on ACE, the application process and ACE-designated communities, visit www.alabamacommunitiesofexcellence.com. ■

Richard Buttenshaw Named Assistant Operations Manager for the Municipal Workers Compensation Fund



This past December, Loss Control Representative Richard Buttenshaw was selected to serve in the recently created position of Assistant Operations Manager for the Municipal Workers Compensation Fund (MWCF).

Richard, who has been with the Loss Control Division since 2003 serving AMIC/MWCF's South Alabama membership, earned a number of professional designations during his tenure, including the highly respected Certified Safety Professional (CSP) designation awarded through the Board of Certified Safety Professionals (BCSP) to individuals who meet academic standards, satisfy professional safety engineering requirements and have passed two rigorous examinations covering engineering and management safety aspects, applied sciences, legal and regulatory matters, professional affairs and other safety-related topics. In addition, Richard earned his Associate in Risk Management for Public Entities (ARM-P) in 2005 and was subsequently honored with an ARM-P Award for Academic Excellence in 2007, which is presented by the American Institute for Chartered Property Casualty Underwriters (AICPCU) and the Insurance Institute of America (IIA) to the graduate with outstanding cumulative grade averages on the examinations in this program. He also received his Certified Insurance Counselor (CIC) designation through The National Alliance in 2007. In 2010, Richard graduated 2nd in the Basic Claims Adjuster course offered through the Southern Farm Bureau Tech in Jackson, Mississippi.

Richard also took the lead for several important advancements in the Loss Control Division, including a dedicated Loss Control website (losscontrol.org) that provides detailed information about staff, programs and services as well as extensive risk management information and links to publications and online training opportunities; the design and implementation of a specialized, internal app used by each Loss Control Representative in their site report process allowing for more immediate, consistent and comprehensive reviews; and innovative, online professional development/training via LocalGovU with courses on a variety of topics, including risk management, human resources, safety and law enforcement.

In his new role, Richard will work closely with Operations Manager, Steve Martin, to maintain and expand the outstanding services offered to MWCF members as well as remain active with the strategic, long-term development of AMIC/MWCF's Loss Control Division. Richard will also be responsible for establishing and overseeing the Alabama League of Municipalities' most recent endeavor, Alabama Debt Recovery, a program tentatively scheduled to launch in early 2016 that is specifically designed to provide a significant, value-added service to League members.

Alabama's local governments are continually seeking ways to increase revenue. To that end, during the 2014 legislative session, the League was instrumental in passing legislation allowing local governments to attempt to recover debts they are owed from an individual's state tax refund. The League believes that when all other efforts fail, Alabama Debt Recovery will allow local governments to recover a portion of the outstanding debts they previously deemed lost. Richard, along with League staff, is currently working closely with the Alabama Department of Revenue to develop a comprehensive system for this new program. Great care is being taken in its implementation to ensure it adequately addresses the needs of League members while protecting the rights of citizens. There are many details and legal issues to be addressed before the program can be officially launched so the goal is to implement a pilot program in 2015 tentatively followed by the complete operational program in early 2016.

Richard is looking forward to expanding his role with the League. "I'm honored to be given this opportunity and am excited about playing a part in moving MWCF into the future as well as starting an entirely new service for League members that will provide a way for municipalities to recover lost revenue," he said. "My 11 years as a Loss Control Rep was a great foundation that provided me the opportunity to learn first-hand what services our members need to ensure the safety and vitality of their employees. In accepting this new position, I won't be leaving my roots. I strongly believe that a loss prevention program is the cornerstone for maintaining a safe, healthy workplace, and, as Assistant Operations Manager for MWCF, I will remain an active part of the Loss Control Division, just in a different role."

League Executive Director and MWCF General Manager Ken Smith has confidence in Richard's abilities to support MWCF as well as establish the League's debt recovery program. "His reassignment from the Loss Control Division leaves big shoes to fill," he said, "but we know he will do an outstanding job in his new capacity and that League members who have never worked with Richard will enjoy the opportunity to meet him and will benefit from Richard's great attitude, experience and work ethic."

For more information on the AMIC/MWCF Loss Control Division, visit www.losscontrol.org. For information on the League, visit www.alalm.org. For information on Alabama Debt Recovery, a new site is being developed: www.aladebt.org. ■

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Creating Jobs:

The Tale of Alabama Cities



Douglas J. Watson, Ph.D. and Wendy L. Hassett, Ph.D.

Local governments in Alabama are increasingly involved in competition for economic development projects aimed at diversifying their respective tax bases and providing Alabamians new employment opportunities. In fact, elected officials are often judged on the basis of how many jobs have been created in their jurisdictions during their tenure, and Alabamians generally expect public officials to be involved in economic development efforts. This expectation has been particularly prominent during the Great Recession of the last decade when the campaigns of most candidates for public office, even ones not directly related to economic development, have focused on making job creation a priority.

Alabama cities have played a central role in economic development over the past several decades bringing thousands of manufacturing and commercial jobs to their cities. The jobs created in Alabama have been especially welcome because of the decline of historically dominant industries, such as textiles. As the pursuit of economic development projects has intensified over the past 30 years, the nature of economic development has evolved in Alabama. It is interesting to note that Alabama municipalities have not embraced a common approach to achieve their respective economic goals. As a result, local economic development processes look very different across the state. Some of the variation among cities is financial. Certain regions and communities with wealthier citizens have more resources to provide incentives and higher quality local services. For example, a number of Alabama communities have employed top-flight professionals and invested in

exceptional infrastructure to help win coveted projects. On the other hand, other cities have not had the financial resources to compete at that level.

In other cases, the variation in approach is structural. Because the success of local economic development depends largely on the initiative of local communities, cities have adopted various economic development structures to complement their unique organizational, political, and community dynamics. Some arrangements involve the private sector while others are strictly limited to public sector organizations. To illustrate the structural variation, this article examines the approaches taken by Auburn, Montgomery, and Tuscaloosa to show how “one size does not fit all” and how different economic development arrangements can result in considerable economic development success.

Auburn: A Municipal Approach to Economic Development

Prior to the 1970s, the City of Auburn depended almost entirely on Auburn University to provide jobs and drive revenue. The *2011 Comprehensive Economic Development Plan for the City of Auburn* explains that a shift occurred in the 1970s when the Auburn city council decided to become more active in directing its economic future. It was in that decade when the city created an industrial development board (IDB), built the first industrial park, and began to recruit industry with some success. Because of the early success of these efforts, the city council purchased additional property to support future growth in the industrial sector. Concurrent with the arrival of the first out-of-town industries

in Auburn, developers selected Auburn as the site for the Village Mall, the largest commercial development of that era in east Alabama.

In 1984, city leaders took the next step in institutionalizing its self-directed approach by creating an economic development department and hiring Phillip Dunlap to head the department. Dunlap was charged to grow Auburn's commercial and industrial sectors as well as to focus on community development needs. This holistic approach to economic development resulted in new jobs, an increased and diversified tax base, and an enhanced quality of life throughout the city. Since that time, the department has grown to a staff of eleven working in five divisions (financial and department support services; industrial development; workforce development; commercial development; and community development). Dunlap remains the director some thirty years after he was first hired.

Since its inception in 1984, Auburn's economic development operations have been housed in a department of the city with the director reporting to the city manager and the economic development department included in the city's general fund. The director also serves as the secretary to the industrial development board (IDB) and the commercial development authority (CDA).

One of the first decisions by the city in these early years was to dedicate repaid urban development action grants (UDAG)/housing development action grants (HODAG) funds to a revolving loan fund (RLF) developed in 1986, to be used for business development, primarily industrial recruitment. By the early 1990s, the economic development department had placed in Auburn eight industries mainly from Midwestern and eastern states. Because the original industrial parks were nearly full, the city purchased the first property for industrial development south of I-85, and began to develop it in 1993. Not long after the construction of the Auburn Technology Park (ATP) began, the economic development department recruited Briggs and Stratton, the largest of Auburn's industries, to its current location. Since that time, the city has developed two additional technology parks: ATP-North and ATP-West.

In the late 1990s, the city strategically leveraged the growth of Alabama's international automotive sector and pursued industrial opportunities overseas. By 2009, the city had recruited 35 foreign companies that invested nearly \$250 million and created 1419 jobs in Auburn. Many of the companies are suppliers for the foreign automotive manufacturers in Alabama and surrounding states. By 2013, Auburn was home to 50 manufacturing or support companies employing some 5600 residents of Auburn and

nearby communities. One of the most notable additions in 2013 was GE Aviation, a highly sophisticated manufacturer of airplane engine parts.

The industrial development board, the chamber of commerce, and Auburn University are all strong partners with the city in terms of economic development. The Industrial Development Board (IDB) of the City of Auburn was formed in 1962 and was incorporated under the Wallace-Cater Act which was designed to foster the location of industry in Alabama. The act gave a city's IDB numerous powers, one of which is the issuance of bonds for industrial development projects. When Auburn's economic development office was established in 1984, the IDB was relocated from the chamber of commerce to the new city department. City leaders believed that the IDB could be used more effectively in the recruitment process particularly given its ability to own property and negotiate on behalf of the city. IDB members are appointed by the city council, and all actions of the IDB must have a concurring vote of the city council. This process ensures that the final decision in the use of funds provided for industrial recruitment rests with the city council.

The Auburn Chamber of Commerce is also a strong partner of the city of Auburn in the area of economic development. The chamber president is a member of the IDB, and chamber staff members participate directly in commercial recruitment.

Auburn University remains a primary economic driver in the community. For example, the Auburn Research and Technology Foundation (ARTF), Auburn University, the City of Auburn, and the Industrial Development Board signed a formal agreement in 2010 to increase collaboration in the recruitment of knowledge-based companies. As part of the city's commitment to the university, the city contributed five million dollars to the development of the Auburn Research Park, which currently hosts a business incubator and a future medical school now under construction. City leaders expect this partnership to become increasingly significant as Auburn continues to grow.

Montgomery: Chamber of Commerce Leads Effort to Lure Jobs and Investment

Since its founding in 1873, the Montgomery Area Chamber of Commerce has a proud tradition of serving Alabama's capital city with economic development services. One of the most notable early examples of the chamber's success was the establishment of the first Wright Brothers flying school in 1910. When chamber leaders learned that the Wright Brothers were searching for a location for their flying school, they stepped forward with

the offer to build hangars for them if they located the school in Montgomery. As they say, the rest is history. The Wright Brothers' venture grew into what is now Maxwell Air Force Base, one of the largest employers in Montgomery.

Through the years, the Montgomery Chamber has provided numerous services that promote the local economy, education, and community development. Unlike other organizational forms, the chamber relies heavily on private investments to fund its operating and capital budgets. The City of Montgomery and Montgomery County fund approximately fifty percent of the chamber's industrial development budget while the chamber funds the rest through memberships and investments. For at least the past 30 years, the city and the county have contracted with the chamber to provide funds for economic development.

The chamber is a private organization managed by a professional staff, led by a President, who is chosen by a board of directors. Board members are elected by the membership and appointed by the chair of the board. There is a chief operating officer, a senior vice president for corporate development, and a senior vice president for community development. The senior vice president for corporate development, Ellen McNair, is a highly-respected professional economic developer who joined the chamber in 1990 after working for the Alabama Development Office.

The chamber board of directors appoints a number of advisory boards made up of chamber members. For example, among Chamber committees, there are ones on minority business development, tourism, and industrial development. For the most part, these groups generally serve in advisory roles and are composed of community leaders in their respective fields. The corporate development staff members also work closely with governmental, utility, educational, and business leaders to maintain strong connections with key players who are instrumental in the recruiting process.

The City of Montgomery has an industrial development board (IDB) appointed by the members of the city council. While the board does not have a staff and does not directly recruit industry, its key role lies in its statutory authority to grant incentives, such as tax abatements, to industries that locate in Montgomery. In addition, the IDB owns one of the eleven industrial parks in Montgomery.

In 2006, the Montgomery chamber led an effort to create a new strategic economic development plan, *Imagine a Greater Montgomery*, with a goal "to build upon the community's strengths and address its challenges while maximizing real opportunities" (Montgomery Area Chamber of Commerce website, accessed December 18, 2013). The chamber is now in the second year of *Imagine a Greater Montgomery II*, which focuses on four major

goals, including: 1) champion education and develop competitive regional talent; 2) strengthen and diversify the local economy; 3) transform Montgomery's image and quality of place; and 4) embrace diversity and build leadership capacity.

One of the most successful industrial recruiting efforts in Alabama's history resulted in the opening of the Hyundai automotive assembly plant in 2005. Over 3100 people now work for Hyundai, and another 12,000 are employed by 70 Korean suppliers that have since located in central Alabama. Hyundai has invested \$1.5 billion in the Montgomery plant, while the 40 suppliers in the Montgomery area have invested \$650 million. In 2010, Hyundai and suppliers generated \$61.3 million in total tax revenue to Alabama with \$8.3 million distributed to local governments and the remainder to the state government.

Tuscaloosa: Bringing the Auto Industry to Alabama

The City of Tuscaloosa takes a different approach to economic development than either Auburn or Montgomery. Tuscaloosa places the responsibility for industrial



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recruitment in the hands of the Tuscaloosa County Industrial Development Authority (TCIDA), and maintains its own commercial and community development department. Tuscaloosa's approach is typical of the numerous IDAs that have been formed across the state that concentrate solely on industrial development. While Tuscaloosa's IDA is a county-wide program, other IDAs in Alabama are single-county like Tuscaloosa, city-county, multi-county, or single city.

In 1973, Tuscaloosa community leaders requested the state legislature to enact a law permitting the formation of an industry development authority in the county. In response, the legislature passed Act No. 73-651 allowing for the creation of the TCIDA. By 1975, the TCIDA was established. The law called for a 22-member appointed board of directors representing Tuscaloosa county, and the cities of Tuscaloosa, Brookwood, Vance, and Northport. One of the important roles of the board is to prepare a budget, and to submit it to the local governments in hopes of receiving funding.

All board-appointing member governments have provided financial assistance to the TCIDA at one time or another over TCIDA's nearly forty year existence. The TCIDA also raises money from the private sector and collects fees from bond issues to supplement its budget. In addition, the TCIDA is the county- wide industrial

development board (IDB) which gives it added flexibility in offering incentives and structuring financing. This is significant because it allows the board of the TCIDA to offer statutory incentives allowed under Alabama law. In 1994, *Site Selection* magazine named the TCIDA as one of the ten best economic development agencies in the country.

Dara Longgear became the executive director of the TCIDA in 1986. Likely more than any other person on the local level, Longgear is credited with the establishment of the automotive industry in Alabama. Executive Director Longgear was the lead economic developer in recruiting Mercedes-Benz to Tuscaloosa in 1993 resulting in Tuscaloosa County having the largest cluster of automotive suppliers in Alabama. One may reasonably argue that without the arrival and success of Mercedes in Tuscaloosa County, Honda, Hyundai, and other automotive companies would not have located in Alabama.

TCIDA continues to play a major role in the success and expansion of Mercedes. When Mercedes opened its facility in 1995, it was designated to build the M-Class SUV, but in subsequent years the company added production of the GL- and R-Class lines. In late 2013, the company opened a logistics center that cost \$70 million and employs 600 contractors and service providers. The 900,000 square foot logistics facility will handle more than three million parts per day.

Over one-half of all manufacturing employees in the Tuscaloosa county workforce are employed by foreign companies, most of which are suppliers to Mercedes. In addition to the United States, the TCIDA has attracted companies from six other countries, including Canada, Germany, France, Italy, Japan, and the United Kingdom. Tuscaloosa County is also home to other large employers besides Mercedes and its suppliers, including JVC America, DCH Health, and Hunt Refining Company.

The six full-time employees of the TCIDA are considered public employees. Unlike Auburn and Montgomery, there are no separate divisions in the TCIDA since all six employees report to the executive director. TCIDA has developed close collaborative relationships with key community players so that there are no communication barriers to overcome when deadlines must be met in response to the needs of a prospect.

An important aspect of the TCIDA's success has been the formation of public-private partnerships. While Auburn and Montgomery have publicly-owned industrial



parks, Tuscaloosa relies to a large degree on the private sector to build the parks. The TCIDA owns the airport industrial park, and through contract arrangements, the TCIDA controls exclusively a 300-acre park that is privately-. In addition, there are five other private parks and other individually-owned sites that the TCIDA shows to prospects, if they fit the parameters desired by the industrial prospect.

While Tuscaloosa IDA does not have a formal strategic plan, it has developed a consensus among its board members, governmental partners, and private sector supporters that is strategic in its approach. Since Tuscaloosa already is the home of thousands of automotive jobs because of Mercedes, the TCIDA has strategically targeted aerospace/aviation, engineering services, automotive, advanced manufacturing, alternative energy, and medical equipment. With Boeing in Mobile, GE Aviation in Auburn, and various aerospace companies in Huntsville, the goal of bringing more aviation companies to Tuscaloosa is understandable. Furthermore, The University of Alabama with its engineering school provides research capabilities to support the other strategic targets.

Conclusion

Despite using different models of organization, Auburn, Montgomery, and Tuscaloosa have been exceptionally successful in recruiting jobs and creating tax revenue for their jurisdictions. A closer look at the three organizations reveals some interesting insights about the economic successes they have enjoyed:

1. Professional economic developers. All three cities have highly-experienced economic developers who have worked in the economic development field for over 30 years. This longevity pays dividends for each city in terms of stability, credibility, dependability, and strong community relationships.

2. Relationships. Auburn, Montgomery, and Tuscaloosa realize that government cannot win at the economic development game without relationships. These relationships are built on the fact that many organizations depend on economic prosperity to thrive. Economic growth is the one issue that unites elected officials from both political parties. Utilities are tied to a specific location, and can grow only if they add new customers. Growth is

also a concern of the media, utilities, banks, the real estate sector, the service industry, public universities, and other businesses. Partnerships with organizations that hold key assets create win-win opportunities and are essential for success.

3. Economic engines. All three communities have large institutional economic engines: Auburn with Auburn University; Montgomery with the military, state government, and Alabama State University; and Tuscaloosa with the University of Alabama. Each city intentionally leverages its strengths in recruitment of prospects that “fit” the community.

4. Strategy. Montgomery’s strategy is especially noteworthy because of the extensive input and the commitment achieved from the public and private sectors. That said, all three cities are intentional about directing the future of their communities in a way that is aligned with the city’s unique vision and the desires of the citizenry.

5. Structure. Auburn, Montgomery, and Tuscaloosa use three very different structural approaches to their economic development efforts. The success of these three communities suggests that organizational structure of economic development efforts does not seem to influence success. ■

*Portions of this article were published previously by the Center for Leadership and Public Policy at Alabama State University.

Dr. Douglas J. Watson is a Distinguished Research Fellow for the Center for Leadership and Public Policy at Alabama State University. He retired as city manager of Auburn before serving as Professor of Public Administration at the University of Texas at Dallas from which he retired in 2010. He lives in Auburn where he is active on boards of the City of Auburn and various non-profit organizations.

Dr. Wendy L. Hassett is a Professor in the School of Service and Leadership at Indiana Wesleyan University. Prior to her work at IWU, she was on the faculty at The University of Texas at Dallas and has over twelve years of experience in local government management in Alabama.



2015 Convention Quick Guide

Tuscaloosa, Alabama • May 16-19

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All information subject to change. CMO credits can be earned.
See convention program for details.

Saturday, May 16

8:00 a.m. - 5:00 p.m.	Registration, Bryant Conference Center
8:00 a.m. - 2:30 p.m.	Municipal Clerks Conference, Hotel Capstone
11:00 a.m.	Resolutions Committee Meeting , Bryant Conference Center
1:00 p.m.	AMIC Annual Meeting, Bryant Conference Center
3:00 p.m. - 5:00 p.m.	OPENING SESSION: Welcome; ALM President's Address; Governor Bentley (invited) Bryant Conference Center
5:30 p.m. - 6:30 p.m.	ABC LEO Reception, Bryant Museum
8:00 p.m.	City of Tuscaloosa Dessert Reception, Tuscaloosa Amphitheater

Sunday, May 17

7:30 a.m.	Annual Municipal Golf Outing – Ol' Colony Golf Complex, 401 Old Colony Road, Tuscaloosa
8:00 a.m. or 11:00 a.m.	Church of the Highlands, Bryant Conference Center
1:00 p.m. - 5:00 p.m.	Registration, Bryant Conference Center
2:00 p.m. - 3:15 p.m.	Concurrent Sessions: TBD, Bryant Conference Center and Hotel Capstone
3:30 p.m. - 4:45 p.m.	Concurrent Sessions: TBD, Bryant Conference Center and Hotel Capstone
5:30 p.m. - 7:00 p.m.	Exhibitors Showcase and Reception in the Expo Hall* University of Alabama Indoor Facility

Monday, May 18

8:00 a.m. - 5:00 p.m.	Registration, Bryant Conference Center
8:00 a.m. - 10:30 a.m.	Breakfast in the Expo Hall (All convention registrants, spouses/guests and municipal clerks)* University of Alabama Indoor Facility
8:30 a.m. - 5:00 p.m.	Alabama Association of Public Personnel Administrators, Hotel Capstone
11:00 a.m. - 3:15 p.m.	Roundtables by Population (Lunch provided), Bryant Conference Center and Hotel Capstone
3:45 p.m. - 5:30 p.m.	ANNUAL BUSINESS SESSION , Bryant Conference Center
6:00 p.m.	Reception, Coleman Coliseum
7:15 p.m.	President's Banquet and Entertainment, Coleman Coliseum

Tuesday, May 19

8:00 a.m. - Noon	Registration, Bryant Conference Center
8:30 a.m. - 10:00 a.m.	Ask Your Attorney Session , Bryant Conference Center
10:30 a.m. - Noon	GENERAL CLOSING SESSION: Coach Nick Saban; Passport Prize Drawings* Bryant Conference Center
Noon	Adjourn

* **PASSPORT PRIZE PROGRAM:** The League will once again offer this popular program – a fun opportunity for our members and vendors during the 2015 EXPO. Our Passport Prize Program is uniquely designed to give convention delegates the opportunity to speak more directly with participating vendors during convention EXPO hours (May 17 and 18) as well as the chance to win a prize during the Tuesday morning closing general session. **Delegates MUST be present to win!** See convention program for additional details.

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Continuing Disclosure: Is Your Municipality Compliant?

By: Barry Staples • Public Finance Shareholder • Maynard, Cooper & Gale

A hallmark of fall in Alabama is the arrival of football season and, along with it, hopeful fans' thoughts of their team's certain march through Southeastern Conference rivals to a championship. Fall of 2014 was no different for Alabama mayors, councilmembers, clerks and municipal employees. However, in addition to their respective universities' conference foes, Alabama municipal officials also faced an initiative of the U.S. Securities & Exchange Commission – the other SEC – regarding the continuing disclosure of financial information to current and potential investors.

Continuing Disclosure Obligations Associated with Publicly Sold Warrants and Bonds

Each time a municipality sells its warrants or bonds in the public market, the municipality generally must enter into a continuing disclosure agreement (a “CDA”) and thereby agree to make certain information publicly available to investors. Municipal warrants and bonds are traded daily on the secondary market, just as any other stock or bond, and this supplemental financial information helps investors to make decisions to buy or sell such securities.

By signing a CDA, a municipality undertakes to provide continuing disclosure by filing annual financial information and notices of certain material events on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (“EMMA”) platform within the time period specified in the CDA (generally within 180 or 270 days of the end of the municipality's fiscal year). Moreover, federal securities regulations require that final official statements prepared in connection with the offering of municipal warrants and bonds describe any instance in the previous five years in which the municipality failed to comply, in all material respects, with any disclosure commitments made in any prior CDA. And this is where most Alabama municipalities have fallen short in the eyes of the SEC. The majority of Alabama municipalities have failed to file their annual financial information on EMMA within the contractually agreed upon timeframe, and, further, many Alabama municipal official statements distributed over the last five years (the statute of limitations for SEC enforcement actions) either made no statement about past filings (or a lack thereof) or made inaccurate statements about such filings.

The SEC & MCDC

On March 10, 2014, the U.S. Securities and Exchange Commission's Enforcement Division (the “SEC”) launched the Municipalities Continuing Disclosure Cooperation Initiative (the “MCDC Initiative”). This program was designed to address the failure of certain municipal issuers and underwriters of municipal securities to fully comply with the provisions of federal securities laws noted above. Under the MCDC Initiative, the SEC invited municipalities (and other issuers of publicly sold warrants and bonds) to voluntarily self-report by December 1, 2014, possible misrepresentations made in official statements about prior compliance with continuing disclosure obligations. For example, a representation in an official statement that a city had made all required continuing disclosure filings for the past five years, when, in reality, such city had not posted any audited financial statements, likely would constitute a “material misstatement” for purposes of the MCDC Initiative.

Upon consultation with bond counsel and their city attorney, many Alabama municipalities elected to participate in the MCDC Initiative by completing and executing the SEC's MCDC questionnaire and submitting it to the SEC by December 1st. Specifically, the MCDC questionnaire identified the warrant or bond issue and related an official statement that contained potentially inaccurate misstatements regarding prior continuing disclosure compliance.

So what was the benefit to an Alabama municipality of participating in the MCDC Initiative? As an incentive to increase participation, the SEC assured municipalities that, if any self-reported inaccurate statements or omissions are determined to have been material, the SEC would recommend favorable settlement terms (further described herein) for such self-reporting municipalities, including the assurance that no monetary civil penalty would be levied for such violations. Conversely, however, the SEC also stated that such favorable MCDC settlement terms would not be available for issuers that did not participate in the MCDC Initiative.

You Participated in the MCDC Initiative. Now What?

Alabama municipalities that self-reported any potential misstatements and omissions on their continuing disclosure obligations now must wait for the SEC to determine whether the self-reported misstatements and omissions were material. To the extent, the SEC recommends enforcement

action against the self-reporting municipality, the SEC will recommend the following settlement terms:

- The municipality must establish appropriate policies and procedures and training regarding continuing disclosure obligations within 180 days of the institution of the SEC proceedings (the date of the formal settlement with the SEC).
- The municipality must comply with existing continuing disclosure obligations, including updating past delinquent filings within 180 days of the institution of the SEC proceedings.
- The municipality must cooperate with any subsequent SEC investigation regarding any false statements. This cooperation must extend to any investigation regarding the roles of individuals and/or other parties involved.
- The municipality must disclose in a clear and conspicuous fashion the settlement terms in any final official statement for any warrant or bond issue of the municipality within five years of the date of institution of the proceeding.
- The municipality must provide the SEC with a compliance certification regarding the applicable undertakings by the

municipality on the one-year anniversary of the date of institution of the proceeding.

It is expected that the SEC will be in contact with self-reporting municipalities over the next couple of months to acknowledge receipt of filings and to request any follow-up information needed to make a determination on certain self-reported issues. Alabama municipalities can expect to hear formally from the SEC on proposed settlement terms by summer of 2015. In the meantime, Alabama municipalities should focus on updating their continuing disclosure filings on EMMA to ensure they are currently compliant and have discussions with their city attorney and bond counsel to begin formulating continuing disclosure policies and procedures to ensure all required filings will be made on an annual, ongoing basis. ■

Barry Staples is a Public Finance shareholder at Maynard, Cooper & Gale and a graduate of Dartmouth College and the University of Georgia School of Law. Mr. Staples has extensive experience in the areas of municipal and public finance and serves as bond counsel to Alabama cities, counties, boards of education, utilities, nonprofit corporations and public and private universities.

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