

THE ALABAMA MUNICIPAL **JOURNAL**

December 2006

Volume 64, Number 6

ADEM Redevelopment Program Offers Assistance to Local Governments



Left: Montgomery's Riverwalk Stadium. Bottom: RSA Battle House Tower in Mobile, under construction. (Photos by Larry Norris, ADEM)



Can you pick the former brownfield site from these two pictures? (See page 4 for answer.)

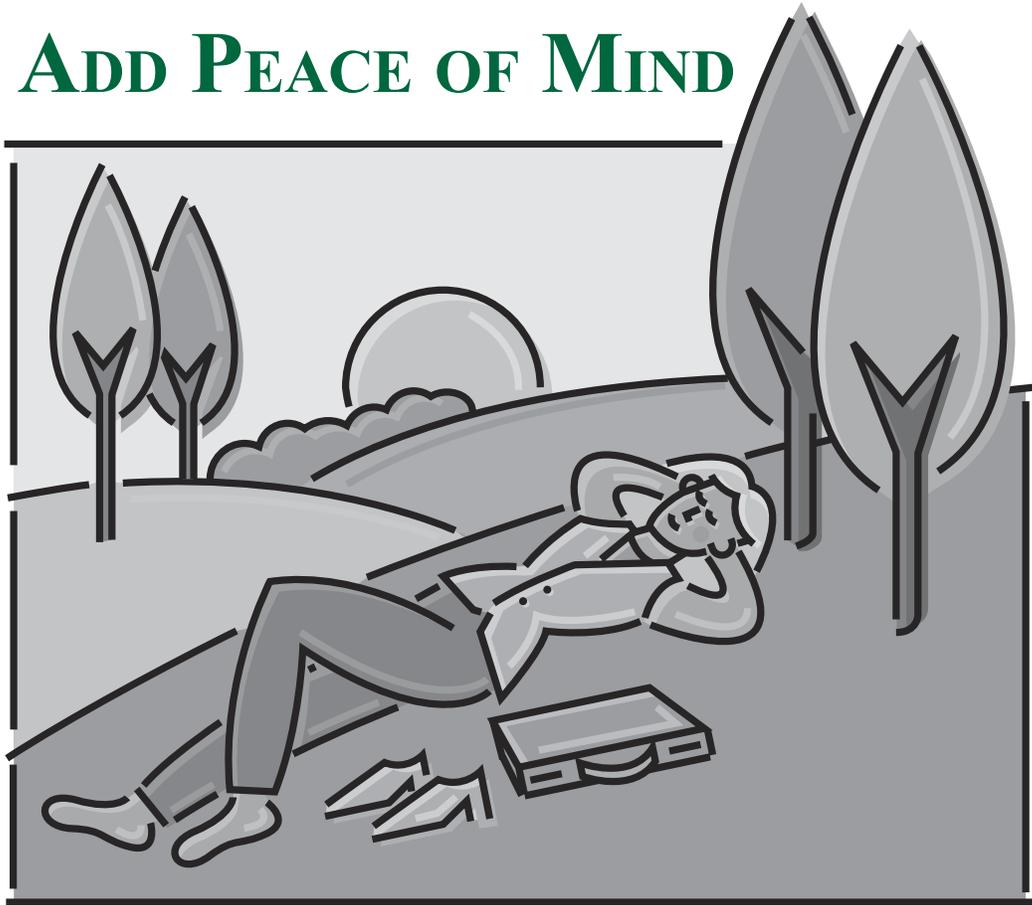
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- **League Announces Municipal Achievement Awards**
- **2007 League Legislative Package**
- **Tuscaloosa Wins Sweepstakes Case**
- **Proposed Policies and Goals 2007**

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ADEM Redevelopment Program Offers Assistance to Local Governments

By Larry Norris, Chief, Redevelopment Section, ADEM

Answer to cover question: Both locations are former brownfield sites.

The mission of any local government is to increase employment opportunities for its constituents; to increase the tax base to help pay for basic services; and to provide a clean, safe environment for work or recreation. By promoting the redevelopment of brownfield sites, this mission can be accomplished. Briefly, a brownfield can be described as any real property where redevelopment has been inhibited by contamination or perceived contamination. Many of these sites are located in areas highly suitable for redevelopment. With infrastructure in place at many brownfield sites, companies can begin commercial or industrial activities much sooner than at greenfields sites. EPA estimates that for every brownfield acre remediated and redeveloped, five acres of green space are saved. With new business come better employment opportunities and an increased quality of life for those living near these properties.

ADEM has several programs to assist local governments with redevelopment of brownfield sites. The Voluntary Cleanup Program (VCP) is a cost-effective mechanism for aiding developers, consultants, industry and local governments in the assessment and remediation of brownfield sites. The program operates on a fee driven basis and the intent is to provide oversight for assessment and cleanup activities at brownfield sites. This oversight ensures remedial efforts are protective of human health and the environment.



The Old Overton Country Club's golf course is built on a former Drummond Coal strip mine site. (Photo by Larry Norris)



This Publix supermarket is built on the site of a former gas station. (Photo by Larry Norris)

As part of the VCP, ADEM operates the Alabama Land Recycling Revolving Loan Fund Program. Low interest loans are available to qualified local governments and nonprofit agencies for cleanup of contaminated properties owned by local government applicants.

Through the Federal 128(a) Brownfields Program, funds from EPA and other federal agencies are available through a competitive grant process for brownfield assessments and cleanups. In conjunction with EPA, ADEM conducts meetings, seminars and workshops to disseminate information on the Brownfields programs. On a limited basis, ADEM is able to provide direct brownfield assessment assistance to local governments that were unsuccessful in obtaining grants.

The Alabama Department of Revenue also has a program involving tax abatements for qualified redevelopment activities. Certain local governments have the authority to abate non-education designated taxes as an incentive for the redevelopment of brownfield sites. Local governments should contact the Revenue Department for more information.

Local governments and nonprofits should contact the ADEM Redevelopment Section at **(334) 271-7984** for redevelopment assistance information. Application forms, training opportunities and grant guidelines are available. Brownfields Grant Applications were due to EPA December 8, 2006.

continued page 6



The President's Report

Lew Watson
Mayor of Lincoln

League Announces Municipal Achievement Awards

Last month, each city received a publication from the League describing a new program called the "Municipal Achievement Awards." This program will provide recognition for your community and benefit other communities by sharing your successful municipal improvement projects with other cities in Alabama. If you have developed such a program, this will be your opportunity to share your success story and help other communities.

Alabama's municipalities are continuously coming up with new and innovative ideas to improve their communities. This program is an effort to recognize these innovative and successful municipal projects. Much like the round table discussions conducted at the annual convention, these winning projects will be shared with other member communities in Alabama. This exciting new program will showcase the hard work and diligence you, your staffs and the citizens of your municipalities have put into improving the quality of life in your community.

Municipalities with 20,000 or fewer citizens will compete in one of four population categories, while municipalities with 20,001 or more citizens must compete in one of four subject categories. The population categories are: 1 to 1,000; 1,001 to 5,000; 5,001 to 10,000; and 10,001 to 20,000. These population categories only require a written entry.

The written entries' purpose is to provide a concise description of your community's project. Explain the current and future benefits of the program, describe any unique and innovative aspects and how easily other municipalities could tailor the program to fit their needs. Explain how the original goals were established, how the program was carried out, how it operates and what partnerships, if any, were formed to make the project successful.

The written entries must be double-spaced and may not be more than four letter size typed pages on one side only. An additional four pages (one-sided) of support materials such as newspaper clippings, photographs, letters from constituents or other items that help you present your programs are allowed. Please do not submit audio-visuals, videotapes, computer disk or similar presentations as they are not acceptable. Digital

photographs, no smaller than 3" by 5" and 300 dpi may be emailed with the written entry. Six complete copies of the written entry must be submitted.

If your municipality's population is 20,001 or more, you must compete in one of the four subject categories, which require a written entry and an oral presentation in Montgomery. The categories are:

Economic Development, which includes community development and planning projects

Public Safety, which includes emergency service projects

Public Works, which includes infrastructure projects

Public Service, which includes anything not covered by any of the previous categories

Regardless of population, you may enter only one category. Oral presentations are scheduled for February 5, 2007. Your municipality must be a member of the Alabama League of Municipalities to participate. To view a sample completed entry form visit the League's website, www.alalm.org, and click on Municipal Achievement Awards.

What you get if you win – statewide recognition at the League's 2007 Convention in Huntsville; recognition at the League's Municipal Achievement Awards Ceremony during the League's convention; your community featured in a video shown at the League's Municipal Achievement Awards Ceremony; inclusion in the 2007 Municipal Achievement Awards Brochure; a feature on your community in *The Alabama Municipal Journal* and having your success posted on the League's website; given a winner's cup for one year; and presented with a plaque to commemorate your municipality's achievement that you can display permanently in city hall.

If you have missed the mail out or need additional copies of the Municipal Achievement Awards, they are available on the League's website. The program's success depends upon your involvement, and we look forward to receiving your entries. As always, League staff members are only a phone call away if you have any questions.

Next month we will be getting back to our series on bond issues. Have a Merry Christmas. ■

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ADEM Redevelopment Program

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A prime example of a brownfield success story is Montgomery's Riverwalk Stadium, home of the Montgomery Biscuits baseball team. The stadium is built on a site that was once a manufactured gas plant, railroad yard and historic cotton warehouse. A targeted brownfield assessment was conducted on the site and remediation activities included the removal of contaminated soil. The original historic warehouse was incorporated into the construction of the stadium. The average attendance over the last three years has been about 310,000 annually, significantly exceeding initial expectations of 200,000. Further redevelopment continues nearby with a major expansion of Montgomery's Civic Center and construction of a new five-star hotel on a former brownfield site. Many local governments are aware of redevelopment opportunities in their cities and towns; ADEM stands ready to assist with redevelopment of these sites. ■

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Municipal Overview

By
PERRY C. ROQUEMORE, JR.
Executive Director

2007 League Legislative Package

2007 League Legislative Package

The Alabama League of Municipalities Committee on State and Federal Legislation, which is chaired by Mayor Bob Bunting of Ozark, met at League Headquarters on Thursday, November 9, 2006. The committee, which is composed of elected municipal officials from throughout the state, considered a multitude of legislative recommendations from the League's five policy committees, member municipalities and the League staff. At the conclusion of their meeting, the committee unanimously approved the following package of bills (in no particular order of priority) to be introduced during the 2007 Regular Session.

Pre-zoning of Territory Proposed for Annexation

Municipalities have the legal authority to zone territory within their corporate limits. Currently, newly-annexed territory comes into the municipality either "unzoned" or zoned for a classification as set out in the zoning ordinance for newly-annexed territory. The League will offer legislation to authorize municipalities to establish a zoning classification for territory proposed to be annexed prior to the actual annexation. The zoning action would only become effective upon annexation of the land to the municipality.

Alternates on Municipal Planning Commission

Current Alabama law provides that a municipality may establish a municipal planning commission composed of nine members. There have been numerous instances over the years where several members are absent from a meeting, thus causing a lack of a quorum. This bill would give the mayor permissive authority to appoint two alternate members to the planning commission to serve only in the absence of regular members.

Clarification of Mayor's Voting Powers

An Alabama Supreme Court decision has created confusion as to the ability of the mayor of a municipality of less than 12,000 inhabitants to vote on all issues coming

before the council. The League will offer a bill to amend Section 11-43-160 of the Code of Alabama 1975 to clearly provide that in municipalities with a population of less than 12,000 inhabitants, the mayor is a voting member of the council whose vote may be included in the required two-thirds vote of the council needed to discipline or terminate employees.

Residency of Industrial Development Board Members

Many Alabama cities and towns have established industrial development boards which exercise authority both within and without the city or town that created the board. Under current law, the board members are appointed by the council and must be residents of the municipality. The League will propose legislation to amend Section 11-54-80, Code of Alabama 1975, which relates to the appointment of board members to an incorporated industrial development board, so as to provide that the municipal governing body may, in its discretion, appoint any person who resides within the boundaries of the board's jurisdiction to serve on the board.

Publication of Municipal Ordinances

State law requires municipalities to publish ordinances of general and permanent operation. In some instances, the costs of publication can be extremely large even though only a few minor changes are made to the ordinance. In an effort to protect both the public's right to know and the public's money, the League will propose permissive legislation to authorize an alternate method of publishing ordinances by means of a synopsis published in the legal section of the newspaper together with posting the entire ordinance in three public places within the municipality and on the municipality's web page (if available).

Installation of Utilities on State and Federal Rights-of-Way

Whenever a municipality or county seeks to install utilities on state and federal rights-of-way, they must go through a complex and timely process to obtain the necessary approval for such installations. The League will seek legislative remedies to simplify and improve procedures for the installation of county and municipal utilities on state and federal rights-of-way.

Planning Commission Jurisdiction

Current Alabama law states that a municipal planning commission can enforce subdivision regulations in the corporate limits of the municipality and in any territory located within five miles of the corporate limits. The League proposes legislation to make it clear that a municipal

continued next page

governing body may adopt an ordinance to limit the enforceability of subdivision regulations to an area less than the five-mile limit established by law.

Penalty for Violation of Municipal Ordinances

Section 11-45-9, Code of Alabama 1975, provides that the maximum fine that can be assessed for violation of a municipal ordinance is \$500 and/or six months in jail. The sole exception is DUI offenses where the fine can be as high as \$5,000. The DUI penalties have been increased as have fines for reckless driving. In order for the municipal court to be in line with other courts for the same offenses, the League will ask the legislature to amend the Code of Alabama so as to provide that the maximum fine for violation of a municipal ordinance shall be \$500 or the maximum allowed by state law for the offense, whichever is higher.

Corrections Fund

Section 11-47-7.1, Code of Alabama 1975, authorizes municipalities to levy additional court costs and establish a corrections fund for the operation of municipal jails and court complexes. Legislation will be sought to provide that 60% of the money in the corrections fund must be expended for municipal court purposes and that the remaining 40% of the

money in the corrections fund may be spent for municipal court systems, jails, or law enforcement purposes. The bill will also allow for the payment of debt service in relation to allowed expenditures.

Appropriation for Wastewater Treatment SRF and the Alabama Drinking Water Finance Authority

Many years ago, the Alabama Legislature established a State Revolving Loan Fund for Wastewater Treatment (SRF) and the Alabama Drinking Water Finance Authority. The purpose of these programs was to take state funds and match them with federal dollars to create a loan fund to offer low interest loans to governmental entities for wastewater treatment and drinking water projects. Each year, the League seeks additional matching funds from the legislature to continue these nationally recognized programs.

Conclusion

The Committee on State and Federal Legislation has adopted an ambitious Legislative Package for 2007. The Regular Session will begin on March 6, 2007, and all municipal officials are encouraged to get behind this package and push for its passage during the session. ■

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THE LEGAL VIEWPOINT

By Ken Smith
Deputy Director/General Counsel

Tuscaloosa Wins Sweepstakes Case

Many municipalities across Alabama have raised concerns about the sweepstakes businesses operating in their jurisdictions. These municipalities have called the League seeking information regarding the regulation, taxation or outright prohibition of these businesses.

Recently, Jimbo Woodson, Assistant City Attorney for the city of Tuscaloosa, addressed a gathering of municipal attorneys at the Alabama Association of Municipal Attorneys 2006 Fall Municipal Law Conference regarding a lawsuit filed against Tuscaloosa. The lawsuit, *Owen and Big Al's, Inc. v. City of Tuscaloosa*, challenged Tuscaloosa's ordinance regulating these sweepstakes operations. Woodson noted that a ruling was expected shortly. On October 30, 2006, the Tuscaloosa County Circuit Court issued its decision upholding Tuscaloosa's ordinance. Although an appeal is possible at press time, this article discusses this holding. Additionally, due to the interest in this subject, Tuscaloosa's ordinance accompanies this article. Keep in mind, though, that at present this is a circuit court ruling—meaning it is not binding throughout the state.

Big Al's Operation

Paraphrasing, the court described Big Al's the following way:

Big Al's is a retail phone card sales location operated by the plaintiff, Allen Owen. Owen installed Tel-Sweeps Prepaid Sweepstakes machines ("Sweepstakes machines") in Big Al's. Using these machines, customers purchase long distance phone time and/or Internet time and receive free Sweepstakes points as a part of the Sweepstakes promotion. Sweepstakes points cannot be purchased, have no monetary value and can only be used to play or "validate" the Sweepstakes games on a validation terminal (the Sweepstakes machines). No purchase is necessary to receive free Sweepstakes entries.

At the point-of-sale, the customer purchases a phone card, in \$5.00 increments, and the card is "loaded" with the amount of long distance and/or Internet time purchased. Based on the amount of long distance and/or Internet time purchased, the card is also "loaded" with a set of numbers which indicate to the "reader" how many free Sweepstakes points the customer is to receive. If a customer chooses to play the Sweepstakes game, the customer enters the Sweepstakes by "swiping" or inserting the card into the "reader" of the Sweepstakes machine. The reader does not do anything that determines whether the customer will be a winner in the Sweepstakes. Rather, it merely reads the numbers on the magnetic strip on the card. Whether the set of numbers loaded onto the card represents winning points has been pre-determined, is set forth on the card, and is revealed when the card is "read" by the machine. The machine itself plays no role that increases or decreases the chances of winning set forth on the card. The reader uses the numbers on the magnetic strip to identify the number of Sweepstakes points available for play. The customer can then choose among several Internet-accessible games. As the customer plays the games, all wins are accumulated into a win column separate and apart from the Sweepstakes points. Points in the win column cannot be used for additional play.

When a customer has used all of the free Sweepstakes points, the customer may use the points accumulated in the win column to purchase additional long distance phone and/or Internet time or redeem them for cash equivalents. If the customer chooses to use the points to purchase additional long distance phone and/or Internet time, the customer receives additional free Sweepstakes points.

Whether or not the customer plays the Sweepstakes games does not affect the amount of long distance phone

continued next page

and/or Internet time the customer initially purchased. The amount of long distance phone and/or Internet time is only reduced when the customer utilizes the time to make long distance phone calls and/or access the Internet. As a result, the customer's only consideration is used to purchase long distance phone and/or Internet time.

The court noted that "The evidence established that Big Al's 'sweepstakes' operation is designed to have the look, feel and sound of a gambling casino, and to give the customer the illusion of being in a casino and engaging in gambling."

Tuscaloosa enacted an ordinance prohibiting the operation described here. Big Al's ceased its operation and filed a lawsuit challenging the ordinance.

Sweepstakes Don't Violate State Law

It is important to note as a starting point that the circuit court ruled that sweepstakes operations are legal under state law. As the court stated, "The 'sweepstakes' operation conducted by Big Al's (assuming fair market value is charged for the phone cards) is not prohibited by current state law. It may 'look and sound like a gambling casino, but under Alabama law it is not.' *Jefferson County Racing Association, Inc., etc. v. Mike Hale, etc.*, CV 2005-7684-JSV, Tenth Judicial Circuit of Alabama, p. 14 (January 31, 2006)."

The court did note that Alabama law prohibits "lotteries." Section 65, Alabama Constitution, 1901. The Alabama Supreme Court has stated that lotteries have all of the following: 1) a prize, (2) awarded by chance, (3) for a consideration." *Pepsi Cola Bottling Co. of Luverne, Inc., v. Coca-Cola Bottling Co. of Andalusia, Inc.*, 534 So.2d 295,296 (Ala. 1988). The circuit court also noted that "... the public policy is emphatically declared against lotteries or any scheme in the nature of a lottery, both by Constitution and by statutes." *Try-Me Bottling Co, v. State*, 235 Ala. 207, 212, 178 So. 231, 234 (1938).

A sweepstakes, on the other hand, is defined as: A legal contest or game where anything of value is distributed by lot or chance. Section 8-19D-I(4), Code of Alabama, 1975.

The court found that: "What makes a contest or game 'illegal' (as opposed to the sweepstakes definition of a "legal contest or game") appears to be the element of consideration, i.e., whether the participant stakes or risks something of value by engaging in the activity. Here, Big Al's structured the business operations of 'selling phone cards' by setting up an illusory, mock, casino gambling atmosphere by carefully avoiding the current state definitions of lotteries and gambling which require the element of consideration for participating. The phone card value is not reduced by playing the "sweepstakes" games, and so long

as consideration is not flowing, state law does not appear to prohibit this type of illusory gambling activity."

The court also pointed out, as in *Jefferson County Racing Association, Inc., etc. v. Hale*, CV 2005-7684-JSV, Tenth Judicial Circuit of Alabama, pp. 13-14 (January 31, 2006), a similar case out of Jefferson County, that "Entries could be obtained by the customers either through purchases of Internet time or though a mail-in request for a free entry." Thus, the element of receiving consideration was removed and the operation did not violate state law.

This left unanswered the question of whether Tuscaloosa could enact its own ordinance prohibiting this operation.

Tuscaloosa's Regulation

Although municipalities in Alabama cannot enact ordinances that conflict with state law, Section 11-45-1, Code of Alabama, 1975, Section 89, Alabama Constitution of 1901, " ... an ordinance which *merely enlarges upon the provision of a statute by requiring more restrictions than the statute requires creates no conflict* unless the statute limits the requirement for all cases to its own terms. *Smith v. City of Huntsville*, 515 So.2d 72, 74 (Ala.Crim.App.1986)."

The circuit judge said nothing in Alabama law expressly permitted sweepstakes operations. Further, the court failed to find any implicit authority in the fact that the legislature did not prohibit sweepstakes when it prohibited lotteries. Additionally, the court noted that Alabama law presumes municipal ordinances are valid and there was "insufficient evidence to establish that the Sweepstakes Ordinances are 'mutually repugnant or contradictory' to state law." Thus, Big Al's failed to overcome the burden of proving the ordinance invalid.

As stated above, the court had already noted that "... the public policy of this state is strongly against lotteries and gambling." Although the court didn't state the fact expressly in its order, the implication is that this public policy, coupled with the clear fact that Big Al's did everything it could to give customers the illusion that they were engaging in casino gambling, was sufficient to enable Tuscaloosa to prohibit this type of business.

Thus, the court concluded that "... by prohibiting sweepstakes activities that mimic casino operations, the City Council appears to have acted to '...provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the inhabitants of the municipality. . . . ' The Sweepstakes Ordinances are not inconsistent with or in conflict with state law. Section 11-45-1, Code of Alabama, 1975."

See Ordinance, next page.

ORDINANCE NO. 6950

AN ORDINANCE TO AMEND CHAPTER 17 ARTICLE VIII, SECTION 17-154, SWEEPSTAKES REGULATIONS (A06-0675)

BE IT ORDAINED BY THE CITY COUNCIL OF TUSCALOOSA that Section 17-154(a) of Chapter 17, Article VIII "Sweepstakes" of the Code of Tuscaloosa be, and the same is hereby, amended to read as follows:

"(a) Bona fide sweepstakes meeting state and federal regulations are permitted on licensed premises within the City for the purpose of promoting a particular product or business for a limited period subject to the following conditions:

(1) Video readers or electronic readers to reveal, display or determine sweepstakes results are prohibited on licensed premises.

(2) Sweepstake chances are limited to five (5) chances per customer per visit unless the sweepstake chances are prepackaged by the manufacturer with the product for sale.

(3) The offering of no purchase necessary sweepstakes chances must comply with state and/or federal law.

(4) There shall be no on premise distribution of cash, gift card, store credit or gift certificate prizes to sweepstakes winners. Cash, gift card, store credit or gift certificate prizes shall be awarded after a minimum seven (7) day waiting period from a separate licensed premise or through the mail.

(5) The loading of sweepstakes chances on credit card data strips or other data storage device is prohibited.

(6) Any product sold in order to receive a sweepstakes chance must be capable of being used or consumed off site and non-perishable items such as Internet time or long distance minutes must not expire within one (1) year.

(7) Sweepstakes odds must be conspicuously posted on the premises or printed on sweepstake chance forms.

(8) Any product sold in order to receive sweepstakes chances must be sold at fair market value for the Tuscaloosa market area.

(9) The exchange of a purchased product for additional sweepstakes chances is prohibited."

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Alabama Association of Municipal Attorneys (AAMA): The feedback from the 2006 AAMA Fall Conference was overwhelmingly positive. There were knowledgeable speakers on a variety of interesting, timely and relevant topics. The favorable comments about the facilities in Panama City did not go unnoticed and in 2007, AAMA will return to the Bay Point Marriott Resort. Please encourage your attorneys, prosecutors and judges to mark their calendars to attend the 2007 AAMA Conference, October 11-13, 2007.

LEGAL SUMMARIES

ALABAMA COURT DECISIONS

Tort Liability: Police officer was exercising judgment in discharge of law-enforcement duties when he ordered homeowners to vacate home during course of fire and refused to allow homeowner to remain in or return to home to extinguish fire after homeowner had already suffered extensive burns and, thus, officer was entitled to state-agent immunity from liability for loss of home from fire by time firefighters arrived, and city was entitled to immunity on claim of vicarious liability. *Hollis v. City of Brighton*, — So.2d —, 2006 WL 2089919 (Ala.).

Tort Liability: City police officer did not have immunity, under *Cranman* rule, from negligence claim brought by injured passenger in vehicle that officer's patrol car collided with when officer was traveling to scene of serious automobile accident; circumstances of officer's emergency run did not implicate enforcement of state's criminal laws or any other category for immunity under *Cranman* rule. *Blackwood v. City of Hanceville*, 936 So.2d 495 (Ala. 2006).

Tort Liability: City did not breach duty to maintain drainage ditch, and, thus, was not liable to homeowner on homeowner's claim for negligent maintenance based on drainage ditch which repeatedly flooded homeowner's property; although engineer's affidavit stated that he inspected property more than once and that he viewed photos of flooding, he did not offer dates of inspections, he did not say what he observed, and affidavit merely stood for proposition that he believed that there was inadequate drainage of ditch on property due to lack of maintenance of ditch and lack of proper slope of ditch along with restrictive driveway culverts installed, which merely indicated existence of conditions having potential to cause flooding. *Byrd v. City of Citronelle*, 937 So.2d 515 (Ala. 2006).

Zoning: City planning commission's denial of landowners' request to subdivide their residential lot that would create a "flag" lot behind another lot with access to the street by a narrow strip of land was not arbitrary or capricious, given that city attorney's legal opinion was that planning regulations prohibited a flag lot based on definitions of lots in the regulations that typical lot has four sides, front yard was defined as yard extending across the front of a lot between side lot lines, and proposed flag lot failed to

meet either criteria. *Chandler v. City of Vestavia Hills Planning and Zoning Commission*, — So.2d —, 2006 WL 2987934 (Ala.Civ.App.).

UNITED STATES COURT DECISIONS

Americans with Disabilities Act: "Special use" designations are instruments of municipal planning that allow city officials to retain review power over land uses which, although presumptively allowed, may pose special problems or hazards to a neighborhood. In the zoning context, a municipality may show that a modification to its policy is unreasonable, for purposes of accommodation claim under Fair Housing Amendments Act (FHAA), if the modification is so at odds with the purpose behind the rule that it would be a fundamental and unreasonable change. Municipal zoning qualifies as a public "program" or "service," as those terms are employed in Americans with Disabilities Act, and the enforcement of those rules is an "activity" of a local government. To satisfy necessity element of accommodation claim under Rehabilitation Act and ADA, which challenged refusal of city's zoning appeals board to grant it special use permit allowing its relocation of mental health clinic to desired location, clinic's nonprofit operator had to show that its clients' disabilities were the cause-in-fact of operator's inability to find larger building for clinic. *Wisconsin Community Services, Inc. v. City of Milwaukee*, — F.3d —, 2006 WL 2729694 at *7 (7th Cir. Sept. 26, 2006).

Fair Labor Standards Act: City firefighters were entitled to overtime wages for scheduled hours exceeding 212 in a 28-day work period whenever other firefighters voluntarily substituted for them with the city employer's permission, pursuant to the FLSA; the plain language of the FLSA's overtime provision did not deny overtime wages for firefighters, and the legislative history supported the payment of overtime in accordance with scheduled hours when firefighters traded shifts. *Senger v. City of Aberdeen, S.D.*, — F.3d —, 2006 WL 2787852 (C.A.8 (S.D.)).

First Amendment: Erection of tables in public forum was expressive activity protected by free speech clause of First Amendment to extent that tables facilitated dissemination of First Amendment speech. Equal Protection Clause was violated by municipal ordinance that prohibited use of portable tables on public sidewalks that were being used in support of expressive conduct, where ordinance contained exception for labor-related speech. *A.C.L.U. of Nevada v. City of Las Vegas*, — F.3d —, 2006 WL 2988192 (C.A.9 (Nev.)).

First Amendment: Governmental employee's expression of general dissatisfaction with his working conditions does not normally constitute speech on matter of public concern, for purpose of First Amendment; court will not presume that all matters which transpire within government office are of public concern, and the First Amendment does not require public office to be run as roundtable for employee complaints over internal office affairs. With respect to restricting speech of its employees, government

as employer has far broader powers than does the government as sovereign. *Communications Workers of America v. Ector County Hosp.*, — F.3d —, 2006 WL 2831142 (C.A.5 (Tex.)).

Historic Preservation: Federal Communications Commission (FCC), in approving national programmatic agreement covering construction of wireless communications towers, did not err in deferring to a determination by the Advisory Council on Historic Preservation that National Historic Preservation Act (NHPA) protected not only those properties formally deemed eligible for listing in the National Register of Historic Places, but also those that simply met the criteria for listing; FCC did not act contrary to law in following the Council's reasonable interpretation of a statute that Council was charged with implementing. *CTIA-Wireless Ass'n v. F.C.C.*, — F.3d —, 2006 WL 2728749 (C.A.D.C.).

Police Department: Assuming that fundamental right to privacy under United States Constitution or Arkansas Constitution encompassed state police officer's conduct of engaging in off-duty sexual relationship with female crime victim in embezzlement case, state police department's investigation of officer's sexual relations with victim did not violate officer's constitutional privacy rights; police force had compelling interest in precluding a criminal investigator from having sexual relations with witnesses or victims, and investigation was narrowly tailored to serve state's compelling interest since it focused on whether officer had sexual relations with a crime victim while in the process of conducting a criminal investigation involving that victim. *Sylvester v. Fogley*, 465 F.3d 851, C.A.8 (Ark. 2006).

Public Records: Driver's Privacy Protection Act (DPPA) provides for liability on part of person who knowingly obtains, discloses or uses personal information from motor vehicle record, for purpose not permitted under DPPA, even though information may also have been received or utilized for permissible purpose. Exception to Driver's Privacy Protection Act (DPPA) bar on receipt or use of driver information, allowing collection when entity was acting on behalf of government agency, did not apply to union which violated DPPA by using license plates to obtain names and addresses of employees in order to contact them as part of effort to unionize employer, despite claim that union provided information to numerous state and federal enforcement agencies; there was insufficient connection between license plate searches and agency contacts. *Pichler v. Unite*, 446 F.Supp.2d 353, 2006 WL 2529688 (E.D.Pa.).

Public Records: Family Educational Rights and Privacy Act (FERPA) did not prevent state education department from releasing records, pursuant to Developmental Disabilities and Bill of Rights Act (DD), Protection and Advocacy for Mentally Ill Individuals Act (PAIMI), and Protection and Advocacy of Individual Rights Act (PAIR), to state-designated protection and advocacy agency of its investigation into use of seclusion rooms for disciplining students at elementary school. *Disability Rights Wisconsin, Inc. v. State of Wisconsin Dept. of Public Instruction*, 463 F.3d 719 (C.A.7 (Wis.),2006).

Search and Seizures: Where the police have a reasonable suspicion that a person was involved in a crime, they do not violate the Fourth Amendment rights of a suspect if they stop the suspect and transport him a short distance to the scene of

the crime in furtherance of a legitimate law-enforcement purpose, and the police may reasonably choose to transport the suspect in a police car where that decision would shorten the length of the Fourth Amendment intrusion. Officers did not violate suspect's Fourth Amendment rights, when, following *Terry* stop and preparatory to taking suspect to crime scene in rear of police cruiser for possible identification by victim, they patted him down pursuant to policy requiring pat-downs of all persons placed in patrol cars. *U.S. v. McCargo*, 464 F.3d 192, 2006 WL 2615311 (C.A.2 (N.Y.)).

Search and Seizure: Accused had a subjective expectation of privacy in the e-mails she sent from her office computer and in the e-mails that were stored on government server; accused had a password known only to her, and system's log-on banner described access to "monitor" the computer system, not to engage in law enforcement intrusions by examining the contents of particular e-mails in a manner unrelated to maintenance of the e-mail system. *U.S. v. Long*, 64 M.J. 57 (U.S. Armed Forces,2006).

Tort Liability: A local board of education does not equate to an arm of the state, for purposes of Eleventh Amendment immunity, simply because it is subject to some guidance from state authorities. *Woods v. Rondout Valley Central School Dist. Bd of Educ.*, — F.3d —, 2006 WL 2891820 (C.A.2 (N.Y.)).

DECISIONS FROM OTHER JURISDICTIONS

First Amendment: Ordinance requiring permit in order to engage in door-to-door solicitations did not violate First Amendment rights of solicitors; grant was automatic once requested information was provided, requirement that background of solicitors and their sponsoring group be provided furthered important municipal interest in protecting residents from fraud, as it helped uncover solicitors with criminal records, ordinance discouraged prospective burglars posing as canvassers, and ordinance was narrowly drawn, applying to money solicitations only, and imposing delays in grant of permit that were not burdensome. *Association of Community Organizations for Reform Now v. Town of East Greenwich*, — F.Supp.2d —, 2006 WL 2794239 (D.R.I.).

Officers and Offices: The right to seek and hold a municipal or state office is a common right, so that any restriction on that right must be strictly construed. The matter of establishing qualifications for seeking and holding a municipal or state office is a matter expressly reserved to the states by virtue of the Tenth Amendment. *Malone v. Shyne*, 937 So.2d 343, (La. 2006).

ATTORNEY GENERAL'S OPINIONS

Ad Valorem Taxes: Property owned by a person who meets the criteria necessary to claim a homestead exemption or the principal-residence exemption shall receive the full exemption, not a proportional share, regardless of whether the person is a joint owner or the sole owner. 2007-008

Annexation: The territory in an industrial park established pursuant to section 11-23-1, et seq., of the Code of Alabama cannot be annexed. The property on the opposite side of the industrial park is not, and does not become, contiguous to the boundaries of the city unless it is actually touching at some point. 2007-005

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Finance, Administration and Intergovernmental Relations

Recommendations presented in this article were adopted by the League's FAIR Committee this past September. Words printed in **bold type** indicate new language adopted by the Committee. Lines or words struck through indicate language proposed for deletion. The Proposed Policies and Goals will be subject to further review and final ratification by delegates to the 2007 League Convention in Huntsville, April 21-24, 2007.

F-1. Finance: Federal and State Revenues

F-1.1. That the League urge the Alabama Congressional Delegation to oppose any Federal legislation which would impose an unfunded mandate on municipal governments.

F-1.2. That the League should support legislation to amend the law which limits municipal license taxes on banks so as to establish a new taxing structure which would be equitable to all municipalities that have banks located or doing business within their jurisdictions.

F-1.3. That legislation be adopted to give municipalities authority to levy a license tax on telephone companies at the same rate of 3% of gross receipts being levied presently on other public utilities.

F-1.4. Preserve authority of municipalities to levy reasonable license taxes on gasoline.

F-1.5. That the League seek authority for cities and towns to collect taxes or payments in lieu of taxes from contractors undertaking projects on property owned by federal, state or county agencies located within the municipality. That the League and its membership urge Alabama's Congressional delegation to support legislation needed to provide equitable payments in lieu of taxes on federal properties located in our cities and towns.

F-1.6. That the Committee keep under surveillance the distribution of state financial institution excise tax revenues, and should the federal government deregulate the banking industry, there should be a conference of representatives from the League, the banking industry, and the State Revenue Department to consider changes that might be needed in the taxation of financial institutions to protect both the industry and the revenue structure of the state and local governments.

F-1.7. That all state-shared revenues be preserved with particular emphasis placed on preserving the municipal share of state gasoline taxes. (September 2003)

F-1.8. That the League is directed to seek the establishment by the State of Alabama of a fund to provide loans of reasonable interest and duration to counties and municipalities for use as matching moneys for federal agency grants to disaster relief.

F-1.9. That the League carefully monitor any proposed legislation or constitutional amendments relating to state taxes to make sure municipal interests are protected.

F-1.10. That the Alabama Congressional delegation be urged to actively oppose any legislation which would require state and

local governments to pay federal gasoline taxes and user fees on government-owned vehicles. Further, the Alabama Congressional delegation is urged to support legislation to eliminate the requirement that municipalities pay the federal gasoline tax and then apply for a refund of such taxes.

F-1.11. That the Alabama Congressional delegation be urged to support legislation to allow the levying and collection of state and local taxes on mail order and internet sales across state lines.

F-1.12. That the legislature recognize the importance of municipal government to the overall government structure of the state by allocating a portion of the state revenues generated by any future state lottery and/or casino gambling operations to all municipalities in the state.

F-1.13. That the League oppose the repeal of the Financial Institutions Excise Tax unless revenues lost by municipalities as a result of the repeal of this law are replaced.

F-1.14. That the League sponsor legislation to require actual purchase prices be placed on all deeds in the state.

F-1.15. That the League support deficit reduction efforts at the federal government level and urge the Congressional leadership to make representatives of municipal government equal partners in all discussions related to the federal budget and delivery of federal programs.

F-1.16. That the League urges the State Legislature to undertake meaningful state tax reform.

F-1.17. That the League encourages all municipalities to promptly send amended or new tax rates to the Alabama Department of Revenue as required by law.

F-2. Finance: Municipal Revenue-Raising Powers

F-2.1. That the committee urges the members of the Alabama Congressional delegation to oppose any legislation to further limit the deductibility of state and local income and property taxes in the computation of federal income taxes. Further, that the committee urges the reinstatement of the law allowing deductibility of state and local sales taxes.

F-2.2. That the members of the Alabama Legislature be urged to oppose any legislation which would establish a uniform statewide tax and prohibit municipalities from levying the tax on such products by ordinance.

F-2.3. That the League sponsor legislation to amend the state

continued next page

license limitation statute applicable to “Insurance Companies Other Than Fire and Marine” to provide that the 1% limitations shall be applicable to the full first year premium less return premiums, thereby removing the tax avoidance feature of issuing policies and collecting only a partial year premium during the license year. Further, that the League sponsor legislation to amend our statutes relating to municipal licenses on insurance companies so that licenses shall be computed on total premiums less return premiums collected during the preceding year without the qualification of when the policies are issued.

F-2.4. That the League study the use of impact fees by local governments in other states and to determine if use of impact fees by Alabama municipalities is feasible.

F-2.5. That the Alabama Congressional Delegation be urged to support passage of legislation, which provides that before the Bureau of Indian Affairs grants “protected trust” status to any new lands for an Indian tribe, the tribe must reach a binding agreement to collect and remit fuel taxes, sales taxes and excise taxes on sales to non-Indians on that land.

F-2.6. That the League provide that in all future instances where a municipality is required to collect fines, fees or taxes on behalf of a state agency, the municipality shall be entitled to deduct a 2-5% administrative fee before remittance to the proper state agency. (September 2003)

F-2.7. That the League urges the Alabama Congressional delegation to repeal that portion of the 1986 Tax Act which limits advance refundings by municipalities to one.

F-2.8. That municipalities in need of additional revenue be made aware of their authority to levy municipal rental or leasing taxes on the rental or leasing of personal property and of the fact that the Alabama Department of Revenue will collect these taxes for municipalities.

F-2.9. That the League support legislation to amend current law relating to municipal wet-dry elections so as to authorize any municipality having 500 or more inhabitants and a municipal police department to conduct a wet-dry election if the other provisions of the law are met. (September 2003)

F-3. Finance: Revenue Protection

F-3.1. That the League and its member municipalities cooperate with the Electric Cities of Alabama, the Public Gas Association of Alabama, and any other municipal utility organizations in opposing laws and regulations which would restrict the right of these utilities to serve customers within their municipal boundaries.

F-3.2. That the League Committee on Legislation strongly oppose any amendment to the state sales tax which would exempt state institutions from collecting and remitting local sales taxes on their retail sales. (September 2003)

F-3.3. That municipal taxation and municipal charges for public services be totally exempt from price controls established by federal and state regulations.

F-3.4. That the League urge the members of the Alabama Congressional delegation to push for reinstatement of full immunity for municipal bond interest.

F-3.5. That legislation be supported which would make

leasehold interest on property owned by tax exempt organizations taxable to the owner of the leasehold when such property is used for purposes other than that of the tax exempt owner.

F-3.6. That the League be in opposition to special tax exemptions, recognizing that such exemptions provide expensive revenue losses, discrimination, and costs of administration.

F-3.7. That the League strongly pursue legislation to totally exempt municipal corporations from the application of all state utility taxes.

F-3.8. That the exemption of food from municipal sales tax would drastically reduce the principal source of municipal revenues and cause a crisis in municipal revenue structures statewide. That the League strongly oppose all legislative proposals to this effect and that members advise the legislature and the governor of the perilous results which such legislation would cause for municipal government in Alabama.

F-3.9. That the League opposes all legislation which would place a burden of “double taxation” on the municipal citizen.

F-3.10. That the League opposes any legislation which would restrict the authority of municipalities to tax licensees of liquor both within the corporate limits and police jurisdictions of Alabama municipalities. (September 2003)

F-3.11. That the League urges all municipalities to prepare a long range financial forecast.

F-3.12. That the League oppose the establishment of a federal sales tax, or a federal tax similar to a sales tax by whatever name applied to it. Further, that the League urge Alabama’s Congressional delegation to support federal deficit correction through revision of the federal income tax laws and oppose any proposed new federal taxes such as sales taxes, flat taxes, and value-added taxes if unfavorable to municipal interests.

F-3.13. That the League recognizes the loss of sales and use tax revenues caused by increasing mail order and internet sales and supports efforts being made to find a mechanism by which state and local taxes on such sales may be collected. The League recognizes that the Streamlined Sales and Use Tax Project may provide a solution to the current situation and endorses the participation of the Alabama Department of Revenue in the Streamlined Sales and Use Tax meetings. However, the League opposes any solution which would require collection of all sales and use taxes by the Alabama Department of Revenue.

F-3.14. That the League calls for more stringent enforcement of the Federal Regulatory Flexibility Act of 1980, which directs federal agencies to scale regulations to the governmental jurisdictions which must follow them.

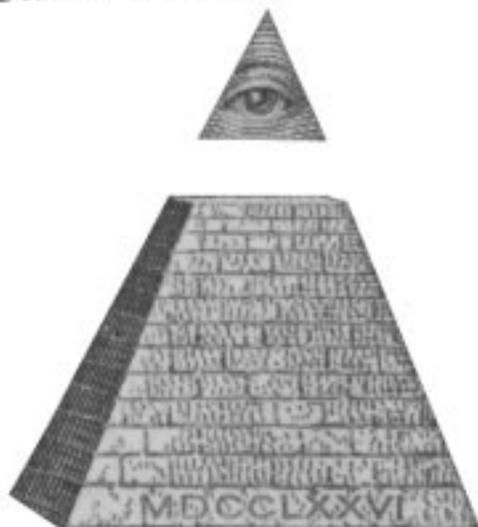
F-3.15. That the League strongly encourages state and local revenue officials to diligently enforce existing laws governing the registration of mobile homes and the collection of taxes on mobile homes. (September 2003)

F-3.16. That the League oppose any legislation that would limit the ability of municipalities to establish sales and use tax rates or any other tax rates.

F-3.17. That the League opposes any reduction in the State General Fund which would reduce the amount of funds available to match federal funds allocated for projects in Alabama municipalities.

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F-3.18. That the League work with the Alabama Department of Revenue and other entities to develop legislation that would authorize joint taxpayer audits and the sharing of taxpayer information and tax entity resources. (September 2003)

F-3.19. That the current law which exempts persons whose sole income is derived from federal Social Security from paying local garbage collection fees be amended to add the additional requirement that beneficiaries of the exemption must also be eligible to apply for food stamps.

F-3.20. That the legislature enact legislation to remove the ABC Board's authority to sell alcoholic beverages at retail. All wholesale sales of liquor and enforcement of the ABC laws should continue to be a function of the ABC Board. In order to adequately protect municipal revenues, any termination of state ABC stores should be accompanied by a state tax on liquor designed to produce the same amount of revenue as ABC Board profits. Revenue generated by this tax should be distributed to entities that currently receive distribution of ABC profits in the same manner as the current distribution formula. (September 2003)

F-3.21. Current law provides that disaster assistance is to be provided as follows: 75% by the federal government, 10% by the state government and 15% by the local government. The League urges the state legislature to amend current law to provide that the local government share in any one fiscal year shall be either 15% or \$50,000, whichever is lower.

F-3.22. That the League supports the efforts of the Department of Revenue to implement a Statewide Geographic Information System (GIS) and encourage all state agencies and local governments to participate in this effort.

F-3.23. That the League commends the State Department of Revenue for allowing all municipalities to enter the Exchange of Information Agreements and that the League encourages its members to take advantage of this opportunity to improve revenue collection programs.

F-3.24. **That the League urges county officials to ensure that employees hired by the county to appraise property for property tax purposes be adequately trained and qualified to perform their assigned duties. (September 2006)**

F-3.25. **That the League supports the annual reappraisal of property for state and local property tax purposes. (September 2006)**

F-3.26. **That the Alabama Congressional delegation oppose any rewrite of the Federal Telecommunications laws so long as the legislation contains provisions that would reduce municipal franchise fees received from cable television companies, allow cable companies to select to provide services to only a certain portion of the municipality, or would impair the right of municipalities to control their rights-of-way. (September 2006)**

F-4. Finance: Industrial Financing

F-4.1. That the League strongly oppose federal regulation of industrial revenue financing that is not uniformly applicable to all issuing authorities nationwide. That the federal government should not use the unequal regulation of industrial financing as a vehicle to favor industrial growth in one region over another.

F-4.2. That the League sponsor an amendment to the Cater

Act to prevent the use of industrial development financing to remove existing taxable industrial property from the tax rolls.

F-4.3. That the League strongly support the principle that disclosure requirements for the issuance of public securities be left to state and local control.

F-4.4. ~~That the League support legislation to limit the use of HDBs to industrial projects only.~~

F-4.5. ~~That the League support efforts at the Congressional level to increase the amount of tax-exempt industrial revenue bonds that may be issued by a company. (September 2003)~~

F-4.6.4. That the League seek legislation to amend Section 11-54-80, Code of Alabama 1975, which relates to the appointment of board members to an incorporated industrial development board, so as to provide that the municipal governing body may, in its discretion, appoint any person who resides within the boundaries of the board's jurisdiction to serve on the board. (September 2005)

F-5. Administration: General

F-5.1. The adoption of legislation directing liberal construction of municipal enabling legislation.

F-5.2. To encourage the elimination of duplication of governmental services by joint effort.

F-5.3. That policy decisions relating to all programs at the local level be made by elected local officials.

F-5.4. That the League work to preserve the right of municipal governing bodies to provide additional compensation for officers and employees who are required to perform added duties and responsibilities.

F-5.5. That all municipal officials are encouraged to read the legal notices containing advertisements for local bills proposed for introduction in the state legislature.

F-5.6. That the League support legislation to increase the preference allowed local bidders under the provisions of the competitive bid law from 3 percent to 5 percent.

F-5.7. That the League urges all municipalities to keep their records in order so that they can be prepared for the auditor to come in soon after the fiscal year ends. The League further urges all municipalities to require the auditor to complete the municipality's annual audit within 120 days. (September 2003)

F-5.8. That the League seek legislation to provide that persons acting as mayor during a lengthy absence from duty of the mayor shall receive the compensation established for the holder of the position of mayor during his or her time of service as acting mayor.

F-5.9. That the Alabama Constitution be amended to allow full-time municipal officials to participate in the Employees Retirement System of Alabama.

F-5.10. That the League urges all municipalities to enter into a written contract with their auditor for the annual audit. Further such contract should contain a deadline for completion of the audit and provide a penalty for failure to complete the audit by the date specified in the contract.

F-5.11. That Section 41-16-51, Code of Ala. 1975, which provides that the purchase of dirt, sand and gravel by county governing bodies from any county property owners in order to supply a county road or bridge project may be purchased without

the necessity of bidding, so as to give a similar exemption to municipalities.

F-5.12. That Section 11-44G-2, Code of Ala. 1975, which relates to the filling of vacancies in the office of mayor in Class 7 or 8 municipalities, be amended to allow the council president to fill the vacancy in cities of 12,000 or more population.

F-5.13. That Section 11-43-160 of the Code of Alabama 1975 be amended to clearly provide that in municipalities with a population of under 12,000, the mayor is a voting member of the council whose vote may be included in the required two-thirds vote of the council needed to discipline or terminate employees. (August 2004)

F-5.14. That the League recognize the effect of domestic violence on the cost of providing services within the municipality, including police, prosecution, court, housing, etc., as well as the potential impact on municipal liability of providing services. Further, that the League recognize that domestic violence is a community problem that requires a community response, and support efforts to organize coordinated community responses to domestic violence (sometimes referred to as domestic violence task forces.) Municipalities are encouraged to assist through use of facilities for meetings and other activities and involving municipal law enforcement, court, housing, prosecution and other departments and staff whose work may involve responding to problems related to domestic violence. Municipalities are also

encouraged to proclaim October of each year as Domestic Violence Awareness Month and to participate in public awareness events and campaigns. (September 2005)

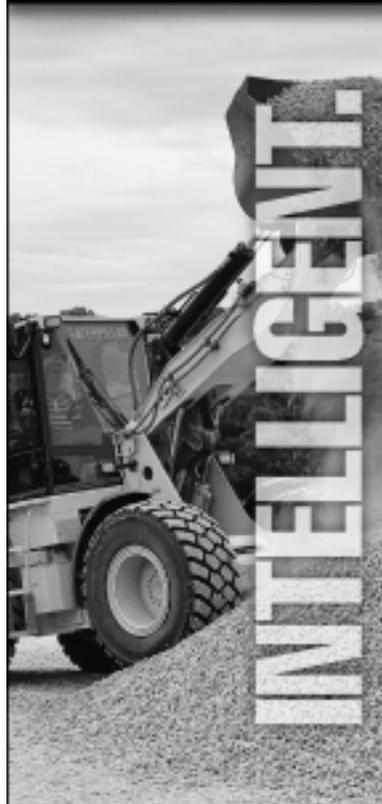
F-5.15. That the League encourage local Housing Authorities to develop policy guidelines regarding domestic violence cases that support victims **amend their policies to comply with the provisions of the 2006 Violence Against Women Act (VAWA) to provide protection for victims of domestic violence** and their families and hold perpetrators accountable for their violence, abuse and destructiveness. ~~Often, victims are held responsible for actions of perpetrators over which they have no control.~~ Further, in recognition of the problems related to homelessness, member municipalities and housing authorities are urged to be cognizant of the number of domestic violence victims who are among the homeless as a result of attempts to escape the violence and abuse and develop appropriate responses for this population in conjunction with local domestic violence service providers. (September 2006)

F-5.16. That the League propose legislation to authorize an **alternative method for publishing ordinances by means of a synopsis published in the newspaper together with posting the entire ordinance in three public places within the municipality and on the municipality's web page.** (September 2006)

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F-6. Administration: Labor Relations

F-6.1. That all municipalities, regardless of size, establish an ongoing personnel system to insure compliance with laws and regulations affecting municipal employer-employee relations, and also to document important information affecting such relations.

F-6.2. That the League continues to favor fair, uniform and equal treatment of all public employees and inasmuch as the public policy of this state, since its admission to the Union in 1819, with respect to collective bargaining has remained firm and unchanged, any legislation changing this policy should first be submitted to a vote of the people of this state. The League continues its opposition to any legislation which would give any group of public employees special or favored treatment, the effect of which treatment would be to discriminate against other employees. Further, that the League disfavors the withholding of employee union dues at the local level of government.

F-6.3. That legislation imposing restrictions on municipal employer-employee relations or providing special treatment for particular groups must be discouraged and opposed.

F-6.4. That legislation be introduced which would prohibit picketing in a manner which would impede the use of public safety vehicles with provision that any public employee engaging in such activities must be terminated from their public employment.

F-6.5. That the League strongly oppose the imposition of federal regulation of state and local government pension systems under ERISA. That the League recommend that local pension systems provide for realistic and equitable levels of retirement, survival and disability benefits; provide appropriate and timely reporting of the pension systems financial condition to plan participants, elected officials, taxpayers and other interested parties; establish a financing plan to assure adequate funding of future benefits and obligations as they are earned and accrued to amortize any accrued or unfunded liability; and establish fiduciary standards for plan.

F-6.6. That the League staff research and prepare recommended grievance procedures to be followed by member cities and towns in dealing with their personnel.

F-6.7. That the League staff advise with members on labor problems and act as a clearinghouse on information relating to labor developments in municipal government in Alabama.

F-6.8. That the League give its full support to efforts for the repeal of the Davis-Bacon Act and that the League's position on this issue be made known to Alabama's Congressional delegation.

F-6.9. That the League strongly oppose any state legislation which would mandate overtime pay, hours or working conditions of municipal employees.

F-6.10. That the League oppose the reenactment of legislation that would mandate the payment of prevailing wage rates on public improvement projects financed by state or local funds.

F-6.11. That the Alabama Congressional delegation oppose all legislation which would require Alabama municipalities to come under OSHA regulations. (September 2003)

F-6.12 That the League urges every municipality to adopt a written policy prohibiting sexual harassment in the workplace. The League also encourages every municipality to provide

instruction to all officers and employees of the municipality on the subject of sexual harassment.

F-6.13. That the League encourage member municipalities to adopt written policies and procedures for handling of domestic violence within the municipal workplace, and to identify a person to serve as liaison to the community on matters related to domestic violence and ensure that all officers and employees of the municipality receive instruction on the policies. Further that the League staff work with ACADV to research and recommend a workplace domestic violence policy and procedures that emphasize the devastating effects of domestic violence and appropriate employer responses. The League recognizes the potential for each municipality's having employees who may be victims or perpetrators of domestic violence and the need to develop policies for addressing both to maintain a safe workplace environment for all employees. (September 2005)

F-7. Administration: Training

F-7.1. That all municipalities be strongly urged to establish municipal safety programs.

F-7.2. That all municipal governing bodies be urged to establish ongoing productivity programs to better monitor the costs of providing essential services to the people. That all municipalities be urged to implement the accounting, reporting and management procedures recommended in the revised *Alabama Municipal Finance Manual* prepared by the Office of Public Service and Research of Auburn University with cooperation of the League and the Alabama Society of CPAs.

F-7.3. That the League support the inclusion of additional instruction on court procedures in the training standards established by the Peace Officers Standards and Training Commission.

F-7.4. That the League encourage continuing education of governing officials regarding domestic violence and include such education as a part of its education program for municipal officials, as well as its annual conference. This would ensure that all officials have both a basic working knowledge and an opportunity to develop an in-depth understanding of the dynamics of domestic violence and its effect on the provision of municipal services. Coordination with the ACADV is encouraged in this regard. (September 2005)

F-7.5. That the League support educational programs for judges, magistrates and court staff, prosecutors and law enforcement officers. Further, that the League encourage coordination with the Alabama Coalition Against Domestic Violence (ACADV) and its member shelters and service providers in training all municipal officers and staff in the dynamics of, and appropriate responses to, domestic violence. The League urges each municipality to ensure that the Alabama guidelines for law enforcement, prosecution and the judiciary, developed by the ACADV and practitioners in the respective areas, are utilized. (September 2005)

F-8. Administration: Annexation and Incorporation

F-8.1. That restrictions be enacted to prevent incorporation of new municipalities within the police jurisdiction of an existing municipality.

F-8.2. That the Legislature be requested to give priority attention to the need for a reasonable and adequate municipal annexation procedure for Alabama cities and towns regardless of the population or geographical size of the existing city.

F-8.3. That legislation be sponsored to provide a special procedure for the annexation of unincorporated territory used for non-farm or non-residential purposes when such property has been completely surrounded by the incorporated area of a municipality for 5 or more years.

F-8.4. That the League and its membership seek federal legislation amending the Voting Rights Act of 1965 to provide for adjudication of issues arising therefrom in the federal district court of the local government affected rather than the District Court in the District of Columbia.

F-8.5. That the League opposes any federal statute which would limit the authority of municipalities to annex property.

F-8.6. That the League support legislation to remove annexed areas from special districts such as fire districts and park districts.

F-8.7. That the League opposes legislative annexation and de-annexation of property located within the limits of a municipality without the consent of the governing body of the affected municipality.

F-8.8. That members of the Alabama Congressional Delegation support amendment of Title 7 U.S.C. Section 1926 to allow a municipal government to assume the assets and liabilities of a rural association providing water and sewer to rural residents when the service area of the association is annexed into a municipality.

F-8.9. That the League sponsor legislation to provide that where two entities are competing to annex similar parcels of unincorporated territory, the entity which begins the annexation process first shall have exclusive jurisdiction over annexation of the subject property until such time as the annexation effort is either successful or until the effort fails.

F-8.10. That the League does hereby urge all municipalities upon the completion of an annexation to immediately notify their county taxing officials of the new municipal boundaries so that the proper taxes can be collected from the new municipal residents. (September 2002)

F-8.11. That the League continue to monitor insurance companies doing business in Alabama as to their use of ISO ratings to determine rates for fire insurance sold to property owners within the state. (September 2003)

F-8.12. That the League, in order to assure the proper collection of municipal property taxes, encourages each municipality to notify county tax officials promptly upon the completion of the annexation of property to its corporate limits. Further, the League recommends that every municipality which has ever annexed property should examine the county tax records to make sure that municipal property taxes have been collected on the annexed property. (September 2005)

F-9. Administration: Liability, Workmen's Compensation, Unemployment Compensation

F-9.1. That Congress be petitioned to refrain from imposing liability on local officials and officers through federal legislation

and endeavor to reduce potential exposure of local officials and officers to tort liability as a result of existing legislation. In particular the League urges the Alabama Congressional delegation to support "good faith" as a defense for municipal corporations.

F-9.2. That the League sponsor legislation to protect reimbursement unemployment compensation employers from payment of unemployment compensation to employees who leave their service and are later dismissed by a subsequent employer for a disqualifying cause.

F-9.3. That the League oppose legislation which would abolish the defense of contributory negligence and provide for comparative negligence in civil liability actions in Alabama.

F-9.4. That the League oppose amendments to the Workmen's Compensation Law which would increase the allowance for attorneys' fees in contested cases, establish presumptions relating to service-connected illnesses, or make inordinate changes in the schedule of benefits provided by the Act.

F-9.5. The alarming increase in liability insurance costs for public entities prompts the League to recommend that all municipalities actively engage in the establishment of safe operating procedures to avoid liability and claims against the municipality.

F-9.6. That the League support legislation to amend Act 87-233, which exempts certain officers and directors from civil liability, so as to add housing authority directors to the list of covered officials.

F-9.7. That Section 11-47-190 of the Code of Alabama 1975, limiting a city's aggregate liability to \$300,000 on any combination of judgments arising from a single occurrence, be amended to clearly provide that this limit on liability applies to property damage claims in addition to personal injury claims. (August 2004)

F-10. Administration: Courts

F-10.1. That the League supports the separation of powers concept and therefore supports the proposition that the power to be exercised by a municipality should be determined by the legislative branch of government rather than the judicial branch.

F-10.2. That all municipalities support the educational programs of the Alabama Judicial College, a division of the Administrative Office of Courts, by encouraging annual attendance of judges, court clerks and magistrates, and other interested municipal officials, including police administrative officials, at judicial seminars. It is recognized that continuing education is vital to further improvement of the criminal justice system and to the stabilization of liability insurance rates for municipalities.

F-10.3. That all municipalities which have a municipal court, regardless of size, recognize that the court represents the judicial branch of government and as such serves a separate and distinct function from that of the law enforcement agency. Further, that each municipality adopt policies to ensure compliance with laws, rules and regulations effecting neutrality and independence of the municipal court and that the municipal court be budgeted as a

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separate department. Municipal governing officials and judicial officials are encouraged to study magistrates' work situations to ensure that they are free to exercise independent judgment in making probable cause determinations in the warrant-issuing process.

F-10.4. That municipalities review Alabama County Jail Standards, developed by the Alabama Sheriffs Association, and consider adopting, revising or developing jail standards to serve as a guide toward prevention of legal actions surrounding incarceration.

F-10.5. That municipalities seek the assistance of the Administrative Office of Courts staff in updating administrative and recordkeeping procedures of the court to increase the effectiveness and efficiency of their courts and to satisfy legal requirements of court administration. Several forms included in this model system are mandatory forms.

F-10.6. That the League explore the possibility and feasibility of establishing circuit rider defenders, prosecutors and judges for municipal courts.

F-10.7. That all municipal governing bodies are hereby urged to promptly inform the League's staff of all court cases brought by or against their cities in state circuit courts and in federal district courts.

F-10.8. That all municipal courts, regardless of caseload, utilize a prosecutor as an officer of the court to insure the consistent and competent enforcement of municipal ordinances. The prosecutor should be available when needed.

F-10.9. That each municipality monitor the appointment of judges to assure that a vacancy does not occur due to the expiration of the terms of office. The term of office is two years for part-time judges and four years for full-time judges. The judge's term continues until a successor has been appointed and qualified. The judge should take the Oath of Office at the beginning of each successive term.

F-10.10. That each municipality review Rule 18, Alabama Rules of Judicial Administration, to determine if its warrant-issuing officials, known as magistrates, have been properly appointed and sworn in. Further that each magistrate, including the court clerk, complies with the provisions of Rule 18.1(B)(3) and (4) by enrolling in the mandatory Orientation and Certification Program within six months from the date of appointment and completing the certification program and certification maintenance in accordance with the guidelines established by the Administrative Office of Courts.

F-10.11. That the League encourage continuing education of governing officials regarding the judicial branch of municipal government and include such education as a part of its Education Program for Municipal Officials, as well as its annual conference. This would ensure that all officials have both a basic working knowledge and an opportunity to develop an in-depth understanding of the legal and procedural requirements of the judicial system at the local and state level.

F-10.12. That each municipal court support and utilize the Court Referral Program network by having alcohol and drug defendants assessed to determine the extent of any existing problems and referring such defendants to the appropriate community resources for education and treatment. Courts should

utilize court referral officers to assess and monitor defendants to ensure that court orders are strictly followed.

F-10.13. That municipal courts and police departments be encouraged to make a special effort to reduce the number of inactive pending cases resulting from defendants' failing to appear in court to answer charges against them or failing to pay court-ordered fines and court costs and restitution. This should be a part of a statewide effort to collect delinquent court fees and should be coordinated with the efforts of the Department of Public Safety, Administrative Office of Courts and other appropriate agencies.

F-10.14. That the League recognize and support the efforts of the Alabama Municipal Court Clerks and Magistrates Association. The Association has identified as one of its primary goals to raise the level of competence of municipal court clerks and magistrates through education. Further, the League encourages 100 percent participation in the mandatory training and education for municipal court clerks and magistrates.

F-10.15. That the League study the feasibility of legislation allowing municipalities the option to authorize the municipal court clerk to maintain a separate checking account for the purpose of receipting, maintaining and distributing cash bonds, restitution payments and other funds held in escrow other than statutory court costs which are distributed on a monthly basis by the municipal court clerk or treasurer. If determined to be feasible, it is recommended that the League prepare legislation and give priority support for such legislation.

F-10.16. That the League encourage each municipality to ensure that all funds paid as the result of a court order are properly distributed on a timely basis by the 10th day of the following month. Municipal officials desiring to determine if their courts are collecting and distributing proper amounts may contact the Administrative Office of Courts to request technical assistance.

F-10.17. That each municipality take necessary steps to ensure that juvenile offenders are properly identified and, where required by law, see that they are immediately transferred to the juvenile court. All records identifying juvenile offenders in the court and police departments must be treated as confidential.

F-10.18. That the Municipal Government Committee of the Legislature be asked to study the feasibility of establishing a system of mandatory training for jailers.

F-10.19. That municipalities recognize the severity of problems related to incarceration of prisoners and support state and local judicial efforts in working with other agencies to develop community-based alternatives to incarceration for nonviolent property offenders.

F-10.20. That each municipality planning and implementing automation in its court consult the Administrative Office of Courts to determine standardized features which facilitate communication with other courts and with state agencies, including reporting to the Department of Public Safety and the Alabama Criminal Justice Information System. The standardization of data elements and other computer features ensures fast and accurate reporting and retrieval of information for local court and law enforcement purposes. Further, the League encourages municipalities to automate their court records systems.

F-10.21. That each municipality encourage its judge(s) to

implement the provisions of Section 14-6-22, Code of Alabama, 1975, by ordering defendants to repay the cost of incarceration upon conviction. The costs of housing should be determined by the proper municipal officials and may be assessed along with the actual cost of medical expenses.

F-10.22. That the League of Municipalities oppose any legislation which establishes or increases any court costs, penalty or assessment that does not go directly into municipal or state general funds, or that may be used directly for court improvement, or used to the benefit of Alabama's Fair Trial Tax Fund. It is recognized that millions of dollars are collected by municipal and state courts that are paid directly to and expended by numerous agencies and organizations that are not funded, or accounted for, through the general fund budgeting process of any local or state governing body.

F-10.23. That the Alabama League of Municipalities commend the Chief Justice and the Administrative Director of Courts for increasing the involvement of municipal court officials in the planning and implementation of policies and guidelines for administration of the Unified Judicial System and further encourage the continued utilization of municipal representatives in all decision-making processes involving municipal courts.

F-10.24. That the Alabama League of Municipalities express appreciation to the Alabama Supreme Court for its action to improve the administration of justice in municipal courts through the adoption of mandatory certification of all municipal court clerks and magistrates. Further that the League and the Administrative Office of Courts seek ways to provide financial assistance to municipalities that may experience financial hardship in complying with the Supreme Court Order to ensure equitable access to the certification program by all municipalities.

F-10.25. That the mayor and council of every municipality are encouraged to monitor their municipal court for compliance with constitutional and statutory requirements for the court, by requiring regular reporting to the governing body by the court on its activities and through improved auditing requirements for compliance. Further each municipal governing body is encouraged to ensure that its court files timely reports as required by statute and by the Administrative Office of Courts.

F-10.26. That the League actively support passage of legislation creating and funding a Judicial Education Trust Fund and the use of such funds to support orientation and continuing education programs for municipal court judges, clerks, and magistrates.

F-10.27. That each municipality require its municipal judge(s) to attend education programs designed specifically to deal with issues relating to municipal courts and the judge's duties. Municipalities are encouraged to cover the cost of judges' attendance at such programs.

F-10.28. That the League assist the Administrative Office of Courts to develop amendments to the Alabama Bail Bond Act, or other current laws, so that municipalities are not negatively impacted by these laws.

F-10.29. That the League urge municipalities' support of the use of certified perpetrator intervention programs as a supplement to traditional sanctions imposed by courts. These programs, which are certified by the ACADV pursuant to Section

30-7-6(a), Code of Alabama 1975, should be utilized as part of a coordinated justice system response to domestic violence. Certified Perpetrator Intervention Programs have been determined to be effective in reducing subsequent violence when judges order defendants to complete the program and follow up to ensure program completion. Failure of courts to monitor defendants' completion makes the programs less effective and, in fact, undermines the overall effectiveness of the court. Certified Perpetrator Intervention Programs could also be utilized by municipalities as a part of their response to employees who are determined to be perpetrators of domestic violence and abuse. (September 2005)

F-10.30. That municipalities encourage the use of volunteers in courts to assist in the efficient operation of courts. One such use could be in the location and management of defendants in delinquent cases. Volunteers may be considered for use to reduce the backlog of cases which regular staff cannot work through.

F-10.31. That all municipalities study the feasibility of instituting or supporting a community-based detention and community corrections program in their city or town.

F-10.32. That each municipality take measures to see that all court orders are enforced and consider utilizing Rule 38, Alabama Rules of Judicial Administration, which authorizes the Administrative Director of Courts to contract with any collection agent or agencies for the collection of delinquent assessments, costs, fees, fines or forfeitures that are due to be paid to the state, county or municipal government.

F-10.33. That each municipality take notice of Rule 4.11, Alabama Rules of Judicial Administration, establishing the duties of the municipal court clerk and ensure that its clerk is operating in accordance with the provisions of the Rule.

F-10.34. That the League support legislation to remove the restrictions on municipal enforcement of speed limit laws.

F-10.35. That the League actively oppose any legislation that diverts fines, penalties or forfeitures from municipalities to other agencies.

F-10.36. That the League support the development of auditing guidelines similar to those used by the State Examiner of Public Accounts for use by city auditors when auditing municipal courts. Further, a complete audit of all public funds collected by municipal courts should be conducted on an annual basis.

F-10.37. That the League support the development of automation guidelines for municipal court software programs recommended by a municipal court automation committee under the auspices of the Administrative Office of Courts.

F-10.38 That the League encourage municipalities to adopt an ordinance establishing a Correction Fund pursuant to Section 11-47-7.1, Code of Alabama 1975, which provides for the operation and maintenance of a jail facility, court complex or other juvenile facility. Further, the Correction Fund may be used for court personnel salaries, equipment and supplies required to maintain the court or jail.

F-10.39. That the League encourages municipalities to review the security of the courtroom to provide protection for citizens, officials and other personnel conducting official business after five p.m.

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F-10.40. That the League support the Investment in Justice Act which is an additional court cost that includes designation of costs for education, training, advanced technology and data exchange. These funds will be available for court officials to receive training without burdening the municipality. Municipal judges should be strongly encouraged to pursue continuing legal education in the area of judicial administration.

F-10.41. That the League encourage the use of alternative sentencing to reduce the problem of jail overcrowding. Supervised probation is a growing trend that may assist the municipal courts in monitoring compliance of court orders. Further, this should strengthen the collection of court costs, restitution and fines for the municipality.

F-10.42. That the League urges municipal court participation in utilizing the State Judicial Information System as a centralized repository for statistical data relating to courts within the Unified Judicial System. Further, the League encourages use of shared information between intergovernmental entities.

F-10.43. That the League supports the efforts of the Alabama Municipal Judges' Association to seek a Supreme Court Rule change to require mandatory judicial training for Continuing Legal Education for all municipal judges sitting on the bench.

F-10.44. That the League urges each municipality which operates a jail and houses county inmates to have a written contract for the provision of such services. The contract should expressly provide responsibilities for the municipality and the county. It is also recommended that a similar contract be written when a municipality uses a county facility to house municipal prisoners.

F-10.45. That the League urges each municipality to have an audit conducted in the municipal court upon the expiration of the term of office of the municipal court clerk.

F-10.46. **That the League seek legislation to amend Section 11-45-9, Code of Ala. 1975, which provides for the maximum fine for violation of municipal ordinances, so as to allow municipal fines to be the same as the maximum allowed by state law.**

F-10.47. **That the League recognize the need and support the use of court interpreters in all aspects of criminal proceedings at the municipal level.**

F-10.48. **That the League recognizes the need for expanding certain duties of municipal court magistrates.**

F-10.49. That the League encourage municipalities to recognize the serious and severe lack of information available to law enforcement and the courts due to the lack of a central repository of information on pending and adjudicated cases. Currently, defendants can have similar cases in two or more courts without either court knowing about the other cases. Municipalities are encouraged to work with their court automation services providers and the Administrative Office of Courts (AOC) to ensure that case information is electronically provided to the AOC mainframe on a regular basis so that historical information from all municipal, district and circuit courts may be electronically available to courts and law enforcement agencies. (September 2006)

F-11. Administrative: Elections

F-11.1. That the Fair Campaign Practices Act be amended so as to provide a more workable law.

F-12. Intergovernmental Relations

F-12.1. To oppose the passage of the Federal Interstate Taxation Act which would restrict the power of states and municipalities to collect licenses from businesses in interstate commerce.

F-12.2. That the League encourage continuing liaison between municipal and county governing bodies serving the same general area.

F-12.3. That the League supports the continued funding of state departments that are involved with programs at the local level to provide training and technical assistance to municipal employees and administrators.

F-12.4. That a preference for municipal government in the purchase of surplus state and federal property be sought.

F-12.5. That the work of regional planning commissions should provide local and areawide technical planning assistance which must be subject to the decisions of locally-elected officials serving on such planning commissions, that the policy decisions of such planning commissions must be restricted to the planning functions; and the membership on such planning commissions must remain voluntary and such membership shall not be a condition precedent to the right of any municipality to participate in federal programs.

F-12.6. That all members of the legislature and the governor be advised and petitioned to include representatives from municipal government on all boards and commissions created by the legislature which regulate or control programs affecting urban citizens, and further that the legislature refrain from the adoption of laws, rules and regulations which impose financial burdens on municipal governments without providing state funds to cover the cost of such regulations and controls.

F-12.7. That the League continue and increase its assistance in the promotion of intermunicipal cooperation and assistance, especially in the area of training of municipal officers and personnel.

F-12.8. That the Committee endorses the A-95 review process and encourages all municipalities to participate in and support the process.

F-12.9. That the League sponsor annual joint meetings with the leaders of substate planning districts for the promotion of cooperation wherever possible.

F-12.10. That the League support state or federal regulation and funding of a hazardous waste removal program.

F-12.11. That the legislature remove statutory provisions which conflict with local code enforcement ordinances to the extent of such conflicts.

F-12.12. That the League urge members of the legislature to seek approval of local governing bodies before local legislation affecting the local unit of government may be introduced in the legislature.

F-12.13. That the League and its membership recognize

Section 220 of the Alabama Constitution as construed by long-standing decisions of the Alabama Supreme Court to be essential to municipal administration, protection of the public interest, the orderly use of municipal streets and public ways, and to the economy of our cities and towns. Every effort must be made by the League and its membership to protect and preserve Section 220 and to strenuously oppose any and all efforts made to erode the underlying purpose of Section 220 as heretofore construed by the Alabama Supreme Court to the effect that Section 220 is a bill of rights granted to cities and towns to protect the use of their public ways.

F-12.14. That the federal and state governments should take no action which abridges the right of a municipality to franchise, regulate, or control any person or enterprise that provides services within that municipality. The League does, however, recognize that there may be certain limited circumstances in which Congress and the State Legislature may legislate in this area. When such legislation is enacted, it should be drafted in such a way as to leave municipalities the greatest possible autonomy.

F-12.15. That all members of the Alabama Legislature are urged to refrain from introducing and to adamantly oppose legislation which would restrict or interfere with municipal operations and actions whether governmental or proprietary.

F-12.16. That the members of the Alabama Congressional Delegation be petitioned to vigorously oppose any cuts in the Alabama Army and Air Force National Guard or in the Naval Reserve or any other reserve military units.

F-12.17 That the League seek legislation to provide that state and county buildings must meet municipal code requirements. (August 2004)

F-12.18. That ~~the state law be ammended~~ ~~ABC Board adopt regulations~~ to require that all alcoholic beverage license applicants file their applications initially with the appropriate office of the local jurisdiction in which the business is to be located. (September 2006)

F-12.19. That the League urges every municipality that seeks legislation relating to alcoholic beverages or tobacco products to contact the Alabama Alcoholic Beverage Control Board prior to introduction of the legislation to make the Board aware of the municipality's effort. (September 2005) ■

VENDOR PROFILE

North America Fire Equipment Company, Inc. (NAFECO)

North America Fire Equipment Company, Inc. (NAFECO) was founded by Jerrell Oaks in 1968. NAFECO primarily began as a service type business to facilitate local companies with fire extinguisher maintenance. Through the years, it has grown into a full line distributor of Fire, Police and EMS apparel and equipment. In addition, NAFECO is a large distributor of KME fire apparatus.

NAFECO is headquartered in Decatur, Alabama, with seven regional offices located in the southeast. Most products are inventoried at our corporate warehouse and are available for immediate shipment. We take great pride in our customer service. Customers today desire and expect a high level of service to take care of their needs. Our inside sales staff works diligently to answer questions and process orders on a daily basis. Our outside sales force will come to your city and work with your fire department to identify specific needs. We offer a lease payment finance plan customized to your budget.

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Energy, Environment and Natural Resources

Recommendations presented in this article were adopted by the League's EENR Committee this past September. Words printed in **bold type** indicate new language adopted by the Committee. Lines or words struck through indicate language proposed for deletion. The Proposed Policies and Goals will be subject to further review and final ratification by delegates to the 2007 League Convention in Huntsville, April 21-24, 2007.

E-1. Federal Aid/Mandates

E-1.1. (a) That any federal legislation directing the pass back of control of environmental problems to the states retain some degree of federal oversight to assure uniform national protection of the environment.

(b) That continued federal funding of at least half of environmental protection projects is essential in view of the federal government's mutual responsibility, along with that of state and local governments, over the environment.

(c) That the League urges the Alabama Congressional delegation to continue to monitor and support legislation which would require the federal government to reimburse state and local governments for the additional direct costs of complying with federal mandates imposed after the effective date of the act and prohibit federal agencies and courts from enforcing federal regulations which mandate additional costs unless Congress appropriates the necessary funds to reimburse state and local governments for the cost of implementation.

(d) That agencies of the federal government be mandated by the Congress to uniformly follow the Regulatory Flexibility Act of 1980 which directs federal agencies to scale rules and regulations to the size of the governments that must follow those rules and regulations and which requires a fiscal impact analysis of the rules and regulations proposed by federal agencies. Further, that the Congress is urged to close the loophole in the Act which allows heads of federal agencies to certify, without substantiation, that a proposed rule has no substantial impact on a significant number of small entities.

E-1.2. That the governor is urgently petitioned to consult with representatives of municipal government before implementing any program from the federal level which passes down any responsibility and/or funding in the field of environmental protection.

E-1.3. (a) That the Alabama League of Municipalities express to its U.S. Senators and Congressmen its concern over problems relating to understanding and construction of federal regulations relating to air, water, and solid and hazardous wastes control which pose delays and confusion.

(b) That the League work with members of the state legislature to create a better understanding by the members as to reasonable air, water, and solid and hazardous wastes disposal programs as they affect the industry and future industry of our state.

(c) That the League generally support programs to protect the urban environment.

E-1.4. The Alabama League of Municipalities requests that Congress and the National League of Cities study the feasibility

of a federally-supported revolving loan fund to help finance solid waste disposal. The revolving loan fund should be similar in operation to the program enacted for wastewater treatment.

E-1.5. That the League seek an exemption from all ADEM fees for municipalities and municipal entities. Further, that the League opposes the proposal by ADEM to increase permit renewal fees for landfills. (September 2003)

E-1.6. The League urges the Governor, State Legislature and the Alabama Congressional delegation to appropriate funding for a statewide Geological Inventory Survey (GIS).

E-1.7. The League opposes ADEM legislation changing five-year solid waste landfill permitting renewal requirements to life of service permits without improved accountability and oversight of landfill management and operations. (August 2004)

E-2. Pollution

E-2.1. That the League thank the Governor and the legislature for enacting legislation to create the Alabama Drinking Water Finance Authority. Further, the League urges the Governor and the legislature to fully fund the State Revolving Loan Program for drinking water established by this law. Many Alabama municipalities are confronted with the enormous costs of meeting federal Clean Water Act standards and federal grant assistance to meet these deadlines will, at best, be phased out over the next few years. It is imperative that the Governor and the legislature recognize that our state government is seriously deficient in failing to adequately assist local governments in our mutual responsibility of protecting the environment.

E-2.2. (a) That the Environmental Protection Agency and Congress are petitioned to re-examine the impact of the Clean Water Act requirements and the EPA's national municipal compliance policy in relation to the termination of the EPA Construction Grants Program and reduction in state revolving fund (SRF) capitalization appropriations. It should be further noted that the problem is not unique in Alabama but is typical of a condition that exists throughout the country.

(b) That clean water is as much in the national interest as in state and local interest and therefore the federal role in the federal/state/local wastewater treatment partnership must not be abandoned. Further progress toward clean water will depend upon the continued availability of federal funds and state matching funds. Title VI of the Clean Water Act should be funded at the maximum authorized.

(c) The Environmental Protection Agency's compliance policy should be modified so that municipal wastewater treatment compliance plans can be structured to achieve the level of

compliance that is consistent with available federal and local financial assistance.

(d) Congress should restore the federal tax incentives for private financing of wastewater treatment facilities since such financing arrangements may reduce capital costs and expedite project construction.

(e) That the League and its member municipalities support the Municipal Water Pollution Prevention Program (MWPP) to protect the investments in municipal wastewater collection and treatment facilities. All municipalities are encouraged to complete and transmit a copy of the annual MWPP report to ADEM with the appropriate resolutions.

E-2.3. (a) That the League staff work closely with the staff of the Air Division, ADEM, in problems involving air pollution control in municipalities.

(b) That the League petitions the governor to appoint a representative of the League to the Environmental Management Commission when the appropriate vacancy on the Commission occurs.

E-2.4. (a) That the League staff maintain close contact with the Alabama Department of Environmental Management's Land Division in its implementation of federal laws and regulations, as well as state laws, governing solid and hazardous waste.

(b) That all municipal governments are urged to review and become familiar with the solid waste management plans under which their communities operate. Due to the increased cost of developing disposal sites, municipal officials should consider joint or consolidated operations in the planning process.

(c) That all municipal officials are urged to make the hard decision to charge collection and disposal fees adequate to fund their increasingly expensive waste management programs.

(d) That municipal officials are urged by the Land Division of ADEM to exercise caution before engaging a private contractor to make sure that such contractor is competent to handle their solid waste needs, and undertaking a cost study analysis of the present operation before entering into a contract with a private contractor. Local units of government should exercise caution in entering into contracts to ensure they do not lose local control and that long-term capacity is assured for disposal.

(e) Any contracts should require that price increases be based on economic indicators such as the Producer Price Index. Contractors should also be required to provide an audit made by an independent firm in requesting a price increase for collection and/or disposal. The League further recommends that all contracts between a municipal government and private solid waste contractors be reviewed by League attorneys and the Alabama Department of Environmental Management before those contracts are executed.

(f) That in most areas, there is a strong need for continued city-county cooperation in solid waste management.

(g) That municipal officials are urged to investigate the advantages of using rollout containers and other methods of curbside pickup in their solid waste collection efforts.

E-2.5. (a) That Congress is strongly urged to fully fund the annual authorizations for the Superfund and underground storage tank clean-up programs contained in the Superfund reauthorization legislation enacted by the 99th Congress and

signed into law by the president.

(b) That overlapping and conflicting federal hazardous materials regulatory policies should be eliminated and federal agencies involved in the regulation of hazardous materials (such as DOT, EPA, DOE, FEMA and NRC) should coordinate their programs much more closely. As a first step, the Department of Transportation, the Environmental Protection Agency and other appropriate federal agencies should consolidate their lists of hazardous materials, wastes and substances into a single comprehensive listing. In those instances where more than one federal agency regulates a hazardous material, waste or substance, the appropriate agencies should examine existing regulations and take steps to eliminate conflicting or inconsistent policies.

(c) The federal government should set stricter standards for hazardous wastes, hazardous materials and radioactive materials containers. A standardized hazardous materials and waste numbering system should be developed by the federal government.

(d) Shippers should be required to pre-notify all cities along a prospective route for shipments of extremely hazardous materials (including large quantity or Type B radioactive materials) or infrequently-shipped hazardous materials which would require special anticipatory emergency response preparation. For those hazardous materials which do not require special local preparations, information should simply be made available to the local communities along the potential route. Furthermore, federal, state, regional, and local governments should cooperate more closely in the development of a unified pre-notification system (such as a single manifest system) and in the exchange of shipment-related information. To improve the safety of truck transportation of hazardous materials, the federal government should create uniform national truck operation standards for drivers of vehicles transporting hazardous materials. Such standards should be issued by the Department of Transportation and administered by the state.

(e) Emergency response should continue to be the primary responsibility of state and local governments. State and local governments should participate, with the assistance of industry and the federal government, in education and training efforts. All municipal officials are urged to actively participate in the Local Emergency Planning Committee to make maximum use of resources provided by the Hazardous Materials Transportation Uniform Safety Act (HMTUSA) which provides grants to local governments for emergency planning and training for hazardous material incidents.

(f) In regard to high-level radioactive waste, the League recommends:

(1) local governments should be consulted in the designation of routes for the transportation of high-level radioactive waste and spent fuel through their jurisdictions. Where state governments seek the designation of alternative routing to the interstate system, they should be required by federal law to create a review and comment process that provides affected local jurisdictions with the opportunity to participate in the alternative routing decision. Guidelines for the routing of high-level

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radioactive waste, such as are contained in HM-164 for truck transportation, should also be established for the movement of such waste by barge and rail. The guidelines should include requirements that local governments be consulted in the designation of barge and rail routes through their jurisdictions. The federal government should be required to give general, not shipment by shipment, notification to affected local governments of the routes used and approximate frequency of shipments of high-level radioactive waste through their jurisdictions.

(2) Inspection of vehicles carrying high-level radioactive wastes and enforcement of high-level radioactive waste regulations should continue to be the primary responsibility of state governments. However, local governments should be allowed to assist in enforcement efforts where they have the capacity and resources to do so.

(3) Local governments bear the major burden of the initial response to an accident involving high-level radioactive waste. However, ensuring that local governments have the resources and capacity to respond to such an accident is the responsibility of the federal government. To assist local governments in emergency response preparedness, the federal government should publish and distribute written materials providing both general and technical information for use by local government officials, offer emergency response training and technical assistance for local officials, require state governments to specify a clear definition of local government roles in emergency response under the state plan, assume primary responsibility for public education regarding accidents involving radioactive waste, provide local governments with appropriate emergency response equipment as necessary, and make federal financial assistance available to local governments for emergency response planning and program development.

(4) The total financial pool which provides compensation for losses in case of a nuclear accident must be increased by increasing the ceiling on each nuclear power plant's liability. Furthermore, the Congress should guarantee that compensation will be provided by the federal government if costs to victims exceed the available financial pool. Compensation for losses resulting from accidents at nuclear waste repositories and those involving the transportation of nuclear waste should be provided in a manner similar to compensation for losses at nuclear power generation facilities. Furthermore, state and local governments should be compensated for the costs which they incur in preparing for and responding to a nuclear accident. In order to encourage state and local participation in emergency response efforts, and to minimize the potential for lawsuits against these governments, state and local governmental liability should, under the Price-Anderson Act, be explicitly waived in the event of a nuclear accident. Further, Congress should give consideration to amending the Price-Anderson Act so as to create a federal tort system for nuclear accidents.

(g) That all municipalities are urged to actively participate in the emergency planning and training available through their City-County Emergency Management Agency. Municipalities should assure that available special training concerning emergency response to radioactive materials and other hazardous materials is obtained by workers and emergency responders. The Hazardous Materials Transportation Uniform Safety Act (HMTUSA) now

provides funding to the Local Emergency Planning Committee for emergency planning and training to emergency response organizations.

E-2.6. (a) That the League continue to promote education programs on the need for local beautification and litter prevention, and that all municipalities be urged to explore the possibility of forming local historic preservation and beautification committees.

(b) That all municipalities are urged to consider adoption of an ordinance which provides that upon a finding that litter detrimental to public health on land within the municipal boundaries, to order the owner or other person in charge of such land to remove the litter.

(c) That municipal officials urge their county governing bodies to assist in controlling the practice of dumping abandoned junk vehicles, household goods, furniture and appliances in rural areas. Further, that the legislature is urged to enact an enforceable law controlling non-permitted dumps.

(d) The League strongly supports legislation enacting mandatory statewide residential garbage/trash pickup. If the state does impose a statewide tipping fee, the fee money collected must be redistributed to the local entity or agency that is responsible for local garbage/trash collection and disposal. In the case of a private landfill, fees should be returned, on a per capita basis, to the city or county served by the private contractor.

E-2.7. (a) That the Committee supports enactment of a federal and/or state law to regulate use of non-returnable beverage containers.

(b) That the statutes of the State of Michigan and other states regulating non-returnable beverage containers be used as model legislation for League support in the Alabama Legislature as an Alabama law.

E-2.8. That the Committee strongly recommends the adoption of state legislation providing positive regulation of maximum allowable noise produced by motor vehicles or radios and sound systems and that the regulations be enforced. Municipalities are also urged to enact local noise abatement ordinances which contain provisions for enforcement.

E-2.9. That the League recognizes the problems associated with septage and grease disposal from residential and commercial septic tank systems, and urges all municipalities to explore feasible solutions for proper disposal in conjunction with local utilities, county governments, ADEM and county and state health departments.

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

E-2.11. That the League urge EPA to consider the cost of proposed rules on non-methane emissions from landfills and the detrimental effect of these proposals on municipal budgets.

E-2.12. That the League urge the Alabama Legislature to oppose any legislation mandating a municipality to purchase any stormwater, sewer, lagoon or other water system from a developer unless the water system meets the written and published standards of that municipality.

E-2.13. The League supports regulations requiring all

privately owned wastewater, drinking water and storm-water systems to be constructed to the same requirements as those mandated on municipal governments.

E-3. Drinking Water

E-3.1. That the League urge the governor, the state legislature and the Community Development Division, Department of Economic and Community Affairs, to give priority to environmental-type projects in awarding discretionary and economic development grants under the Small City Community Development Block Grant Program.

E-3.2. That the Committee supports the NLC's National Municipal Policy Statement on Energy, Environment and Natural Resources, Section 2.05F8, entitled "Water Supply: Water Conservation," which states in part as follows:

6. *Water Conservation.* Conservation should be made the cornerstone of federal policies and programs for water. In the future, all federal decisions to expand water supplies should start with the recognition that there are limitations on water resources. Federal feasibility studies should include rigorously-developed demand forecasts and consider, as precisely as possible, all environmental costs. Wherever possible, less costly, non-traditional alternatives, especially conservation measures, should be fully evaluated as options. Federal water projects funds should support and encourage water management,

conservation and pollution control programs in all types of water use.

8. *Municipal Water Uses.* Federal programs to promote conservation in municipal water use should recognize the conservational value of improving and rehabilitating existing municipal delivery and storage systems and the differences in conservation strategies for local and regional situations. The federal government should not adopt uniform conservation requirements, but should promote and cooperate with state and local water conservation programs and authorities.

Where national objectives are sought through local governments, any additional costs of federal mandates should be met with federal funds. Where local governments seek to develop new and/or innovative conservation programs in keeping with national interests and objectives, the federal government should make available an appropriate combination of technical and financial assistance for environmentally sound and safe local solutions.

E-3.3. That members of the Alabama Congressional delegation are petitioned to support legislation to enable the USDA Rural Development to expand its grant program and to liberalize the interest rates on its loan program to fund water systems for eligible municipalities.

E-3.4. That all cities and towns should take steps now to prepare themselves for potential water emergencies. Cities and

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towns should prepare an emergency plan which addresses contamination and interruption of water service due to droughts, floods or any other disaster.

E-3.5. Municipal officials should delineate wellhead protection areas and provide appropriate safeguards for groundwater resources through zoning or other measures.

E-3.6. Municipalities should be encouraged to actively seek out abandoned wells and work with landowners to properly treat, fill and cap private wells with assistance from and under guidelines prescribed by ADEM. A federal grant program is being developed to provide financial assistance.

E-3.7. Municipal officials should monitor regulatory changes proposed by EPA or ADEM and provide input reflecting the position of the provider of services.

E-3.8. The League encourages Congress to provide additional funding for implementing mandated safeguards in municipal drinking water and wastewater facilities. (September 2005)

E-4. Energy

E-4.1. (a) Municipal governments should take a primary role in implementing energy conservation and energy management, serving as an example for local industries and businesses and citizenry as a whole, should demonstrate the need for development of comprehensive energy conservation plans and the value in the reduction of an overall energy consumption.

(b) All municipalities are urged to take advantage of financial and technical assistance available under programs administered by the Science, Technology and Energy Division of the Department of Economic and Community Affairs. The League should maintain close contact with the Science, Technology and Energy Division and should request that the Division offer financial assistance to municipalities.

(c) All municipalities are urged to adopt the most recent International Building Code, specifically including the provisions relating to thermal and lighting efficiency and further consider adopting the revised code developed by the Science, Technology and Energy Division and the State Building Commission. (September 2003)

(d) All municipalities and counties are encouraged to explore the possibility of implementation of economically-feasible waste recovery and recycling systems but are further encouraged to exercise caution and to seek technical assistance from the Alabama Department of Environmental Management (ADEM) and the Science, Technology and Energy Division.

(e) Municipalities are further urged to help educate their citizens on waste management issues involving hazardous, radioactive and municipal wastes.

(f) Municipalities are encouraged to adopt energy efficient procurement practices and seek technical assistance from the State Purchasing Division and the Science, Technology and Energy Division.

E-4.2. Municipalities should cooperate with the emergency plans developed by the Science, Technology and Energy Division and in the event of any fuel shortage, priority be given in the distribution of fuels necessary for the operation of all health, emergency and other municipal functions which bear directly on

the health, welfare, and safety of the citizens of our cities and towns.

E-4.3. (a) The governor and legislature are encouraged to develop and implement an aggressive energy resource development program that is designed to increase the utilization of Alabama's vast energy resources in an environmentally safe and efficient manner. The state should work with private industry to seek markets for the state's coal, oil and gas, lignite, unconventional gas and other resources.

(b) The governor and legislature are further encouraged to provide adequate political and financial support to insure that the state realize the benefits of increased use of its energy resources.

(c) Municipalities are urged to support, and where feasible, participate in the development and use of synthetic fuels, coals, natural and unconventional gas and waste including biomass.

(d) That federal and state funding be provided to investigate and develop potential energy sources in Alabama.

E-4.4. As the price of conventional energy supplies rises, low-income, disabled, and elderly households will be less able to purchase fuel to meet basic needs. The federal government should increase both weatherization and fuel assistance to low-income, disabled and elderly households to offset rising energy costs. The federal assistance program should satisfy the following criteria:

(1) Local governments should participate in the design and implementation of the fuel assistance and weatherization program.

(2) Fuel assistance payments should be made from the federal government directly to energy suppliers. However, cities should be eligible grantees of weatherization funding.

(3) Institutions such as senior citizens centers should be authorized to participate in the weatherization program.

(4) Fuel assistance payments should be based on the total energy impact including heating, medically-necessary cooling and transportation needs.

(5) Excess fuel assistance funds should be reallocated to individuals for the purpose of home weatherization and energy conservation and every effort should be made to use existing delivery systems where possible.

(6) Sufficient funds should be authorized and appropriated to fulfill the objectives of the programs.

(7) Weatherization funding may be permitted by census tract and/or by individual building or dwelling unit.

E-4.5. The nation and its cities must have sufficient suppliers of natural gas. As a positive step to meet our natural gas needs, Congress should give authority to FERC to:

- Reimpose natural gas price controls if necessary.
- Give pipelines limited authority to abrogate and renegotiate current contracts.
- Allow pipelines to carry gas on a contract basis at an incentive rate where producers can find buyers directly, there is available capacity, and existing pipeline customers are not penalized but require that all contract carriage requests be reviewed by the Public Service Commission.

E-4.6. Cities and towns should investigate the possibility of using alternatively-fueled vehicles in their municipal fleets. Further, municipalities are encouraged to purchase and operate alternatively-fueled vehicles in all departments of city government.

E-4.7. That the federal government should encourage and support the development of hydroelectric power. The federal government should continue to own and operate the federal power marketing agencies and should not sell, transfer, exchange or otherwise dispose of them.

E-4.8. The League urges Congress to adopt legislation mandating only lateral drilling of gas wells within 15 miles of the shoreline.

E-5. Land Use

E-5.1. (a) That the Committee strongly endorses the establishment of state land use legislation which would preserve the authority of municipal control of land use within a municipality's corporate limits and planning jurisdictions, and cautions against federal land use legislation which would usurp vitally-important state and local controls.

(b) That municipal officials are urged to coordinate their planning and subdivision regulations with their county governing bodies proceeding under authority of Act No. 79-553, which authorizes counties to adopt subdivision regulations in those areas of the county beyond the control of municipal subdivision regulations. Further, that both municipal and county governments are urged to work with the State Department of Environmental Management in addressing the problem of uncontrolled rural subdivisions, and that all municipalities exercise their authority to create a planning commission and adopt subdivision regulations.

(c) That the USDA Rural Development be required to give priority to incorporated municipalities over unincorporated communities in the extension of water and sewer grants and loans. Further, that the assistance of the Alabama Congressional delegation be requested in bringing about review of FmHA regulations and revision wherever necessary to prevent uncontrolled suburban sprawl, which imposes a financial burden on counties which are financed principally through taxes paid by urban citizens and which also represents a heavy waste of energy.

(d) That the League should continue to express its concern over electric cooperatives which are contemplating or are presently engaged in the construction and operation of rural water supply systems. Further, that the League continue to question the wisdom of legislation granting this authority to electric cooperatives, especially as this affects the orderly growth and expansion of municipal corporate limits.

E-5.2. That environmental problems be given due consideration by all state agencies in the selection of sites for future state buildings, and by all school boards in the selection of sites for future school construction.

E-5.3. That the Surface Mining Control Act should be extended to include minerals other than coal.

E-5.4. That the federal government is urged to expand and speed up the procedure by which mineral rights to federal land are leased to commercial enterprises, while at the same time exercising due caution to insure protection of the environment.

E-5.5. (a) That this committee work with members of the League staff in developing recommendations and position statements directed at the numerous natural resources in Alabama.

(b) That the League support the Alabama Wilderness

Coalition in its efforts to obtain permanent protection of Alabama's publicly-owned forest through their inclusion in the National Wilderness Preservation System.

E-5.6. The Alabama League of Municipalities urges the Alabama Congressional delegation to oppose any legislation which would preempt local land use controls within a municipality's corporate limits and planning jurisdiction.

E-5.7. The League supports the Brownfield Tax Abatement and Alabama Land Recycling Finance Authority legislation to promote polluted site cleanup and industrial recruitment to those properties. (September 2002)

E-6. Municipal Utilities

E-6.1. (a) That the League supports legislation to give every municipality and every incorporated municipal board operating an electric distribution system the right to serve all electrical customers within the present and future corporate limits of the municipality, with the provision of a fair and reasonable formula to compensate for the acquisition of customers presently served by other distribution systems.

(b) That the League most strongly impress upon the legislature the absolute importance of maintaining Section 220 of the Alabama Constitution of 1901, which protects the right of municipalities to require franchises for use of their streets for the construction or operation of any public utility or private enterprise.

E-6.2. That the League Committee on Legislation sponsor a bill to provide for an exemption from the state 4% utility tax for gas and electricity used for operating water and wastewater treatment facilities.

E-6.3. The League urges ADEM to notify any municipality of new and renewal water discharge permit request on stream segments that may affect the Total Maximum Daily Load (TMDL) of a municipal waste system on that same water segment in order to allow an affected municipality the opportunity to present information at a public hearing before the new or renewal permit is granted.

E-7. Training

E-7.1. (a) That the League urges ADEM and existing training organizations to maintain and fully fund the essential programs for municipal personnel in water and wastewater operator training. The League further urges that because of the many new standards and additional monitoring requirements imposed by the federal government, water and wastewater systems operators should remain up-to-date on current regulations and developments through continuing education. To aid in this regard, the League supports the concept of a central training facility in addition to maintaining and improving statewide training for water and wastewater personnel.

(b) That the Alabama Fire College continue an ongoing program for training municipal firefighters and other personnel on how to cope with hazardous chemical spills.

(c) That municipal officials are urged to encourage their certified operators of treatment plants to take advantage of further training periodically provided in the area by the staff of the

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Technical Assistance Programs.

E-7.2. That the Committee on Energy, Environment and Natural Resources call on the League staff to work with the Alabama Fire College in providing training for municipal emergency personnel to cope with hazardous chemical spills.

E-7.3. ADEM is urged to develop an open burning application to be used by Fire Marshals and Fire Stations. The application should outline controls for open burning and be signed by permittees before an open burn permit is issued.

E-8. Vector (Pest) Control

E-8.1. That the League support the appropriation of state funds to establish a strong mosquito control program in Alabama, with particular emphasis on eliminating the source of mosquitoes.

E-8.2. That all municipal officials and personnel concern themselves with heavy concentrations of birds which, over a period of time, could result in the spread of the disease known as histoplasmosis. The disease is communicated from spores developed from bird droppings. Officials in municipalities having suspect areas are urged to contact the Division of General Sanitation and Vector Control of the State Department of Public Health for analysis.

E-9. Infrastructure Needs

E-9.1. That the League joins with the National League of Cities in expressing its concern over the deteriorating condition of the infrastructure in our cities and towns, and calls for the following:

(a) Proposal for a new multi-year infrastructure grant-in-aid program by Congress.

(b) To begin with a federally-funded inventory so that individual municipalities can determine their particular infrastructure needs.

(c) Federal creation of a domestic capital investment budget.

(d) Federal grants-in-aid to implement the infrastructure needs of municipal governments as established by the inventory or, in the alternative, to provide for federal assistance to enable states to establish state infrastructure banks to fund such programs.

E-9.2. That the Alabama League of Municipalities urges its Congressional delegation to introduce and support national legislation which allows states and/or municipalities to adopt flow control ordinances. Flow control ordinances are designed to ensure adequate tonnage so regional and municipal entities can finance and operate solid waste disposal facilities.

E-10. Environmental Insurance

E-10.1. That the League support amendment of the federal Products Liability Risk Retention Act to facilitate the creation of risk-sharing pools.

E-10.2. Municipalities should educate citizens living in flood-prone areas to participate in low-cost flood insurance programs such as the National Flood Insurance Program.

E-11. Funding for State Revolving Loan Fund for Municipal Wastewater Treatment

~~**E-11.1.** That the League urge the Alabama Legislature to~~

~~appropriate all of the required 20% state matching money to fund the State Revolving Loan Fund for Municipal Wastewater Treatment. The urgency of this request is underscored by the fact that if the 20% matching money is not appropriated, federal aid to the Alabama revolving loan fund for municipal wastewater treatment will forever be lost to the state. **E-11.1. The League urges the Governor and Alabama Legislature to use the surpluses in the State General Fund to appropriate the entire state matching monies needed to fully fund the Drinking Water and Wastewater State Revolving Fund (SRF) loans. The League also urges ADEM to use every possible means to fully utilize the existing funds with a portfolio of leveraging and direct lending, to assist more cities and towns with their immediate community water needs. (September 2006)**~~

~~**E-11.2.** The League urges the Congress to fully fund such revolving loan programs and allow the full funding to continue over a period of time sufficient to meet the needs of drinking water systems throughout the country. The League urges the Alabama Legislature to appropriate all of the required state matching money to meet the requirements of the federal government to fund this proposed state revolving loan fund for drinking water systems. That the League encourages EPA to expedite and adopt reasonable and enforceable rules to implement the drinking water revolving loan fund. **E-11.2. The League urges Congress to renew its commitment to fully fund both the Drinking Water and Wastewater State Revolving Fund (SRF) loan programs. Also, to renew or extend the SRF programs beyond the current expiration date. (September 2006)**~~

~~**E-11.3.** That the League urges the Congress to pass the current proposal to triple federal funding of the Drinking Water and Wastewater SRF programs. (September 2002)~~

E-12. Recycling

E-12.1. The League urges each municipality in the state to develop and implement a program to recycle at least 10 percent of the solid waste products generated by residents, commercial establishments and governmental agencies within their communities. Further, incentives should be developed to encourage businesses to use recycled products.

E-12.2. The League urges each municipality in the state to develop and implement a local yard waste composting program and to seek technical assistance on composting from their local Alabama Cooperative Extension Service office.

E-12.3. The League further encourages each municipal government within the state to purchase and use products which have been made from recycled materials.

E-13 Interstate Water Compact

E-13.1 The Alabama League of Municipalities supports the concepts and goals of the Interstate Water Compact and the creation of the Interstate Water Basin Commission to develop an equitable interstate water sharing policy for the states of Alabama, Georgia and Florida. ■

Transportation, Public Safety and Communications

Recommendations presented in this article were adopted by the League's TPSC Committee this past September. Words printed in **bold type** indicate new language adopted by the Committee. Lines or words struck through indicate language proposed for deletion. The Proposed Policies and Goals will be subject to further review and final ratification by delegates to the 2007 League Convention in Huntsville, April 21-24, 2007.

T-1. General Transportation

T-1.1. That the League urge all municipalities to adopt ordinances controlling signs and billboards on rights-of-way to conform to the requirements of the Alabama Transportation Department.

T-1.2. That the League strongly urges a full-speed-ahead policy for construction of the Coosa-Alabama Waterway. Further, that the League encourages continued development of Alabama's inland waterway system.

T-1.3. That the League urges the Alabama Legislature to adopt stronger laws to regulate the hauling of loose material (sand, gravel, etc.) on public roads and highways.

T-1.4. That the state legislature adopt legislation to provide for a uniform sticker that can be used statewide for handicapped parking.

T-1.5. That the League supports the efforts of the Alabama Department of Transportation, regional planning agencies, transit agencies and the private sector in the establishment of ride share, carpool, vanpool, passenger rail, bicycle and pedestrian planning and implementation and other programs aimed at energy conservation and reduction of traffic congestion.

T-1.6. That the League encourages the federal and state governments to adopt regulations to strengthen the laws governing barge traffic on navigable waterways in Alabama.

T-1.7. The League strongly urges full-speed construction and completion of the Memphis to Atlanta Highway to go through North Alabama. The League also strongly urges the construction of a Montgomery to Meridian Highway using Highway 80 and Highway 14 to connect to I-85.

T-1.8. That the League supports efforts to create additional evacuation routes out of Pleasure Island in South Baldwin County.

T-1.9. That the League encourages municipal planning commissions to require subdivision developers to include pedestrian sidewalks in their developments.

T-1.10. That the League support legislation or a DOT regulation tying permitted vehicle weights on state roads to the weights established by the federal government for federal highways.

T-1.11. The League strongly supports the construction and completion of all connecting link roads and bridges.

T-1.12. That the League oppose any legislation which would permit triple-trailer trucks on Alabama's streets and highways.

T-2. Federal Highway Aid and Regulation

T-2.1. Under the Transportation Equality Act for the 21st

Century, smaller municipalities must meet traffic standards as set by the Alabama Transportation Department for such items as pavement markings, traffic flow, parking and similar requirements. The League encourages the Alabama Transportation Department to develop lenient standards appropriate to the circumstances where permitted by federal legislation. The League encourages the Alabama Congressional delegation to re-examine TEA-21 to allow states more flexibility in developing traffic standards.

T-2.2. The committee urges the members of the Alabama Congressional delegation to give serious consideration to the following programs and principles:

(a) That airport construction and operation and interstate, primary and secondary highway construction and maintenance are functions which impact the national defense and interstate commerce and, therefore, are responsibilities which must be shared by the federal as well as state and local governments.

(b) That our state and local governments cannot assume the full cost and responsibility for the funding and maintenance of our highway and airport systems. Further, the requirement that the states bear the costs of this responsibility creates an inequality which must be taken into account by the federal government if our nation is to have a viable transportation system.

T-2.3. The Committee urges the members of the Alabama Congressional delegation to remember that the development of an efficient and economical mass transit system for our nation is essential for the promotion of the nation's economy and for the conservation of energy. Local governments are unable to meet the capital requirements of establishing such systems alone. ~~Serious thought should be given to the denial of funds for the establishment of mass transit systems that cannot be funded or operated with revenues derived from the system and such federal, state and local operating subsidies as might be available.~~ **The League encourages subsidized funding for mass transit systems that can be funded or operated with revenues derived from the system and such federal, state and local operating subsidies as may be available. (September 2006)**

T-2.4. The Committee urges the members of the Alabama Congressional delegation to remember that:

(a) Local governments in our state in urbanized areas will be seriously hurt if Federal Highway Act funding in such areas is terminated;

(b) That there is a serious need for assistance with secondary highway funding in our cities and towns of less than 5,000 population;

(c) That Davis-Bacon Act requirements relating to highway

continued next page

and mass transportation constitute unnecessary burdens, seriously reducing the productivity of funding for transportation systems.

T-2.5. The Committee urges the members of the Alabama Congressional delegation to remember that block grant funding to the states for transportation functions must include mandatory pass-throughs for the benefit of local governments where such funding has been available under past programs. Our cities and towns do not have the financial capacity to pick up the costs for such programs which have previously been funded with federal subsidies.

T-3. State Highway Aid and Regulations

T-3.1. That the League call on the Alabama Transportation Department to maintain the entire rights-of-way of state highways located within corporate limits of municipalities including the removal of debris and trash from such rights-of-way.

T-3.2. Continuation of state maintenance of federal-state primary routes through cities and towns where interstates parallel them.

T-3.3. That the League petitions the Alabama Transportation Department to interpret its duties under Section ~~23-1-100~~ **23-1-110** through 23-1-113 of the Alabama Code of 1975, **to permit ~~pertaining to~~ the maintenance of municipal streets which are used as alternate routes serve as an alternate route in cases where an impediment along such when a connecting link roads makes it becomes inaccessible to truck traffic due to an obstruction or DOT construction. (September 2006)**

T-3.4. That the League opposes the use of highway funds or the interest derived from the investment of such funds for other than mass transit, street, highway, road or bridge enhancement projects or other uses provided for under TEA-21.

T-3.5. That the state legislature establish permanent weighing stations throughout the state.

T-3.6. That the League urges the Alabama Transportation Department to reconsider its recent decision to begin assessing municipalities fees for bridge inspections.

T-3.7. That the League oppose any state legislation which would interfere with the right of municipalities to manage and control the use of rights-of-way and the right to receive compensation for use of their rights-of-way.

T-4. Mass Transit

T-4.1. That the legislature is urged to adopt legislation to establish state financial and planning assistance for public transportation.

T-4.2. That the League urges Alabama's Congressional delegation and the U.S. Department of Labor to reconcile requirements of the Federal Mass Transportation Act with the realities confronting hard-pressed municipalities when they attempt to assume the additional burden of absorbing defunct commercial transportation systems in order to meet the need for such service for their citizens.

T-4.3. That the League supports the statewide association of mass transit programs.

T-4.4. That the state legislature be urged to adopt legislation

to exempt public transportation providers from non-safety regulations of the State Public Service Commission.

T-4.5. That the League support the efforts to obtain for local mass transit systems a portion of the funds paid by major oil companies to the state for fuel overcharges.

T-4.6. That the League supports efforts by the Alabama Transportation Department to obtain passage of statewide enabling legislation for mass transit systems.

T-4.7. That the League support legislation to coordinate activities among all state agencies involved in the mass transit field to provide transportation services in a cost-effective and coordinated manner.

T-4.8. That the League supports legislation that would permit municipalities to provide incentives to members of the private sector for funding mass transit systems.

T-4.9. The League encourages the Alabama Medicaid Agency to provide non-emergency transportation to Medicaid recipients at no cost to municipalities.

T-5. Railroads

T-5.1. The protection of the public at grade railway crossings and the construction of a minimum number of viaduct and subgrade crossings to insure access of emergency vehicles to all parts of the community.

(a) That the League urges the railroad industry to make every effort to keep from blocking traffic unnecessarily at railroad crossings.

(b) That the League express serious concern for the manner in which railroad tracks are maintained within municipal limits and invites legislative attention to making railroads subject to punitive damages where evidence shows negligence in maintenance of tracks.

T-5.2. That the League supports the efforts of the Southern Rapid Rail Transit Commission and urges strong consideration of other states' request to be included in the pact.

T-5.3. The League supports legislation requiring railroads to maintain rights-of-way within municipal limits.

T-5.4. That the League encourages railroad companies operating in Alabama to appoint a person to serve as liaison between municipal officials and the railroads.

T-5.5. The League supports legislation relative to efforts to improve rail/highway grade crossing safety.

T-5.6. The League supports legislation relative to efforts to prevent private individuals from trespassing on railroad rights-of-way.

T-5.7. That the League supports transportation by Amtrak throughout the state and encourages the reestablishment of the route from Huntsville to Mobile.

T-5.8. The League supports efforts to gate all railroad crossings.

T-6. Airports

T-6.1. That all municipalities are reminded that Part 105 of FAA regulations provides that the owner or management of an airport has the authority to regulate parachute jumps at such airports. Further, if a municipality leases facilities to a fixed base operator, such lease should include restrictions on this matter.

T-6.2. That the League supports statewide legislation to increase funding for continued operation of our state airport assistance program by removing or increasing the cap placed upon the aviation gas tax revenues.

T-6.3. The League encourages all municipalities to regulate the height of towers and other incompatible land uses around airports through the application of their zoning laws, height regulations, other codes and the use of eminent domain.

T-6.4. That the League supports efforts to require all owner/operators of airports with 30 or more aircraft based on the premises to provide fire suppression response.

T-6.5. That the League support the efforts of the Aeronautics Bureau of the Department of Transportation in developing a statewide heliport systems plan to include a network of all-weather hospital heliports in addition to establishing public-use downtown heliports in each of the major urban areas. (August 2004)

T-6.6. The League encourages Alabama's Congressional delegation to support efforts to enact a multi-year funding program for the Airport Improvement Program and to support an annual Airport Improvement Program **threshold** funding level of ~~\$3 billion or more~~ **that adequately funds airport services and operations.** (September 2006)

T-6.7. The League supports legislative efforts to provide a permanent source of funding for airports in Alabama. (September 2003)

T-6.8. The League supports legislation to establish a building

permit process for the construction of tall structures within a two mile radius of airports. (September 2005)

T-6.9. The League supports the efforts of the State Aeronautics Department and the Aviation Council to encourage local airports to adopt security plans in order to maintain a high level of airport safety and receive more grant funding. (September 2005)

T-7. Transportation Planning

T-7.1. The preparation and distribution of a set of minimum standards for design and construction of streets and public facilities in municipal subdivisions, and to encourage cooperative action by counties in this effort. Further, that all municipalities are urged to require hold-harmless agreements from subdividers before accepting drainage easements.

T-7.2. That the state legislature introduce and adopt enabling legislation that allows municipalities to restrict development on rights-of-way for proposed or planned roadways or other transportation-related improvements and that developers be required to pay for any transportation improvements that are required directly or indirectly as a result of the development.

T-7.3. That the League supports efforts by municipalities to obtain county maintenance of all designated county roads which pass through municipalities.

T-7.4. That the League supports regular recurring, accurate inventories of highways, streets, roads, bridges and public ways

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with accurate reports relating to their condition, cost of repair, and what jurisdiction has responsibility for maintenance.

T-7.5. That the League supports a regular, accurate inventory of moneys available for highway, road and street construction and maintenance by jurisdiction.

T-7.6. That the League support coordination between Alabama Department of Transportation, county road building authorities, regional planning commissions, county planning commissions, and municipal planning commissions. The League urges the Alabama Department of Transportation and county agencies to notify municipalities of transportation improvements within municipal corporate limits.

T-7.7. That the developers of any major development (shopping center, office complex, etc.) be required by the city to conduct a traffic impact study identifying the effect of the development on existing roadways and intersections and that a professional traffic engineer approved by the city should be hired by the developer to make such a study.

T-7.8. That the League encourages local governments to work with private industries and businesses to help promote and pay for highway development and supports legislation providing municipalities more autonomy in this area.

T-8. Transportation Training

T-8.1. That the League commends the Alabama Transportation Department and its district offices, Auburn University, the University of Alabama, and the state technical schools and junior colleges for undertaking training programs for street construction and maintenance and the operation and maintenance of heavy equipment, and urges that such training programs be continued and expanded.

T-8.2. That the Committee join with the Committee on Energy, Environment and Natural Resources in calling on the League staff to work with the Alabama Fire College and other appropriate agencies in providing training for municipal emergency personnel to cope with hazardous chemical spills. The League encourages the State Fire College to provide weekend courses for the benefit of volunteer firefighters.

T-8.3. That the League urge the federal government to create uniform national truck operation standards for drivers of vehicles transporting hazardous materials. Such standards should be issued by the Department of Transportation and administered by the state.

T-9. Fuel Taxes

T-9.1. Preservation of the authority of municipalities to levy and collect local gasoline taxes and also preservation of the state-shared gasoline tax distribution to cities and towns in its present form.

T-9.2. That the Committee favors full retention of the federal tax on motor fuels placed in the Highway Trust Fund primarily for streets, roads, bridges, highways and mass transit. The Committee is opposed to efforts to transfer funds from the federal highway program when the federal interstate program is complete for any purpose other than highways and roads.

T-9.3. That the revenues derived from any county-wide fuel tax be distributed in a manner so as to ensure that fuel taxes

collected from municipal citizens are spent within the corporate limits of the municipality in which collected.

T-9.4. That the League opposes the use or transfer of any additional federal or state gasoline tax funds or the interest derived from the investment of such funds for any purpose other than mass transit, street, highway, road or bridge enhancement projects.

T-10. Utilities

T-10.1. That the League seek improvement of means of procuring rights to cross railroad rights-of-way with municipal utilities.

T-10.2. That the League strongly encourages utility companies to share duct runs for all new utility lines when the lines are installed.

T-10.3. That the League opposes regulation of cable television in the State of Alabama by the Alabama Public Service Commission.

T-10.4. That the League seek legislative remedies to improve procedures for the installation of county and municipal utilities on state and federal rights-of-way.

T-10.5. The League urges Congress and the courts to guarantee that telephone companies which provide cable or multichannel video services in the same manner as cable companies must meet the same criteria currently required of cable companies, particularly regarding municipal franchise rights. (September 2005)

T-10.6. That the League opposes federal government interference in local zoning decisions and attempts to control rights-of-way for telecommunications purposes. The League encourages telecommunications operators and municipalities to cooperate in the location of towers to promote fewer, jointly-shared, shorter towers. Municipalities should be provided an opportunity to locate local government services on the towers.

T-10.7. That the League encourages enforcement of laws which prohibit the theft of cable services.

T-10.8. That the definition of 'Person' in Section 37-15-2 of the Code of Alabama be amended to include counties in this definition. This would require counties to notify underground utility facility operators of their intent to perform an excavation or demolition.

P-1. General Public Safety

P-1.1. The Committee urges the members of the Alabama Congressional delegation to give serious consideration to the following programs and principles:

(a) That crime is a nationwide problem and crime control should be the responsibility of the federal as well as state and local governments.

(b) That safety on streets and highways is a national concern and the responsibility for such safety should not be placed strictly on state and local governments.

(c) The development of an efficient system to aid local communities in times of natural disasters is essential for the security and defense of the United States. State and local governments are unable to meet the monetary requirements of providing disaster aid alone.

P-1.2. Any withdrawal of services and taxes from the police jurisdiction should be made to coincide with the license tax year of the municipality. Any municipality which abolishes fire services in the police jurisdiction should notify ISO Inc., of Atlanta, Georgia, of such changes as soon as possible. (September 2006)

P-1.3. That the League recognizes the importance of the Department of Forensics in the investigation of crimes. That the State of Alabama be required to fund the Department of Forensic Sciences and that municipalities not be required to pay any portion of the Department's operating costs.

P-1.4. That the League continue to explore the tort liability situation so as to determine the possibility of further legislation in this area to provide immunity for particular functions.

P-1.5. That the League urges all members to use the Attorney General's Office of Consumer Protection.

P-1.6. That the League cooperate with the Alabama Fire Chiefs Association and the Alabama Police Chiefs Association.

P-1.7. The League supports legislative efforts at the federal level to prohibit the practice of hauling garbage or other contaminants in the same trucks used to transport meat, poultry, produce or other food products.

P-1.8. That the League encourages municipal fire departments to educate citizens on the prevention of fires.

P-1.9. The League encourages the Legislature to provide for the purchase of license tags for trailers used to haul items on public roadways which are not currently licensed under Alabama law.

P-2. Public Safety Training

P-2.1. The League recognizes the need for increased funding of the Alabama Peace Officers Standards and Training Commission.

P-2.2. That all municipalities are urged to undertake the upgrading of local law enforcement capability through increasing the size and capability of the local law enforcement departments and through in-service training and re-training of personnel to specifically include firearms re-qualification. The Committee feels that voluntary guides would be helpful to municipalities in establishing the size of the force, minimum equipment and capability of officers but emphasizes that such guides should be voluntary, not mandatory. Further, the state should insure continued operation of the police academies with funding.

P-2.3. That the League is urged to bring all interested parties together in an effort to draft and obtain passage of legislation regulating private security guards and private investigators acceptable to all parties.

P-2.4. That the League strongly recommend to all municipalities that they establish a strong program of public relations in the public safety area and that they recognize the importance of good public relations. Further, that all cities and towns be encouraged to strive for community involvement within the public safety function. Further, that public relations be made an important part of the curriculum at the training academies for law enforcement personnel and firefighters.

P-2.5. That all municipalities strongly consider using a contract as a condition of employment in hiring firemen and law enforcement officers before sending them to the training academies.

P-2.6. That the League urges all members to request their police officers to avoid high speed chases unless they are reasonably certain that a felony has been committed. Further, the League suggests that all municipalities require operators of municipal vehicles to complete the defensive driving course.

P-2.7. That the League continue to urge the Governor, in filling vacancies on the Alabama Peace Officers Standards and Training Commission and the Alabama Fire College and Personnel Standards Commission, to appoint elected municipal officials to represent municipal interests in establishing standards for municipal law enforcement and firefighting personnel.

P-2.8. The committee recommends a continuing planned statewide high school information program on law and all aspects of law enforcement, including the establishment of cadet police forces.

P-2.9. That the League supports state funding of the Alabama Fire College and Personnel Standards Commission to reimburse municipalities for training of recruits.

P-2.10. That the League supports the utilization of more state funds for training paid and volunteer firefighters to meet minimum standards through the Alabama State Fire College at Shelton State.

P-2.11. That the League urges the maintenance of future funding to fully implement the Peace Officers Standards and Training Act at the state level.

P-2.12. That the League encourages the state legislature to appropriate adequate funding to pay for training of volunteer firefighters if such training is ever mandated by state law.

P-2.13. The League opposes any effort to eliminate programs through which reserve police officers can obtain the full 480 hours of police training by attending training courses on weekends.

P-2.14. That the League recommends certification training for police and E911 dispatchers.

P-2.15. **That the League encourages the Alabama Peace Officers Standards and Training Commission and the Alabama Fire College to provide training for municipal police officers and firefighters at more frequent intervals. (September 2006)**

P-3. Safety Programs and Regulations

P-3.1. That the Committee on Legislation support passage of a state law which would require all common carriers carrying combustible materials to display a placard on the side of such common carrier naming the material carried, the person to contact in case of emergency, and directions for combatting uncontrolled burning of such materials, and prescribe safe procedures for carrying such materials, including driver training, and providing penalties for violation of such a law.

P-3.2. That the League encourages the initiation and fostering of a strong safety program in every municipality with safety education being a large part of such programs.

P-3.3. That the League supports the enforcement by the State Fire Marshal of regulations relating to all storage tanks for gasoline and other fuel as are necessary to insure the safety of the public.

P-3.4. That all municipalities be urged to adopt a strong anti-fireworks ordinance. The state legislature is urged to abolish

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legislation which authorizes the transportation, storage and sale of fireworks within the state.

P-3.5. That municipalities in the State of Alabama require all operators of city-owned vehicles to demonstrate they are qualified to operate such vehicles.

P-3.6. That a strong gold and silver law be adopted by the state legislature.

P-3.7. That the League supports efforts to clarify the confusion concerning transportation of motor fuel to remote locations to refuel other vehicles. The state fire code permits this while state revenue laws prohibit it.

P-3.8. That the League encourage the state government to provide municipalities with access to stored driver history records maintained by the state for the purpose of making employee background checks. (August 2004)

P-4. Emergency Management

P-4.1. That the League urges municipalities wishing to lend aid to sister municipalities during times of disaster contact the State Department of Emergency Management before sending materials or manpower to stricken areas.

P-4.2. That the League urges telephone companies with 911 service to monitor problems with such services and to correct such problems. Further, the League urges municipalities to actively improve their 911 services through the enhanced system (E911).

P-4.3. That all municipalities are urged to develop or revise their Emergency Operations Plans (EOPs) to focus on mitigation, preparedness, response and recovery actions for all major hazards in the community. Further, that the League encourages all jurisdictions to revise applicable ordinances and to be active members of the local emergency planning committee as required under Title III, Superfund Amendments and Reauthorization Act (SARA), generally known as the "Emergency Planning and Community Right-to-Know Act of 1986."

P-4.4. That the Alabama State Legislature be urged to adopt a dam safety act.

P-4.5. That the League cooperate with the Alabama Emergency Management Council (AEMC) to elevate the posture of emergency management activities in local jurisdictions.

P-4.6. That the State Legislature adopt legislation to increase funding for emergency management activities at the local and state levels to cope with growing natural and technological hazards.

P-4.7. That municipalities provide a share of the financial support and cooperation with counties in the development of joint city-county emergency management agencies to support a comprehensive emergency preparedness program for all jurisdictions including hazard mitigation, planning, emergency response and recovery from disasters.

P-4.8. That municipalities actively participate in emergency planning and training of emergency responders using grants to their Local Emergency Planning Committees under the Hazardous Material Transportation Uniform Transportation Act.

P-4.9. That all municipalities review and assure that local initiatives are established and maintained which focus on

mitigation efforts to reduce or eliminate hazards in their communities. Under the FEMA Disaster Mitigation Act of 2000 (Sec. 322), all communities must have an adopted mitigation plan to receive funds under the Hazard Mitigation Grant Program (HMPG) for disasters declared after November 1, 2003. (September 2002)

P-4.10. That all municipalities follow the procedures in the Alabama Emergency Operations Plan and assure that requests for activation of mutual aid agreements and/or requesting state assistance (equipment and services) during emergencies are processed through the local emergency management agencies to the Alabama Emergency Management Agency (AEMA). Further, when mutual aid is required from, or to be offered to, other states, the process must be coordinated through AEMA in accordance with the Emergency Management Assistance Compact. (September 2003)

P-4.11. The League encourages FEMA to continue funding a combination of pre-disaster and post-disaster mitigation funding rather than implementing only a pre-disaster funding program. (September 2002)

P-4.12. That municipalities actively participate with the city-county emergency management agency and broadcasters (TV, radio, and cable systems) to plan for and use the new Emergency Alert System (EAS), formerly the Emergency Broadcast System, during emergencies and disasters.

P-5. Drug and Alcoholic Problems

P-5.1. That all municipalities continue efforts to control drug abuse with special emphasis on cutting off the supply; that the League urge assistance for drug abuse programs in small communities, the establishment of drug abuse programs for correctional institutions, the linking of drug abuse programs with community-based programs, a regional concept for drug control, usage of the Department of Forensics in the investigation of drug-related crimes, and the utilization of all agencies including ABC officers.

P-5.2. That the League oppose any legislation which proposes to revise Title 28 of the Code of Alabama relative to alcoholic beverage control which would restrict municipal powers in this area.

P-5.3. That the League oppose any attempt by the federal government to restrict any assets that local governments now receive from the seizure of property used in drug operations.

P-5.4. That the League encourages law enforcement officials to wait until after a defendant's first hearing to take controlled substances to the Forensics Department for analysis.

P-5.5. That the League supports the efforts of the Forensics Department to certify local officers to conduct misdemeanor marijuana analyses, provided the cost to municipalities is not unreasonable.

P-5.6. That the League encourages officers to obtain an analysis of only the most serious controlled substance in a case where a variety of drugs were confiscated and merely report that other drugs were present.

P-6. Highway Safety

P-6.1. That the state legislature is urged to amend its law which prohibits charitable roadblocks so as to eliminate all local discretion in the matter. Further the legislature is encouraged to adopt laws to regulate all other solicitation of charitable donations.

P-6.2. That the League supports state legislation on:

- (a) vehicle inspection;
- (b) motorcycle headlight law;
- (c) a requirement for a complete drivers test upon each renewal of a driver's license after the age of 70;
- (d) classifications of drivers licenses and performance testing in the type vehicle for which the drivers license is issued;
- (e) control of jacked-up (elevated) rear ends in passenger cars;
- (f) to require certification, training and licensing of motorcycle operators;
- (g) to prohibit the operation of high-riders or jacked-up pickup trucks on public roads;
- (h) to require bicycle riders to wear helmets.

Further, that the League opposes any legislation which would repeal the law which requires motorcycle riders to wear helmets.

P-6.3. That the League supports continued state support for the drivers' education program.

P-6.4. That the League oppose any changes in the DUI laws which would lessen their effectiveness.

P-6.5. That the Alabama Congressional delegation be urged to oppose further efforts to expand earmarking of Office of Highway Traffic Safety funds. (September 2003)

P-6.6. That all municipalities be encouraged to take advantage of Office of Highway Traffic Safety programs when offered. (September 2003)

P-6.7. That the League oppose efforts to enact legislation which would permit sheriffs to designate vehicles as emergency vehicles.

P-6.8. The League encourages the state legislature to adequately fund the Forensics Department to maintain the latest state-of-the-art equipment and training to enable the Department to acquire accreditation and certification of the Department and its scientists. The League further encourages the legislature to authorize full use of this equipment.

P-6.9. That the League support legislation to provide municipalities with the authority to photograph cars which fail to stop at red lights and send tickets to the vehicle's owner.

P-6.10. The League encourages the Legislature to reexamine the law prohibiting municipalities from issuing speeding tickets in the police jurisdiction. (September 2002)

P-7. Fire Protection

P-7.1. That emergency firefighting vehicles equipped to fight fires be required to be equipped with air horns or equivalent equipment.

P-7.2. That all municipalities should take steps to make their citizens aware of the regulations adopted by the State Fire

Marshal requiring smoke detectors in all residences.

P-7.3. That all municipalities should adopt ordinances making it against the law to threaten to burn. The League supports legislation that would make it a violation of state law to threaten to burn.

P-7.4. That all municipalities are urged to establish fire prevention and electrical codes with adequate and regular inspections and that all inspectors and code enforcement officials should be required to have sufficient training.

P-7.5. That the League continues liaison with ISO Inc., of Atlanta, Georgia, with regard to fire insurance ratings. The League encourages the Insurance Department to work with insurance companies and ISO, Inc., to develop a more flexible standard for establishing fire insurance ratings.

P-7.6. That municipal officials and firefighter personnel be educated as to the need for working with other municipalities toward establishment of uniform fittings for all fire apparatus, including fire hydrants and pumper fittings.

P-7.7. That neighboring units of local government establish fire containment plans for mutual assistance in times of emergency with special effort being made to assure that all units are using compatible equipment, and that all municipalities maintain close coordination between firefighting units and utility departments and boards. That the League further supports the creation of a statewide fire network similar to that used by police officers.

P-7.8. That all municipalities are urged to encourage all members of public fire departments, both career and volunteer, to utilize the courses offered by the National Fire Academy in order to advance the professional development of fire service personnel engaged in fire prevention and control activities. The League supports these courses as a cost-effective way to enhance the ability of local agencies who want to enhance their personnel's ability to protect their local communities and citizens.

P-7.9. That all municipalities take steps to provide effective and efficient public fire protection services, operated on a sound basis to prevent fires and reduce risks to lives and property, to deal with actual incidents, and to be prepared for situations that may be anticipated to occur by utilizing NFPA 1201 Recommendations for Developing Fire Protection Services for the Public as published by the National Fire Protection Association.

P-7.10. The League supports state legislation prohibiting convicted arsonists from serving as firefighters in Alabama.

P-8. Criminal Justice

P-8.1. That the League strongly supports Congressional funding for criminal justice programs including the Edward Byrne Memorial Grant Program.

P-8.2. That the state legislature not adopt any further legislation calling for additional court costs.

P-8.3. That municipalities recognize the importance of the Alabama Criminal Justice Information ~~System~~ **Center** and promote a reasonable use of the programs, and that the League support use of ~~CJS~~-**ACJIC** funds to defray the cost of local compliance with this program. Further, that the League requests

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the governor and the legislature to appropriate sufficient funds for CJIS. (August 2004) **(September 2006)**

P-8.4. That all municipalities explore the possibility of implementing crime prevention programs such as “Neighborhood Watch,” “Crimestoppers,” and “Silent Witness.”

P-8.5. That the League opposes the carte blanche release of sentenced prisoners throughout the criminal justice system.

P-8.6. That the League opposes any change to the habitual offender law.

P-8.7. That the League supports efforts of the State Forensics Department to have local physicians assist coroners when investigating suspicious deaths. Funds for training local physicians should be provided by the state.

P-8.8. That the League supports efforts of the State Forensics Department to have all fire deaths examined by the Department.

P-8.9. That the Department of Forensics should continue to be responsible for transporting dead bodies, should be responsible for returning the body to the county of origination, and that the state should properly fund the Department to perform this function.

P-8.10. That the committee calls for rigid enforcement of the federal law making it an offense for a person to cross state lines for the purpose of inciting riots and civil disturbances.

P-8.11. That the League supports the DNA Felon Databank

P-8.12. That the League supports the Firearms Evidence Databank System.

P-8.13. The League supports federal funding for the Forensic Improvement Act for the creation of natural evidence testing standards.

P-8.14. The League supports efforts of the Forensics Department to develop an interstate compact for the shared testing of forensics evidence.

P-8.15. That Section 11-47-7.1 of the Alabama Code be amended to allow for more liberal uses of these funds. Particularly, municipalities should be permitted to use this money for the construction and operation of municipal jails, police departments and court complexes.

P-9. Juvenile Justice.

P-9.1. That the League strongly supports legislation to curb criminal acts by juveniles and to make parents responsible for such criminal acts in situations where the parents could have reasonably prevented them and to make parents responsible for any damages which result from such criminal acts.

P-10. Jails

P-10.1. That the municipal and county governments of Alabama, individually and through their state organizations, recognize the problems of jail conditions and cooperate in the adoption of proposed plans to improve the conditions.

P-10.2. That all municipalities adopt a policy of taking felons to the county jail rather than the municipal jail.

P-10.3. The Attorney General has ruled in Opinion 2002-138 that only physicians, pharmacists or licensed or registered practical nurses can dispense or administer medication in municipal jails. The League supports efforts to alleviate the

financial burden this imposes. (September 2003)

P-11. Law Enforcement Personnel

P-11.1. That the Committee on Public Safety reiterate the League’s standing policy in opposition to any legislation which would give any group of public employees special or favored treatment and thereby discriminate against other public employees. Further, that the League continue to go on record opposing legislation requiring uniform wages, salaries, and fringe benefits for policemen and firemen, but in event the legislature passes such legislation, the League must insist that state subsidies be provided to pay for such increased benefits.

P-11.2. That municipalities are urged to upgrade recruitment of law enforcement officers through improvements of salaries and working conditions and the use of affirmative action plans in recruitment and are strongly encouraged to run a background check for prior felony convictions on all applicants.

P-11.3. That the League support legislation to amend present state law to permit employees retired from the State Retirement System to accept employment with municipalities covered under the State Retirement System without giving up any of their benefits. (September 2002)

P-11.4. That all municipalities should exercise caution in letting their police officers and fire inspectors and investigators work in other job-related activities, including work for private security agencies, during off-duty hours.

P-11.5. Stress is an unavoidable factor faced by many municipal employees. The League understands the need for treatment for medical conditions related to on-the-job stress. However, the League opposes legislation requiring municipalities to incur extra costs or grant additional leave time to employees above that currently provided for stress-related disorders.

P-11.6. The League encourages all municipalities with police departments composed of more than one officer to make sure that the top ranking officer in the department has satisfied the training and re-training requirements prescribed by state law for all police chiefs.

P-11.7. That the League encourages municipal police chiefs to utilize the Forensics Department’s Violent Crime Response Unit. ■

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Human Development

Recommendations presented in this article were adopted by the League's HD Committee this past September. Words printed in **bold type** indicate new language adopted by the Committee. Lines or words struck through indicate language proposed for deletion. The Proposed Policies and Goals will be subject to further review and final ratification by delegates to the 2007 League Convention in Huntsville, April 21-24, 2007.

H.1. Federal Programs

H-1.1. That Alabama's Congressional delegation be petitioned to consider the following positions of the League relating to this subject in reaching their conclusions on human resource development responsibilities and funding:

(a) That in the shift of federal welfare programs to the states, commensurate funding be made available also. Further, if cuts are to occur, the League urges Congress to consider a gradual decrease of monies for Food Stamps, TANF and other key welfare programs to allow state and local governments to absorb these programs on the local level without penalizing the truly needy.

(b) That the League strongly urges continued federal financial support for programs for the aged especially in the area of emergency funds to cover excessive fuel bills for the elderly poor.

(c) That the League urges Congress to take a close scrutiny of the Social Security system to find an equitable method of fulfilling the original purpose of the program. Further, that the League feels that the following programs are important enough to local communities to merit continued federal funding: ACTION, summer youth programs, the Library Services and ~~Construction~~ **Technology Act**, child and adult day care centers, general health care, nutrition centers, and community action agencies.

(d) That the League endorses the National League of Cities' call for a unified federal approach to social service delivery to replace the currently fragmented and often underfunded programs and services.

~~(e) That the League supports the concept of the White House Conference on Libraries and Information Services.~~

~~(f)~~**(e)** That the League strongly supports legislation **continue** to fund access to virtual libraries.

H-1.2. The League re-emphasizes its opposition to federal and state governments passing mandatory legislation without commensurate funding. Further, that the League urges that local governments be given the authority to deal with local problems locally.

H-1.3. That the League urge the State of Alabama to allocate a portion of any federal funds for dealing with the war on drugs to the municipalities.

H-2. Community Services and Welfare

H-2.1. That the League urges more strongly than ever that every municipal official become familiar with the human resource needs of his or her community and existing programs available to meet those needs.

H-2.2. That the League strongly supports the continuation of the Food Stamp Program, TANF and aid to low income senior

citizens as not only valuable programs for the state's ~~poor~~**needy**, but also as a source of local revenue. Further, that the League strongly supports the Director of the State Department of Human Services' program to prosecute abusers of the Food Stamp Program. (September 2006)

H-2.3. That the League strongly supports the involvement of municipal officials in as many human resource development programs as are financially possible, and the establishment of local human resource interagency councils for the evaluation and coordination of human resource development programs with strong participation by locally-elected officials.

H-2.4. That the League supports adequate state funding to maintain the Community Services Block Grant program in all 67 counties.

H-2.5. With respect to welfare, the League supports the present benefits program which reduces benefits to recipients who find jobs. (September 2003)

H-2.6. That the League sees the following programs especially deserving of support: child care programs, senior care programs, health care centers, information centers, nutrition programs for those persons with mental retardation and mental disabilities, and special education programs.

H-2.7. That the League encourages every municipality to work closely with the State CSBG office to encourage pooling of administrative costs and cooperation between counties to counteract the expected cuts in funding and to comply with the state legislation without cutting off services to the needy.

H-2.8. In view of the excellent organization and delivery of services of Alabama municipalities from the new Community Services Division of the Department of Economic and Community Affairs, the League strongly recommends that the administration continue the program in its present form in the future.

H-2.9. That the League opposes any federal legislation which would make each state liable for all over-expenditures in the federally-funded welfare programs rather than the current system of penalizing those states which have high error rates.

H-2.10. That the League heartily endorses the Low Income Home Energy Assistance Program and encourages all municipalities to cooperate with state and county administrators of the program to find various free facilities from which to operate locally.

H-2.11. That the League urges all municipal utilities to begin an energy assistance program similar to the one now operated by Alabama Power Company, Alabama Gas Company and the Red Cross to aid the elderly ~~poor~~**needy** in paying their utility bills. (September 2006)

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H-2.12. That the League encourages the Human Resources Department to make printed copies of their Directory of Assistance available in public buildings, showing where assistance may be obtained. A list of these resources is also available on-line. (September 2003)

H-2.13. That the League strongly urges county Human Resource Boards to set and maintain higher accountability standards for directors of the Department of Human Resources in each county.

H-2.14. That the League strongly urges the Department of Human Resources to continue to vigorously enforce the collection of child support from noncustodial parents.

H-2.15. That the League supports the Expanded Food Nutrition & Education Program (EFNEP) and its availability at every county extension center.

H-2.16. That the League supports the Food Bank Program administered by ADECA.

H-2.17. That the League strongly supports the statewide implementation of the 211 system. (September 2002)

H-3. Education and Cultural Resources

H-3.1. That the League urges the preservation of the authority of municipal governing bodies to appoint city boards of education.

H-3.2. That the League supports state legislation to appropriate sufficient funds to meet the ~~goals established by the Governor's Conference on Libraries~~ **needs of Alabama's public libraries.** (September 2006)

H-3.3. That the League supports the authority of **state and** local school boards to establish and administer school programs at the primary and secondary levels. Further, that the League re-emphasizes its opposition to federal and state mandates passed without commensurate funding. (September 2006)

H-3.4. (a) That the League urges ~~local government encouragement~~ **state and local government funding** of and participation in arts and cultural programs to promote a high sense of value of city life through such programs as crafts fairs, local theatre productions, and art exhibits. (September 2006)

(b) That the League encourages local governments to consider using local arts and humanities programs as rehabilitative outlets in such areas as special education programs, drug abuse clinics, jails and prisons, and counseling centers.

(c) That municipal governments in Alabama are urged to recognize the arts as a vital and enriching service and make the arts available to all of their citizens, every municipality is encouraged to establish a public agency or body specifically concerned with promoting the arts; municipal governments working together with the public should help to effect a new state goal: That no Alabamian shall be deprived of the opportunity to experience the beauty of life through the arts by barrier of circumstances, income, background, remoteness, or race; that grassroots activity at the community level be recognized as a vital contribution which for many citizens is a key part of the educational process; and that every city strive to provide adequate facilities for presenting the arts.

(d) That the League urges cooperative effort by schools, parent-teacher organizations, municipalities and appropriate state

agencies to establish afterschool cultural activity programs and affordable extended daycare programs for students for furthering the child's cultural exposure and provide a deterrent from the danger of unsupervised activity.

H-3.5. (a) That the League urges the State of Alabama to **continue to** support the efforts of local communities to provide adequate public library service with sufficient state funding for local public libraries.

(b) Furthermore, the League urges municipalities to encourage their citizens to ~~fund and~~ **continue to** support access to virtual libraries. (September 2006)

H-3.6. That the League urges the State of Alabama to provide opportunities and for funding of GEDs and vocational training for inmates' education in state prisons.

H-3.7. That the League encourage their school systems to affiliate with the solid waste management programs including "Keep America Beautiful."

H-3.8. That the League encourage municipalities to become more aware of Act 95-313, which established an accountability plan for education overseen by the State Department of Education, and Act 95-314, which implemented a Foundation Program for the annual funding of public schools of the state to the extent necessary to provide educational opportunities according to the State Constitution for all students in every local school district. Further, the League encourages municipalities to do all that is necessary to assist in the implementation of these acts.

H-3.9. That the League continues to urges the Legislature to raise the minimum age for dropping out of school from 16 to 18 years of age. (September 2005)

H-3.10. That the League urges ad valorem and other tax reforms to increase revenues for education.

H-3.11. School-based or linked services programs have been successfully demonstrated in two municipalities in Jefferson County. These programs link health and social services programs to education for adolescents. The League encourages municipalities to increase more programs in this area.

H-3.12. That the League encourages school boards to provide adequate training and accessibility of computers for all teachers.

H-3.13. That the League supports continual efforts to reduce the widespread increase in adult illiteracy by encouraging municipalities to participate in the establishment of group literacy programs in their communities.

H-3.14. That the League urges the State of Alabama to provide opportunities and funding for juveniles' education in youth detention centers, alternative schools **and library resources.** (September 2006)

H-3.15. That the League urges the State of Alabama to support legislation that would allow contiguous municipalities with total populations of at least 5,000 to band together to form their own school systems. Further, the League urges the Legislature to preserve the right of a single municipality of at least 5,000 in population to form their own school systems. (September 2005)

H-3.16. That the League encourages the Legislature to create a separate board governing public two-year colleges, and such

board districts be selected in the same manner as the Alabama Congressional Districts. (September 2003)

H-3.17. That the Human Development Committee supports the proposition that only the union of one man and one woman shall be recognized as a marriage. (August 2004)

H-4. Senior Citizens

H-4.1. That the state closely monitor compliance with state laws that license and regulate residential facilities for senior citizens.

H-4.2. That the State of Alabama should establish day care centers for the senior citizens.

H-4.3. That the League encourages cities to take a leading role in the location of senior citizen independent care facilities in their communities.

H-4.4. There is a critical need for more certified beds in nursing homes and, therefore, we recommend additional funding for that purpose. We also recommend a review of the allocation formula for determining eligibility for the beds in each county.

H-4.5. That the League further encourages that all federal and state funding is allocated to allow money to follow where the person resides. (September 2005)

H-4.6. That the League supports the Information and Referral Program that has been adopted by the Alabama Department of Senior Services. The League also encourages state agencies and private companies to utilize the web-based information and referral system. (September 2005)

H-4.7. That the League supports outreach group coalitions to inform the senior citizens of existing services.

H-4.8. That the League views with extreme concern the increase of elderly abuse cases reported in our state and nation and strongly encourages the appropriate local and state agencies to continue to make their full resources available to correct this growing problem.

H-4.9. That the League supports training programs for principle caregivers of senior citizens or senior citizens who are caregivers. Such programs should better enable the principle caregivers to confront the problems and frustrations as they care for the senior citizens. These programs should also decrease the number of senior care abuse cases and negligence within the family.

H-4.10. That the League supports the provision of tax incentives to private corporations in the construction industry for building housing for the senior citizens. (September 2003)

H-4.11. That the League encourages municipalities to support adult day care facilities and transportation needs for disabled persons in their communities. (September 2002)

H-4.12. That the League urge municipalities to utilize the State Insurance Information Service (SHIP) to assist the elderly and disabled citizens in making needed decisions regarding insurance, such as long term care insurance. (September 2003)

H-4.13. That the League encourage municipalities to take a leading role in developing elder-friendly communities, so as to accommodate the growing aging community. (September 2002)

H-4.14. That the League urges the State of Alabama to provide the Alabama Department of Senior Services (ADSS) with

the necessary funding to meet the daily nutritional meals of the homebound elderly. (August 2004)

H-4.15. That the League encourages the State of Alabama to provide an increase in funding to the Alabama Department of Economic and Community Affairs (ADECA) for the purpose of providing grants to enable municipalities to build more senior centers for the elderly. (August 2004)

H-5. Employment and Training

H-5.1. (a.) That the League lends its full support to the system of industrial training and retraining programs designed to prepare employees for industries which either already exist or are willing to locate in or near the community. Further, that the League urges the expansion of high school career technical education to include industrial training as well as coordination of these programs with job placement agencies and local industrial development boards.

(b.) In order to provide a quality workforce, local municipalities are urged to encourage individuals to enter training, education and careers in the social and health fields. (September 2002)

H-5.2. That the League supports the concept of meaningful employment and re-emphasizes that the major human resource need in Alabama today is employment. Also, that the League recommends that existing industry work toward expansion and increased employment and that employment and training be even more active to avert threatened increased unemployment.

H-5.3. That the League urges the State Department of Education to give greater emphasis and funding to its technical assistance programs, with particular emphasis on training of supervisory personnel and in safety programs for all government employees.

H-5.4. That the League endorses Equal Opportunity.

H-5.5. That the League supports passage of permissive legislation to allow municipalities the option to utilize part-time, flexi-time or four-day work weeks as economy measures.

H-5.6. That the League believes that the Unemployment Insurance program should be returned to its original purpose of partial wage replacement. Benefits should comply with existing federal guidelines.

H-5.7. That the League urges Congress and the Department of Labor to be made aware that Alabama needs to maintain their flexibility of the use of the federal funds under all titles pertaining to the Workforce Investment Act.

H-5.8. That the League supports the concept endorsed by NLC of tying unemployment benefits to job training programs, but only under certain conditions. First, that only the last weeks of unemployment compensation be tied to re-training programs, and second, that the expense of paying for such education cannot be mandated onto the unemployed worker nor the state or local government.

H-5.9. That the League urges all agencies concerned with the Workforce Investment Act to keep their local governments informed as to developments in this program.

H-5.10. That the League urges each municipality to provide information to all employees regarding issues related to family violence, with particular efforts to train their police departments.

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H-5.11. That the League urges municipalities to explore new partnerships for youth training programs with schools, local civic clubs and businesses and industries.

H-5.12. That the League encourage local governments and private businesses to consider hiring and training retirees who choose to remain in the work force and who are interested in learning new trades. (September 2006)

H-6. Health Care

H-6.1. (a) That the League urges the Alabama Legislature and the Governor to continue to meet the state's commitment to fund the Medicaid Program and seriously to consider state legislation aimed at reducing the escalating costs of health care in Alabama.

(b) That the League encourages citizens to take a greater role in their own health maintenance.

(c) That the League urges all municipal officials to enter into an ongoing dialogue with the medical care personnel in their communities to formulate long-range health care plans. Further, that these plans be forwarded to the State Health Planning and Development Agency for inclusion in the statewide health care delivery plan.

H-6.2. (a) That the League strongly endorses and gives its full support to the physician placement plan for rural areas and small cities and towns undertaken by the College of Community Health Sciences of the University of Alabama and the Alabama Office of Rural Health and the League supports the coordination of all such programs by state medical schools and the Medical Association of the State of Alabama to bring maximum health services to the areas of greatest need.

(b) That small municipalities are further urged to seek the assistance of the Alabama Office of Rural Health in their recruitment efforts and to investigate assistance under the Certified Clinic Program administered by the Department of Health and Human Services.

(c) That municipalities are encouraged to contact the Governor's Office or the Alabama Office of Rural Health for full information on its programs.

H-6.3. That the League encourages Alabama municipalities to provide AIDS education, physical fitness programs, drug and AIDS testing for all employees to pinpoint potential work-related health conditions and to combat the rising costs of workmen's compensation and sick leave.

H-6.4. That the League supports the use of preventive health maintenance to combat stress, illness, and accidents in the municipal workforce.

H-6.5. That the League urges strict licensing, supervision and inspection of boarding houses and other private elderly facilities. (September 2002)

H-6.6. As employers, local governments should undertake training of the entire municipal workforce with attention to employees whose level of interaction with the public makes it important that they understand the dynamics of AIDS transmission.

H-6.7. That the League urges the Board of Education to maintain health education as a priority area of instruction.

H-6.8. (a.) That the League strongly urges the state Legislature to appropriate sufficient funds to control the West Nile virus in our municipalities

(b.) That the League encourage municipalities to support awareness about bioterrorism. (September 2002)

H-6.9. The League strongly urges local municipalities to take the lead in promoting and encouraging enrollment in the "All Kids" health program to those children who do qualify. (September 2005)

H-6.10. That the League offer training and encourage municipalities to partner with local County EMA, Health Departments and others to develop working plans to address pandemic flu issues. (September 2006)

H-6.11. That the League encourage the State of Alabama to ensure sufficient amounts of flu vaccine are made available to appropriate health care providers. (September 2006)

H-7. Mental Health and Mental Retardation

H-7.1. That the League strongly urges the Alabama Legislature to meet the responsibilities of the state government to provide adequate funding for operation of Alabama's mental health system and specifically include funding for operation of regional mental health and mental retardation districts and mental health and mental retardation facilities.

H-7.2. (a) That the League urges the State Department of Mental Health and Mental Retardation to devote more time and effort to programs directed at the prevention of the problems arising from excessive use of addictive prescription drugs.

(b) That the League, recognizing the fact that television advertisements promoting drugs exert a strong influence on the impressionable minds of our youth, encourages stations to develop and show education programs on the dangers of drug abuse to balance other television presentation.

(c) That the League urges that a special emphasis be placed on prevention and education programs on alcohol and drug abuse and on the treatment of such abuse.

H-7.3. (a.) That the League urges all member municipalities to recognize that alcoholism on the part of employees can represent a tremendous drain on their productivity but that alcoholism is also a treatable disease and that all municipalities are urged to follow the highly successful example set by several municipalities and major industries of Alabama in undertaking the Employee Assistance Program for the rehabilitation of alcoholic personnel.

(b.) That the League encourage municipalities to urge all citizens to seek alcohol and substance abuse treatment from service providers which is available. (September 2002)

H-7.4. That the League urges the state legislature to continue to support all of the programs operated by the State Department of Mental Health and Mental Retardation. Further, that the private sector and local governments coordinate with the Department of Mental Health and Mental Retardation to improve vocational training and employment opportunities for those persons with mental illness or mental retardation.

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

2005)

H-7.6. That the League supports the need to educate the general public on mental health and retardation.

H-7.7. That the League encourage municipalities to adopt resolutions recognizing September as “National Recovery Month” (September 2006)

H-8. Youth

H-8.1. That the League endorses the Economic Education Program of the Council on Economic Education to educate young people in the basic principles of business and private enterprise.

H-8.2. That the League recommends that all municipal officials make even greater efforts to maintain communications with the youth of their communities. Further, that the League encourages municipalities to sponsor youth civic clubs as a means to this end.

H-8.3. That the League views with extreme concern the increase of child abuse cases in our state and nation and strongly encourages the appropriate local and state agencies to continue to make their full resources available to correct this growing problem. Further, that child neglect is viewed with equal concern and that the above-mentioned agencies address their resources to correcting the problems of child neglect as well as child abuse.

H-8.4. That the League supports the full funding and full operation of the State Department of Youth Services.

H-8.5. That the League recognize efforts made by the Coalition for Healthy Adolescents in Alabama (CHAA) to address evils that beset today’s youth – in particular, teenage pregnancies, illegitimate births, and alcohol and drug abuse. The League strongly urges the Alabama Legislature to appropriate money to establish an educational program through whatever agencies it deems most fitting to prevent these problems.

H-8.6. That the state legislature is urged to provide funding for the Workforce Investment Program to be operated in all 67 counties.

H-9. Child Care

H-9.1. The League strongly supports involvement of business and industries in establishment of child care facilities, benefits and programs for employees.

H-9.2. The League encourages local governments to:

- review current ordinances, land use provisions and regulations that could be a hindrance to the development of child care in local communities, and encourage new legislation to promote such development;

- develop a local policy on child care;

- develop a database to ensure that sufficient information is gathered on the child care needs of city residents;

- encourage greater dialogue between Head Start and other day-care providers and public kindergartens;

- begin dialogue with local school boards and appropriate local bodies for collaborative ventures in addressing local child care issues; and

- provide incentives to business and developers for tying in child care with their development activities.

H-9.3. That the League strongly urges flexibility as to the dates of payment of the various fees due from child caregivers.

H-10. Disabilities

H-10.1. That the League urges municipalities to support citizens with disabilities, including developmental disabilities, to live, work, learn and play in communities of their choice.

H-10.2. That the League encourage the state Legislature to provide funding in support of citizens with disabilities, including developmental disabilities, to assist them in adapting to the communities of their choice. (September 2002) ■

Legal Clearinghouse

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Buildings: Municipalities have the authority to impose an ordinance requiring the annual inspection of apartments and rental houses for the purpose of ensuring compliance with the local building code. A municipality has the right to charge a reasonable fine or revoke the certificate of occupancy for any apartment or rental house failing to comply with the local building code. A municipality may charge a reasonable fee to defray the expense of performing inspections of apartments and rental houses for the purpose of ensuring compliance with the local building code. 2007-009

Education, Boards of: The population of a city may be determined by a special federal census for purposes of §16-11-2 of the Code of Alabama. 2007-003

Education: Education employees are required to work an additional five days under Act 2006-251. The five percent pay raise provided by Act 2006-310 applies to these five days. Teachers must be paid for each of the 187 days. Nothing precludes the Legislature from re-computing the salary matrix to correct the computation errors in the salary matrix to include the five additional days with the pay increase and from adjusting the appropriation to provide additional, supplemental funding to fully fund teachers’ salaries for the 2006-2007 school year. 2007-004

Elections – Fair Campaign Practices Act: Section 17-22A-8 of the Code of Alabama requires a principal campaign committee to itemize the recipients for each of the expenditures greater than \$100 made by the committee. If a candidate pays for campaign expenses using that candidate’s personal funds, the candidate’s principal campaign committee may reimburse the candidate, but the committee and the candidate must itemize the recipients for each of the expenditures made by that candidate. This opinion is to be applied prospectively. 2007-006

Police Jurisdiction: The fact that a municipality has no authority to enforce its police and sanitary regulations in an area designated as an industrial park has no effect on the territorial boundaries of the city’s police jurisdiction and would not act to extend the territorial limits of the police jurisdiction beyond the outer borders of the industrial park. The area included in the industrial park is still used in calculating the territorial limits of the police jurisdiction. 2007-005

Public Records: Because a state agency may regulate the manner in which public records are produced, inspected and copied, a state agency, to be in compliance with §36-12-40 and §36-12-41, is not required to distribute public records in the manner that a requestor specifies. 2007-001 ■

Community and Economic Development

Recommendations presented in this article were adopted by the League's CED Committee This past September. Words printed in **bold type** indicate new language adopted by the Committee. Lines or words struck through indicate language proposed for deletion. The Proposed Policies and Goals will be subject to further review and final ratification by delegates to the 2007 League Convention in Huntsville, April 21-24, 2007.

C-1. Planning

C-1.1. That the League establish a strong on-going liaison with regional planning commissions for coordination of technical advice and assistance for local governments. The League offers strong support for increasing state funding of regional planning commissions to enable them to provide adequate planning assistance for local governments.

C-1.2. That municipalities be given permissive legislative authority to zone their police jurisdictions.

C-1.3. That a state statute be adopted to specifically authorize municipalities to control unzoned areas in newly-annexed territory pending the adoption of appropriate zoning for newly-annexed areas.

C-1.4. That every city establish minimum standards for public improvements that must be met before approval of subdivisions within their jurisdictions. Further, that subdividers planning subdivisions beyond municipal corporate limits of a city but within the planning jurisdiction of the city be urged to include restrictive covenants in their recorded plats for the protection of purchasers of their lots. Municipalities are urged to provide subdividers with model protective covenants for their consideration in the preparation of their plats.

C-1.5. That the League encourages every community to establish long-range plans for land use and capital improvements which include privatized capital improvements needs and estimated costs. Such plans will provide preparedness in the event special public works programs become available.

C-1.6. That the League urges municipalities to establish planning commissions and implement zoning ordinances and subdivision regulations.

C-1.7. That all municipalities be encouraged to establish standards to cover the location of mobile and manufactured or modular homes within their jurisdictions. We urge the League to assist in the development of these standards to assure that they meet legal challenges.

C-1.8. That the League strongly supports the continued efforts of the Alabama Planning Association's Planning Institute to train local officials, planning commissioners and zoning administrators.

C-1.9. That the League strongly supports efforts to educate the public as to the importance of zoning and subdivision controls through resources such as the regional planning commissions. Municipalities are urged to work with their County Commissions in the development of such controls.

C-1.10. That the League strongly encourages the Legislature to study municipal zoning and planning enabling laws and to make a recommendation for improvement of such laws.

C-1.11. That the League strongly encourages its members to consider historical areas in their local zoning and planning process.

C-1.12. That municipalities are encouraged to individually evaluate establishment of historic preservation authorities and commissions, to inventory local cultural and historic assets, and to initiate other locally-based historic preservation initiatives.

C-1.13. That the League propose legislation to make it clear that a municipal governing body may withdraw its planning jurisdiction to less than the five-mile limit currently established by state law.

C-1.14. That the League encourages ADECA to reinstate the Prepared Cities Program. (September 2002)

C-1.15. That the League supports state legislation regulating private sewage providers and sewage systems and establishing standards for construction and continued operation of such providers. (September 2002)

C-1.16. That the League strongly encourages the Alabama Legislature to authorize the creation of Central Business District Boards with the authority to protect the architectural integrity of downtown commercial buildings and ensure that their use promotes economic growth and prosperity. (September 2003)

C-1.17 That the League urge the Alabama Legislature to continue to fund and support the Alabama Communities of Excellence Program **and that the program be expanded to include municipalities with populations of 25,000 and under.** (~~August 2004~~ **September 2006**)

C-1.18. That the League encourage every municipality in exercising its authority to zone, to explore mixed-use zoning options to encourage and support downtown redevelopment. (September 2005).

C.2. State and Federal Programs

C-2.1. That the League encourages efforts to standardize and clarify the application requirements of various federal program agencies, and the simplification of rules and regulations relating to civil rights, equal employment opportunity and requirements of private lending institution sign-offs as a condition of eligibility for loans from those agencies.

C-2.2. That the League strongly recommends to our Congressional delegation that they actively pursue adequate funding for federal economic development programs including those of the Renewal Community Initiative, the U.S. Department of Housing and Urban Development, the USDA Rural Development, the Delta Regional Authority, the Crescent Authority and the Appalachian Regional Commission. (September 2002)

C-2.3. That the League urges the legislature of Alabama to be concerned with the federal phase-out of local government programs to the end that state funding be provided for local government programs affecting public health and welfare.

C-2.4. That the League recognizes that the condition of

public facilities in Alabama and throughout the nation has become seriously deteriorated to an extent that it is not accurately known. It is urged that a federal program be funded to accurately tabulate the current needs for public facility rehabilitation nationwide according to uniform reasonable standards, and that provision be made to keep such tabulation current on a periodic basis. Further, that a multi-year federal infrastructure grant-in-aid program be established to assist state and local governments in the rehabilitation of their public facilities in accordance with the needs assessment program.

Further, the League supports the re-establishment of the Federal Public Facility Loan Fund and the idea of creating federal and state domestic capital investment budgets.

C-2.5. The League urges more federal assistance to state and local governments in promoting international business.

C-2.6. That the League applauds the Alabama Legislature and Congress for its leadership in the field of historic preservation and urges the continuation of historic preservation programs both at the federal and state levels of government. Particularly, the League urges that tax incentives be made available for residential preservation as well as commercial preservation. (September 2003)

C-2.7. The League should educate its members as to the availability of the Your Town Program.

C-2.8 That the League encourage all municipalities to register for and become a part of the Preserve America Program. (August 2004)

C-2.9 **The League encourages Alabama municipalities to utilize the services provided by the Small Business Development Center (SBDC) and University Economic Development Centers. (September 2006)**

C-3. Housing

C-3.1. That the League is opposed to housing authorities that would establish housing in a municipality or its police jurisdiction without a resolution of approval by the local governing body involved.

C-3.2. That both the federal Congress and the state legislature be urged to consider all alternatives to take action to alleviate the difficulty in financing housing in Alabama and the nation. The League urges that the Home fund administered by the Alabama Housing Finance Authority distribute more money to be used to finance home ownership for single families.

C-3.3. That lenders throughout the state be urged to use the HUD 203(k) program for rehabilitation of existing homes.

C-3.4. That the Committee favors legislation which would allow municipalities to establish housing finance authorities.

C-3.5. That the League support the legislation which would establish a uniform state building code patterned after or identical to the International Building Code (September 2005).

C-3.6. That the Community and Economic Development Committee reiterates the recommendation of the Energy, Environment and Natural Resources Committee in strong opposition to federal land use planning legislation.

C-3.7. That the League encourages the Legislature to adopt required standards of certification for code enforcement officers. Furthermore, that the code enforcement officers be required to be certified three years after the enactment of such legislation or three years after the officers are hired.

C-3.8. That the League supports continuation of the public housing program as a separate program and strongly urges the

continuation of federal public housing operating subsidies. The state and local governments in Alabama are not financially able to take over the responsibility of public housing construction and operation.

C-3.9. That the League go on record as continuing its strong opposition to all efforts that would discontinue the allowance of home mortgage interest payments as deductions in the computation of individual state and federal income tax returns.

C-3.10. The Alabama Multifamily Housing Consortium is encouraged to expand its efforts to involve more financial institutions in its consortium so as to increase resources available to finance affordable housing in local communities. Further, that local municipalities are encouraged, where affordable housing is needed, to cooperate with housing sponsors and developers seeking financing from the Alabama Multifamily Housing Consortium by providing planning and zoning assistance, advice, local expertise and/or resources to increase the supply of quality rental housing.

C-3.11. That the League urges the Alabama Legislature to pass a state Fair Housing Law that is equivalent to the Federal Fair Housing Law in order to realize funding opportunities currently unavailable to the state.

C-3.12. That the League urges the state and local governments to pursue grants which will help address the abatement of lead based paint hazards in housing, as authorized by the Lead Based Paint Poisoning Prevention Act.

C-3.13. That the League encourages HUD to establish specific policies concerning the upkeep, maintenance and responsibilities of Section 8 Housing and their presence in the community. (September 2002)

C-4. Community Development

C-4.1. That the League encourages its members to work toward urban conservation, historic preservation and revitalization of its downtown area, and to seek technical assistance and advice from the Main Street Program and the Certified Local Government Program of the Alabama Historical Commission.

C-4.2. That close lines of communication be established between municipal and county governing bodies for joint efforts toward community development and fringe area services and that counties be encouraged to work more closely with municipalities in rural development.

C-4.3. That the League support the adoption of statutes authorizing municipalities to finance off-street parking facilities through revenue bond issues.

C-4.4. That the need for a viable annexation statute becomes more acute as time passes. The League strongly urges an all-out effort on the part of its members, the legislature and the state administration to produce a workable answer to this need at the earliest possible time. Furthermore, this committee urges the League Committee on State and Federal Legislation to make a viable annexation statute a top priority.

C-4.5. That every municipality is urged to work with and encourage the private sector to increase its efforts in the field of community development.

C-4.6. That the League pledges its cooperation and support of the efforts of the community development directors of the state toward better community development in Alabama's cities and towns.

continued next page

C-4.7. Recognizing that construction costs have increased while Community Development Block Grant funding has been reduced, the League strongly urges our Congressional delegation to allocate increased funding to Community Development Block Grants.

C-4.8. The League urges ADECA to ~~reinstate~~ **continue** giving bonus points to municipalities who are applying for CDBG grants but who have never received such a grant. (September ~~2005~~ **2006**)

C-4.9. The League encourages municipalities to provide recreational opportunities for low and moderate income areas.

C-4.10. That ADECA continue to recognize the essential need that municipalities have to use in-kind (personnel and equipment) as local match for CDBG projects.

C-4.11. That the League urges ADECA to allow ~~or~~ **continue to allow** the use of inmates for consideration of in-kind services (personnel) as local match for all ADECA grants on the same rate scale allowed by federal law. (~~August 2004~~ **September 2006**)

C-4.12. The League urges ADECA to continue to consider a much larger funding level for the small and large city categories of the CDBG grants. (September 2003)

C-4.13. That the League encourages Congress to increase funding to the State's Scenic Byway Program to promote tourism and economic development in areas along designated byways in Alabama. (September 2002)

C-4.14. That the League urge the Alabama Legislature to require the use of ISO ratings by insurance companies where appropriate. (August 2004)

C-4.15 That the League urges the Alabama Legislature to provide financial support for the Alabama Base Realignment and Closure Commission (BRAC). (September 2003)

C-5. Economic Development

C-5.1. The League strongly encourages the Governor and the legislature to take necessary action to create a fund which can guarantee, or partially guarantee, loans for economic development to industries which need assistance and are deemed worthy because of the jobs and corporate taxes they will provide. The fund should be made available to both new industries moving into the state as well as for expansion of existing industries.

C-5.2. That the League continues to urge the repeal of state industrial park acts which threaten the orderly growth and development of our cities and towns.

C-5.3. The League offers its full support to assist The Alabama Development Office, The Alabama Department of Economic and Community Development, The U. S. Department of Housing and Urban Development, all institutions of higher education, the Alabama Association of Regional Councils and the Economic Development Association of Alabama in the continuation of a training program for industrial development representatives. Further, the League urges all municipal officials to assist the Alabama Development Office in its efforts to procure legislation that may be needed from time to time to improve our state attractiveness to potential businesses and industries.

C-5.4. That the League encourages every city and town to establish an Industrial Development Board or authority and support economic development on a regional basis. (September 2005)

C-5.5. Municipal governing bodies and their industrial development boards are encouraged to work more closely with their existing industries and to assist whenever possible in

expanding such industries, and to create an economic development plan that defines the types of industries and industrial infrastructure a city needs.

C-5.6. That the League urges continued strong effort to bring about industrial development and more jobs for the state and its people and continued interest in the development of small or minority businesses and industry.

C-5.7. The League urges the Alabama Legislature to budget adequate funding for the State Industrial Development Board program for the development of industrial parks (including speculative buildings) and the industrial development grant program. (September 2003)

C-5.8. The League urges the Alabama Department of Economic and Community Affairs to continue the allocation of economic development funds from the Community Development Block Grant program.

C-5.9. The League continues to urge the State of Alabama to take a leadership position concerning industrial development. Due to factors beyond their control, rural areas are at a tremendous disadvantage competing in this environment. The State should stress total economic development in all areas.

C-5.10. The League encourages promotion of the state through the Alabama ~~Department~~ **Bureau** of Tourism and Travel. Out-of-state visitors bring a significant amount of revenue into our local cities and towns. (September 2006)

C-5.11. That the League urge continued state support and funding for locally- and regionally-based economic development tools, such as business and industrial incubator programs, revolving loan funds and venture capital funds.

C-5.12. That the League urges the Legislature to put sufficient resources into the education and training of all Alabamians so as to assure their future in the workplace.

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

C-5.14. That the League strongly encourages the Alabama Legislature to authorize incentive policies aimed at attracting commercial and retail growth. Furthermore, it supports legislation creating a state fund which can be used to assist in providing needed infrastructure for desirable commercial and retail businesses, based on the number of jobs and the amount of state and local taxes generated. (September 2003)

C-5.15 That the League urge the Alabama Legislature to authorize the Alabama Development Office (ADO) to work with and provide assistance to municipalities to attract and develop commercial and retail businesses. (August 2004)

C-5.16. That the League encourage every municipality to consider providing for a full-time economic developer or to contract for economic development services and to support economic development on a regional basis when appropriate. (September 2005)

C-5.17 That the League encourage rural municipalities to actively seek out available funding to provide for excess water and sewer capacity so that they may work towards overcoming competitive disadvantages when seeking economic development opportunities. (August 2004)

C-5.18. That the League encourage municipalities to take advantage of all legislatively authorized incentives, including but not limited to, new market tax credits, Tax Increment Financing (TIF), Downtown Redevelopment Authorities and Improvement districts to improve central business districts. (September 2005) ■

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