

THE ALABAMA MUNICIPAL JOURNAL

November 2006

Volume 64, Number 5



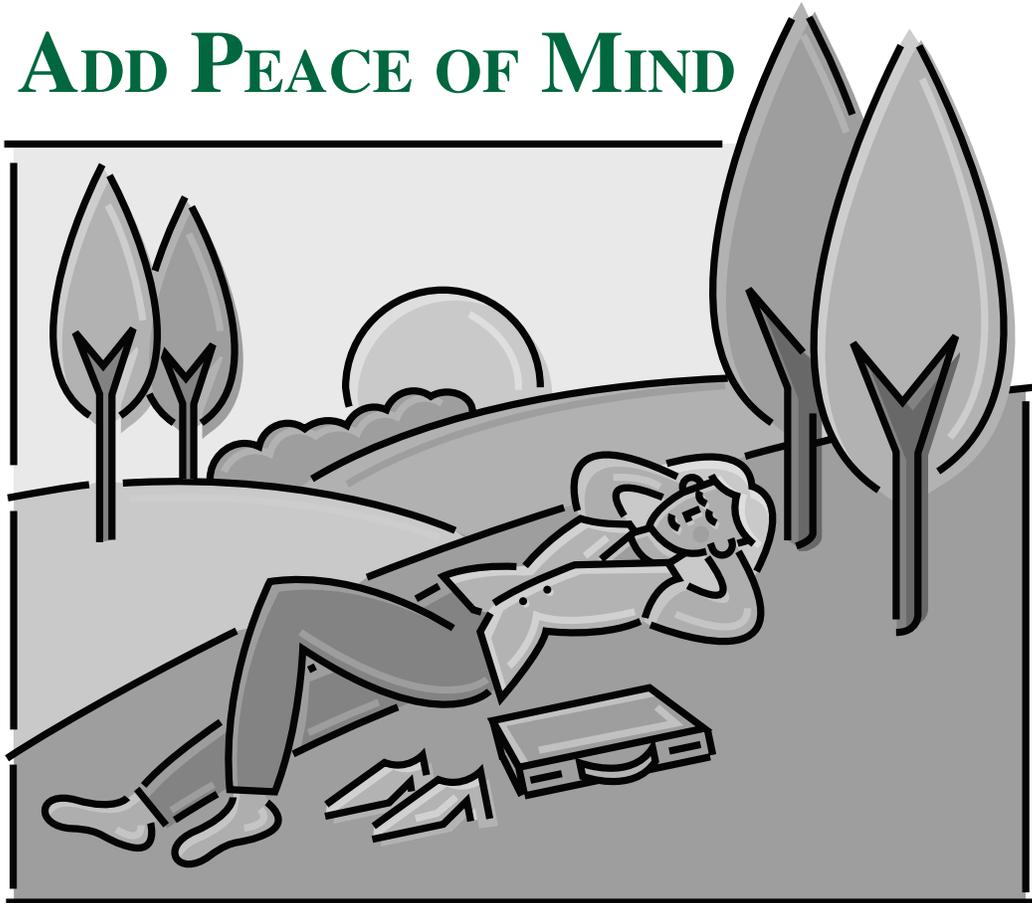
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Official Publication, Alabama League of Municipalities

November 2006 • Volume 64, Number 5

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Editor: CARRIE BANKS

Staff Writers: GREGORY COCNRAN, NIKO CORLEY, LORI LEIN,

PERRY C. ROQUEMORE, JR., KEN SMITH, TWANNA WALTON

For a complete list of the ALM staff, visit www.alalm.org.

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AMFund Offers Municipalities Attractive Loan Alternative

By Niko Corley, Communications Coordinator

With its October 12 bond closing last month, the Alabama Municipal Funding Corporation (AMFund) marked its third closing since its creation in January 2006. Since then, 11 municipalities have participated in the program, borrowing just under \$22 million in public improvement bonds. Those having participated in AMFund have been pleased.

“We’re grateful to have this tool,” Roy Dobbs, mayor of Berry and AMFund chairperson, said. “It will help any municipality...but I think it will [especially] help smaller municipalities.”

Because of competitive borrowing costs and less hassle than they would find by dealing with traditional financial institutions, municipalities in Alabama are turning to AMFund to finance their capital improvement projects and equipment purchases.

“It’s a very powerful alternative to have, especially in a state with so many small cities. Investment bankers don’t even visit most of those cities,” Leo Lawrenson, AMFund financial advisor, said.

AMFund is able to offer competitive pricing and save municipalities money for a number of reasons. Most importantly, sharing issuance costs and being a part of bond issues of sufficient size allows individual municipalities to enjoy reduced borrowing costs and achieve attractive interest rates. In addition, by using straightforward loan documentation, staff time is minimized.

“Streamlining of documents really made it easy for our personnel to prepare,” AMFund Vice Chairperson and Childersburg Councilmember Charles Woods said.

Because AMFund is a League-endorsed program, municipalities should feel confident in using the program to finance their municipal projects and purchases. In addition to lower borrowing costs and less paperwork, simply knowing the League and AMFund have cities’ best interest in mind will likely convince more municipalities to consider AMFund for municipal financing needs.

“Anytime the League recommends a program it has checked them out,” Wally Burns, mayor of Southside and an AMFund board member, said. “They’re not going to recommend something that’s not good.”

Providing low-cost financing to municipalities in Alabama is AMFund’s main objective. Tax-exempt bonds are issued to AMFund and the bond proceeds, in turn, fund

the municipalities’ needs. From this pool, individual municipalities can borrow money at low, tax-exempt interest rates to fund almost any municipal equipment or improvement project. For some municipalities, AMFund’s competitive interest rates and issuance costs will be just what they need to undertake a new project or acquire new equipment. Still others, who may have consistently been turned down for a loan because the requested amount was too small, will welcome the freedom AMFund can grant them to improve quality of life for citizens.

“For small towns and cities, traditional financing means may not always be amenable...to borrow small amounts of money,” Woods said, adding that AMFund helps “small cities and towns to get money for projects.”

While League members are encouraged to consider AMFund for financing municipal projects and equipment purchases, not every municipality will find the program is the best choice for their particular needs. Dobbs says he doesn’t want to mislead anyone into thinking AMFund is going to be the solution for every municipality that wants to borrow money. Cities whose constituency is low-to-middle income, he says, may qualify for USDA Rural Development grants and might do better to go that route. However, if your municipality isn’t in that group, AMFund is a very competitive alternative to traditionally financed municipal loans.

continued page 8

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The President's Report

Lew Watson
Mayor of Lincoln

Bond Financing

During the past several months we have discussed revenue measures. During the next few months another revenue source, bond financing, will be examined. As municipal officials, we generally do not like to borrow money but there are some circumstances that require us to take on debt for the municipality. In general, we tend to borrow for large scale infrastructure and capital improvement projects. The how and why of the need to borrow shape how the financing will be structured.

There are two basic types of municipal bonds: general obligations (GOs) and revenue bonds. GOs are direct obligations secured by a pledge of the full faith, credit and taxing power of the governmental entity issuing the debt. The Constitution of Alabama describes the amount of indebtedness a municipality may borrow in a bond issue, generally 20 percent of the assessed value of taxable property within the city's corporate limits. This is sometimes called the "debt limit."

There are certain types of GO debt that are excluded from the debt limit, such as obligations issued for schools, water works, sewers, street or sidewalk improvements (where the costs are to be assessed against the property adjacent to the improvements), and capital leases that are funded on a year-to-year basis. Municipalities issuing GO debt adopt an authorizing resolution or ordinance prepared by bond counsel that outlines the specific terms of the indebtedness, such as interest rates, principal amount and the purpose or projects to be financed by the bond proceeds.

Municipal bonds can be issued for periods from one to forty years and pay a fixed rate of interest semi-annually on the principal amount to maturity, or can be issued as variable rate bonds with the interest rate being reset on a periodic basis. The interest income paid to purchasers of tax-exempt bonds is generally exempt from federal income taxation and may also be exempt from state and local income taxes for bondholders who are residents of the state of issuance. The fact that these bonds or warrants are tax exempt results in the lowest rates of interest in the marketplace.

Revenue bonds are issued by a municipality or agency of the municipality (authority) when a specific revenue stream is pledged to repay the debt service (principal and interest) on

the bonds. Some examples include water, sewer, gas, electric and healthcare projects. The issuing authority adopts a trust indenture that contains specific requirements, or covenants, that the authority must maintain relative to the debt.

One important covenant is the maintenance of rates or fees charged for services that generate a specific ratio of revenues to debt service. Depending on the type project financed and the revenues pledged, this ratio of revenues to debt service can vary. The trustee, usually a bank corporate trust department, is responsible for administering the duties required by the trust indenture. Unlike GOs, a debt service reserve fund (generally equal to one year's debt service) is set aside in the event the authority has insufficient revenues to make debt service payments. The debt service reserve fund can be fully funded from bond proceeds at closing or built up over a specific period of time.

When a governmental entity identifies the need for long-term financing, a municipal bond professional is then engaged to work with the issuer to assess and analyze the best-suited course of action for financing the project. The financial records, the intended source of repayment, existing bond indebtedness, the useful life of the project to be financed and market conditions are all considerations prior to issuance.

Once the preliminary plan of finance is identified, the issuer and its investment banker work with bond counsel to prepare the offering document, or the preliminary official statement (POS). One of the important functions of the investment bank or underwriter is to review the audits, which must be current, and the city's financial circumstances to determine if the issuer can actually afford the debt service on the proposed projects. Issuers should be cautious about undertaking more debt than can they can service. Further, debt service should be such that the city's essential functions are not threatened by excessive borrowing. The POS discloses pertinent information on the issuer, its financial condition, the project, the structure of the debt and any risks associated with owning the bonds. Bond counsel also renders an opinion related to the federal, state and local taxation of interest income on the bonds and that the bonds constitute a legal, valid and binding obligation on the issuer. In addition to the issuer, bond counsel and investment banker, other participants to the financing team include local counsel, paying agent and/or trustee, rating agencies and bond insurers. Issuers work with their investment banker to determine if the cost of purchasing bond insurance, a one-time premium paid at closing from bond proceeds, is cost-effective. Achieving the lowest possible interest rates is the ultimate goal when considering bond insurance. The issuer and underwriter work together to set a financing schedule that achieves a closing date conducive to the issuer's funding needs while taking into account market timing and conditions.

This is an overall view of the bond business. Next month we will discuss in more detail some of the information presented in this article. ■

Annual Convention Hotel Update Huntsville, April 21-24, 2007

The following hotels are holding a block of rooms for the League's 2007 convention in Huntsville:

Embassy Suites Huntsville 800 Monroe Street

1-800-Embassy or www.embassysuiteshuntsville.com. \$129.00 per night. You will need to use the Code "ALL" to receive our discounted rate. A first night non-refundable deposit is required. There is a 72 hour prior to arrival cancellation policy. **You are limited to 12 room reservations with a name for EACH room reserved due by March 20th or room will be released.**

Hilton Garden Inn Huntsville/Space Center 4801 Governors House

1-256-430-1778. \$109.00 per night. Ask for the "League of Municipalities" block to receive our discounted rate. A first night non-refundable deposit is required. There is a 72 hour prior to arrival cancellation policy. To tour the property visit www.hiltongardeninn.com. **You are limited to 12 room reservations with a name for EACH room reserved due by March 20th or room will be released.**

Holiday Inn Downtown 401 Williams Ave.

1-800-HOLIDAY or 256-533-1400. \$115.00 per night. You will need to use "AAL" Code to receive our discounted rate. A first night non-refundable deposit is required. There is a 72 hour prior to arrival cancellation policy. To tour the property, visit www.holidayinn.com/huntsvilleal. **You are limited to 12 room reservations with a name for EACH room reserved due by March 20th or room will be released.**

Huntsville Marriott 5 Tranquility Base

1-888-299-5174. \$109.00 per night. You will need to ask for "AL League of Municipalities" block for the discounted rate. A first night non-refundable deposit is required. There is a 72 hour prior to arrival cancellation policy. To tour the property, visit www.marriott.com – select Huntsville. **You are limited to 12 room reservations with a name for EACH room reserved due by March 20th or room will be released.**

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Thompson Tractor Co., Inc. is the full-service Caterpillar dealer for Alabama and northwest Florida. Thompson Tractor Company is headquartered in Birmingham, and also operates from locations in Attalla, Decatur, Dothan, Mobile, Montgomery, Opelika, Oxford, Thomasville, Tuscaloosa and Tuscumbia in Alabama, and in Crestview, Marianna, Panama City and Pensacola in Florida. Since being founded in 1957, Thompson has built a solid reputation for providing industry leading parts and service support for the equipment it sells. **See ad, page 9.**

Vendor Profiles are included in the League's Gold and Platinum advertising packages. For more information on how your company can purchase a package, contact Greg Cochran at 334-262-2566 or gregc@alalm.org.



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Municipal Overview

By
PERRY C. ROQUEMORE, JR.
Executive Director

League-Endorsed Debt Collection Service

The Alabama League of Municipalities is constantly trying to bring valued services to our members. These services include insurance programs, an Internet auction site and a heart defibrillator program, to name a few. The latest League-endorsed program is a partnership between the League and AlaTax offering debt collection services to Alabama municipalities. This service provides local governments a politically sensitive and experienced approach to collecting unpaid debt.

AlaTax has a long standing relationship with local governments in Alabama. With more than 275 local jurisdictions currently using the services of AlaTax, the League and the board of directors feel strongly that this service will provide needed revenue to our members.

There are many types of debt that can be collected under this program. Some of the debt collection opportunities include utility bills such as water, sewer, gas, power or cable. Other debt categories include court fines and fees or any other debt exclusive to your city. It is simple to begin using the service. Once the contract between AlaTax and the municipality is signed, the city or town provides an electronic file of all aged receivables account data to AlaTax. AlaTax will review and clean the data, insuring that the information is accurate and collectible. In addition, AlaTax will skip-trace accounts where necessary, prepare and send letters and initiate calls as a part of the collection process. Once the collection efforts begin, AlaTax will process incoming monies and disburse the funds directly to the city's designated accounts via Electronic Funds Transfer (EFT) or check on a monthly basis. AlaTax will send monthly reports to the city showing amount placed and total dollars collected. Information can also be accessed through AlaTax's secure website for up-to-date information on the status of placements.

The service is offered on a specially-negotiated contingency fee basis, with fees ranging from 23.4 to 35.1 percent, depending on the amount and age of the debt. Another attractive feature of the AlaTax service, in addition to the discounted fees, is the web-based access provided to customers who are interested in checking on the status of their delinquent accounts. AlaTax can receive account data using a secured web-based electronic file transfer protocol (FTP). Other electronic methods for data transfer, including e-mail, or transfer via CD-ROM or other digital media, are also supported. If for any reason your city is unable to provide electronic transfer of data, AlaTax can also accept a hard-copy listing of referred accounts. Any of these methods may be used either for the initial placement of accounts or for subsequent reports or updates.

AlaTax is a wholly owned subsidiary of Portfolio Recovery Associates (PRA), specializing in providing governments and public entities with a full range of revenue enhancement services, including aged-receivables management (debt collection), revenue administration, revenue discovery and recovery and compliance auditing. AlaTax is a highly qualified debt collection firm with an outstanding past performance record and more than 25 years of experience in working with public sector entities. AlaTax employs a full-time professional collections staff, documented processes and robust systems technologies to ensure the successful collection of delinquent taxes, fees and other charges, in accordance with the Fair Debt Collection Practices Act (FDCPA) and the Taxpayer Bill of Rights (TBOR). AlaTax is an active member of the American Collectors Association (ACA) and subscribes to the ACA Collection Practices Code of Ethics.

To provide more information about the service and best practices for effective collections, the League and AlaTax will be offering a series of both regional seminars and web-based seminars during the coming months. If you haven't already, you will soon be receiving a letter explaining this program more in detail. You may also find information by visiting the League's website, www.alalm.org, and selecting the League Programs heading and then the AlaTax Debt Collection option. This section of our website will provide an overview of the service, a contract for service, the four-step collection process, a description of the electronic data file and a template spreadsheet to help with data input.

If you have any questions or would like to speak to someone about the service, please contact either Yolanda Thomas at 334-272-9995 (ythomas@alatax.com), or Pete Yonce at 205-949-1030 (pyonce@alatax.com). If your city or town is experiencing difficulty collecting past due bills, fines, fees or taxes, I hope you will consider taking advantage of the Alabama League of Municipalities' new debt collection service. ■

“It’s not going to be a panacea for everybody and it’s not going to be an answer to everyone’s prayer. If you can find a better deal, then more power to you,” Dobbs said. “But, I think they’re going to find ours is more attractive.”

David Hooks of Sterne, Agee and Leach, together with Louis Cardinal of Thornton Farish, Inc., serves as AMFund underwriter and remarketer. Hooks says AMFund is a great mechanism for financing municipal equipment purchases and projects.

“Any city that’s going to do any financing needs to consider AMFund. In most cases, it’s going to be a good deal,” Hooks said.

For the city of Southside, Burns says AMFund gave his municipality another option for borrowing money for a street paving project. The process, he says, was easier than going through the traditional method and was definitely worth looking into.

“It was much simpler than conventional loans and bonds and was very competitive with other rates,” Burns said.

In addition to the firms of Thornton Farish, Inc. and Sterne, Agee and Leach, AMFund has several other reputable organizations involved in its bond program. US Bank has been retained as the letter of credit provider, and Bank of New York serves as AMFund trustee. The combined expertise of these organizations has proven invaluable in helping municipalities in Alabama finance projects and equipment purchases.

The application process, as any municipality having closed with AMFund will attest, is incredibly simple. First, cities must submit a short application to pre-approve them to borrow money. Cities having applied for loans before know how much work goes into preparing financial data and demographics information for a traditional application. Through AMFund, however, the workload on city staff is much lighter.

“They don’t have to do any kind of prospectus. Once they fill out their application and send in their audits, they’re done,” Cardinal said.

Once a municipality receives approval from US Bank, bonds can be issued on cities’ individual timetables or construction schedules to source loans for equipment or capital improvements. In addition, the loan payment schedule can be tailored to fit individual needs.

“It’s been really flexible and we haven’t been tied to a lot of restrictions,” Woods said, of Childersburg’s dealings with AMFund.

Indeed, AMFund can help most any municipality, regardless of size, finance improvements and purchases, from smaller cities borrowing money for sewer projects to

larger municipalities financing fire trucks or police vehicles. Additionally, AMFund closings take significantly less time, getting municipalities the money they need quicker than is the norm with traditional financing.

“In the last bond issue, we were able to do a 14-business day turnaround, which is pretty much incredible for a municipal bond issue,” Ken Smith, AMFund president, said.

At the very least, considering AMFund as another municipal financing alternative is smart shopping.

“You need to look at all options and put them on the table,” Dobbs said, and “don’t be afraid to call someone at the League and ask them about it.”

For more information, contact Greg Cochran, AMFund marketing director at 334-262-2566 or via email at gregc@alalm.org. ■

Ward Becomes Certified Municipal Revenue Officer



This past October, Marcia Ward, Revenue Manager, city of Gulf Shores, completed all the requirements of the Certification Training Institute for Municipal Revenue Officers at The University of Alabama to become a certified municipal revenue officer (CMRO). Congratulations!

League Welcomes New Employee

Ken Gabehart joined the League staff in October as the Information Systems Specialist. Working with the Director of Information Systems, he is responsible for a variety of technical support duties related to the League's technology/telecommunication systems including installation, maintenance, troubleshooting and upgrades.

A native of Eureka, California, Ken served in the Air Force for 10 years before joining the civilian world. He attended the College of the Redwoods and Community College of the Air Force.

Ken has two children with a third child due in April 2007. He and his wife are members of First Baptist Church in Prattville. He is also an active member of the Millbrook Men's Club. ■



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2007 Premium Discounts Available from MWCF

As medical care costs continue to rise, the Municipal Workers Comp Fund (MWCF) works to keep your premiums as low as possible. This past year, 60% of the 620 MWCF members received a full 10% off their premium by appointing a Safety Coordinator; signing a *Statement of Commitment, Post Accident Drug Testing Agreement*; and having an approved Medical Protocol in place.

2007 Statement of Commitment

The *Statement of Commitment*, a two-page document that must be renewed every year, is comprised of safety standards that each member endeavors to follow. It is updated annually and mailed to every MWCF member in November. If it is signed and returned by **December 1, 2006**, a 3% discount will be reflected on the 2007-2008 billing.

Post Accident Drug and Alcohol Testing Program

The Municipal Workers Comp Fund provides an additional 3% discount for those members that commit to a *Post Accident Drug and Alcohol Testing* program. In order to qualify, a member must sign a "Participating Commitment" (enclosed with the above mentioned document) and the program must be certified by their attorney that the member's drug and alcohol policy is Fourth Amendment compliant. Unlike the *Statement of Commitment*, this document does not have to be renewed each year.

Medical Protocol

Another 3% discount is available to those members who establish and implement a *Medical Protocol*. This program is a great benefit to both the member and the claims management team. A sample protocol is included in the mailout for those members that do not currently have one on file. For further information regarding this discount, call Tom Roper or Matt Graham at Millennium Risk Managers at 1-888-736-0210.

MWCF members who participate in all three programs will receive a bonus 1% discount giving those members a full 10% discount on their annual premium for 2007! All members are encouraged to watch for the *Statement of Commitment* information packet coming to you in November and return it promptly to take advantage of these benefits. The *Statement of Commitment* will also be available for downloading on our website by going to the MWCF page at www.alalm.org. ■

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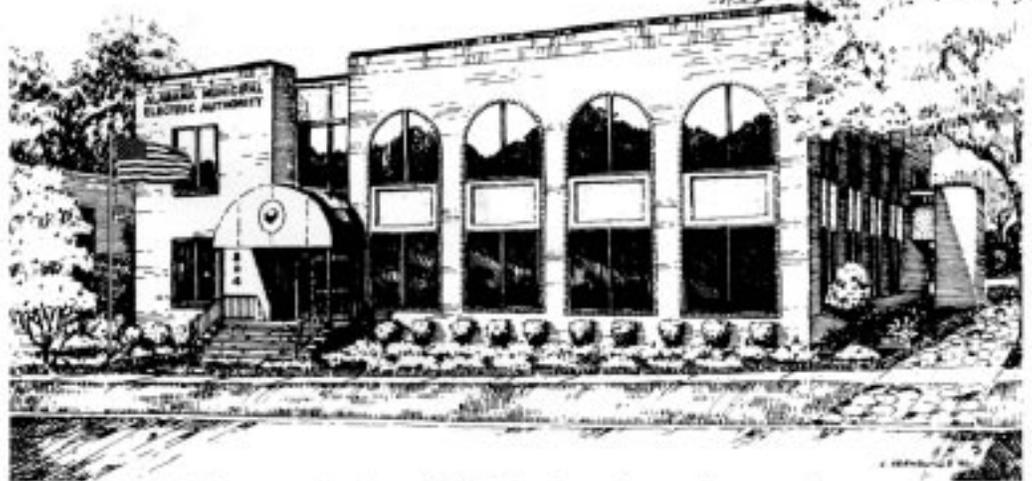
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THE LEGAL VIEWPOINT

By Lorelei A. Lein
Deputy General Counsel

The Municipal Governing Body's Disaster Responsibilities

The events of Sept. 11, 2001, and the damage caused by Hurricanes Ivan and Katrina pushed more municipalities in the state to embrace emergency operating procedures addressing both manmade and natural disasters. Mayor and council actions in the preparation and post-disaster stage are integral to these procedures. It is imperative that municipal governments take action and implement policies protecting the health, safety and welfare of their citizens.

Alabama laws on Emergency Management can be found in Chapter 9 of Title 31 of the Code of Alabama of 1975, as amended. See Section 31-9-1 et seq., Code of Alabama 1975. For purposes of this article, we will refer to this law as the Alabama Emergency Management Act. This law outlines the authority and procedures of the state for declaring and dealing with disasters as well as the specific powers granted to counties and municipalities during such times. In addition, one of the primary purposes of the Alabama Emergency Management Act is to assist and encourage emergency management and emergency preparedness activities on the part of any political subdivisions of the state by authorizing the state to make grants, as funds are appropriated, to those political subdivisions to assist in the costs associated with emergency preparedness and response. As such it is vital that municipalities understand and comply with this act if they wish to receive financial assistance from the state with regard to emergency preparedness and response.

In addition to the Emergency Management Act, Section 11-45-1, Code of Alabama 1975, states, "Municipal corporations may from time to time adopt ordinances and resolutions not inconsistent with the laws of the state to carry into effect or discharge the powers and duties conferred by the applicable provisions of this title and any other applicable provisions of law and 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, and may enforce obedience

to such ordinances." These powers are commonly known as "police powers." Police powers should be used advisedly as to not interfere with the civil liberties of citizens; however, in emergency situations, fundamental rights may be temporarily limited or suspended. See *Aptheker v. Secretary of State*, 378 U.S. 500, 84 S.Ct. 1659, 12 L.Ed.2d 992 (1964); see also *Korematsu v. United States*, 323 U.S. 214, 65 S.Ct. 193, 89 L.Ed. 194 (1944).

It is important to keep in mind all laws of the state must continue to be followed during disaster preparation, response and recovery. Specifically, Section 94 of the Alabama Constitution of 1901, provides, "The legislature shall not have power to authorize any county, city, town, or other subdivision of this state to lend its credit, or to grant public money or thing of value in aid of, or to any individual, association, or corporation whatsoever, or to become a stockholder in any such corporation, association, or company, by issuing bonds or otherwise." In 1994, the Supreme Court passed *Slawson v. Alabama Forestry Commission*, 631 So. 2d 953 (1994). In *Slawson*, the court changed the application of Section 94 to appropriations and expenditures of municipal governments by holding that a public entity such as a city may give money or something of value to nonpublic entities and organizations if the public entity determines the appropriation will serve a public purpose. *Id.* at 956. The court went on to define a public purpose as one promoting the health, safety, morals, security, prosperity, contentment and general welfare of the community. *Id.* Further, the court held the decision as to whether an expenditure serves a public purpose or confers a public benefit is wholly within the discretion of the legislative body making the decision (or the municipal governing body in the case of municipalities). *Id.*

A municipality's authority to carry out an emergency operating procedure stems from the Alabama Emergency Management Act and a municipality's police power. It is

continued next page

important for a municipality to have an emergency operating procedure in writing and in place **prior to** a disaster. The policy should be adapted for each municipality's unique needs and give guidance and direction to municipal employees and officials on actions to be taken before, during and after a disaster. A written policy should be adopted either by motion or resolution.

In light of the constant changes to state and federal laws and the unpredictable nature of disasters, emergency operating procedures should be reviewed annually to be sure they are up to date. Even in the face of disaster, the Slawson analysis should be used to determine whether or not a municipality can take action that would otherwise be in violation of Section 94.

In addition to an emergency operating procedure for employees and officials, a city should have an emergency operating ordinance which outlines what to do in the event of an emergency. Much like the emergency operating procedure, the emergency ordinance should be reviewed annually and both the emergency operating procedure and ordinance should correspond.

Local Emergency Management Organization and Director

The Alabama Emergency Management Act authorized municipalities to establish a local organization for emergency management in accordance with the state emergency management plan. In creating such an organization, the council may appoint a director who shall have the direct responsibility for the organization, administration and operation of the organization subject to the direction and control of the council. The organization formed shall perform emergency management functions within the territorial limits of the municipality.

Declaration of Emergency

The declaration of an emergency is the first step in addressing a particular threat. The proclamation of a state of emergency pursuant to the Alabama Emergency Management Act, is the first step in activating the disaster and recovery aspects of state, local and inter-jurisdictional disaster and emergency plans. The Alabama Emergency Management Act provides that the governor or the legislature, by joint resolution, have the authority to declare that a state of emergency exists. There is no authority under state law for mayors to declare an emergency in the face of a disaster. The only similar authority a mayor has is found in Section 11-43-82, Code of Alabama 1975, which gives mayors the authority, in time of riot, to close businesses in the vicinity of the municipality which sell arms and ammunition.

There is certainly a strong argument backed up by public policy that under its police powers, a city council has the discretion to declare an emergency in order to protect the health, safety and welfare of its citizens. If such a situation arises whereby a municipality cannot obtain a declaration by the governor or the legislature as provided in the Alabama Emergency Management Act because immediate action is needed, the council should convene to declare an emergency.

If the situation is such that the council cannot convene, the emergency operating procedure and ordinance should provide for an alternative. The council, in the procedure or ordinance, should confer upon the mayor (or the emergency management director) the authority to declare a state of emergency in the event a meeting of the municipal governing body cannot take place. The declaration by the mayor or the emergency management director should be subject to ratification, alteration, modification or repeal by the municipal governing body as soon as the body can convene. The ordinance should state that subsequent actions of the council will not affect the validity of prior actions of the mayor or other city officials. The declaration should be made as early as possible, especially if evacuations are necessary. All declarations should be made and attested to by the city clerk.

When dealing with the declaration of a disaster, it is important to remember that unless and until your municipality is declared to be under a state of emergency by the governor or the legislature pursuant to the Alabama Emergency Management Act, funding may not be available for assistance.

Emergency Alert System

The municipality should have a plan in place to exercise the Emergency Alert System (EAS), which can be activated to warn and inform the public during emergency situations. The system can also be used as a public information tool during an evacuation.

Evacuation Plan

Municipalities have no authority to provide for and compel the evacuation of an area except by the direction and under the supervision of the governor or the Alabama Emergency Management Agency (AEMA), or both. The council should carefully design a plan of evacuation prior to the onset of a natural or manmade disaster and this plan should be coordinated with and approved by the AEMA. The plan may be accomplished in a variety of ways. It should be tailored to the needs of the individual municipality and the circumstances surrounding the disaster; for example, many coastal communities have assigned evacuation zones to residents in order to provide for a timely and efficient evacuation.

The plan should provide for what is expected of residents during the evacuation. The availability of public transportation should also be considered when designing an evacuation plan. The plan should include schools, special-care facilities, hospitals and those industries handling extremely dangerous materials. Part of the evacuation plan may include a list or registry of the municipality's disabled citizens. The plan should include procedures for re-entry as well.

Remember that while it is important to have a plan should evacuation be necessary, a municipality may not order an evacuation without the approval of the governor or the AEMA as provided in Section 31-9-10(c).

Emergency Powers

The Alabama Emergency Management Act provides for specific powers of municipalities during times of disaster. Specifically, the city council, if it determines that any of the conditions described in Section 31-9-2(a) of the Code of Alabama has occurred or is imminently likely to occur, they have the power to do the following:

1. To waive procedure and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution (with or without compensation) of supplies, materials and facilities and the appropriation and expenditure of public funds.

2. To impose a public safety curfew for its inhabitants. If a public safety curfew is imposed, it shall be enforced by the police department. However, any curfew imposed cannot be applied to employees of utilities and cable communication companies and their contractors engaged in activities necessary to maintain or restore services; nor shall it apply to emergency management personnel engaged in emergency management activities.

3. To close any and all public buildings owned or leased by the municipality where emergency conditions warrant whether or not a local state of emergency has been declared. In the event that any documents required to be filed by a time certain deadline cannot be filed in a timely manner due to the closing of an office, the deadline for filing shall be extended to the date that the office is reopened as provided in Section 1-1-4 of the Code of Alabama 1975.

The emergency powers and duties of the mayor and/or emergency management director should be specifically described in the ordinance and procedure; however, due to

unforeseeable circumstances, they should not be limited only to the ordinance and procedure. In addition to the specific powers provided for under the Alabama Emergency Management Act, a municipality may want to consider powers that would fall under their police power. For example, a list of powers may include: closing businesses; suspending alcoholic beverage sales; closing roadways; ordering continuation, disconnection or suspension of public utilities; controlling or allocating the distribution of relief supplies; applying for local, state or federal assistance; and others as needed. A chain of command should be established within the procedure and ordinance. In addition, employees should understand exactly what may be required of them during a disaster, both natural and manmade.

Preprinted Orders, Forms and Resolutions

In the interest of quick administration of the declaration and other procedures during a state of emergency, the council should consider drafting preprinted orders, forms and resolutions. Some sample forms include: declaration of emergency; evacuation and re-entry control orders; curfew declarations; orders limiting or controlling re-entry to affected areas; state of emergency extension forms; and refusal to evacuate forms. Refusal to evacuate forms may protect the city from liability in the event a citizen refuses to follow a mandatory evacuation order.

Interlocal Agreements

Interlocal agreements with other governmental entities coordinating emergency management procedures should be in place well before the disaster. In accordance with the Disaster Mitigation Act of 2000, all counties are required to have approved and adopted a multi-hazard mitigation plan in order to receive future mitigation grant assistance. If a municipality participated in the development of their county's local hazard mitigation plan and is not sanctioned by the National Flood Insurance Program, that municipality must have passed a National Incident Management System (NIMS) resolution adopting the county's hazard mitigation plan.

The resolution should be transmitted to FEMA through the local EMA office. Failure to pass a resolution prior to receiving a presidential disaster declaration places the municipality at risk of becoming ineligible for future FEMA hazard mitigation grants. All municipal officials and disaster coordinators should coordinate with local emergency management agency personnel during a disaster response and recovery period.

Regular meetings between the city-county emergency management coordinator/director, the mayor, the municipal

continued next page

emergency management coordinator and the municipal department heads should be conducted on a regular basis.

Mutual Aid

Under Section 11-80-9, Code of Alabama 1975, municipalities in Alabama have the authority to provide “assistance, by means of gift or loan, to the governing body of any other municipality or county located within the state when such county or municipality has been declared a disaster area by the Governor of the State of Alabama or by the President of the United States.” In order to provide mutual aid under Section 11-80-9, an agreement, in writing, shall be drafted and approved by the assisting governing body and the recipient governing body.

Unless set up as a loan, Section 11-80-9, Code of Alabama 1975, does not guarantee reimbursement by any governmental agency.

Emergency Procurements

The competitive bid law is found at Sections 41-16-50 through 41-16-63, Code of Alabama 1975. In any event, if a contract can be competitively bid, it should be. However, under the competitive bid law, a municipal council has the authority to let contracts without advertisement in emergency situations when public health, safety or convenience is

involved in the delay of acquiring needed equipment. See Section 41-16-53, Code of Alabama 1975.

A municipal governing body can only declare an emergency in response to an actual emergency. Under the provisions of the competitive bid law, an emergency must be declared by the municipal governing body prior to the performance of any work by contractors. A municipal council may not declare an emergency after work has been performed by a contractor. However, after a contract has been performed, the council may provide funds to pay the contractor if the purchasing officer properly authorized the contract to be made on a negotiated basis because of an emergency. See Attorney General’s opinion to Hon. Carl H. Kilgore, May 12, 1975.

Purchases should be streamlined through the mayor and/or emergency coordinator. A list of emergency purchases should be maintained by the mayor and/or emergency coordinator, and as soon as is possible, should be formally communicated to the municipal governing body.

Municipalities located in disaster-prone areas should consider seeking competitive bids and awarding contracts for debris removal and other services in preparation for disasters. Such contracts can be let for those services for all such disasters, but cannot exceed three years. See Section 41-16-57(e), Code of Alabama 1975.

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This month has brought a fairly small selection of cases, none of which directly affect municipalities in Alabama. The cases from other jurisdictions, however, could be fairly significant.

For instance, in a case out of the Third Circuit Court of Appeals, *Taliaferro v. Darby Township Zoning Board*, the court held that property owners, whose property value may be lowered because a municipal zoning board granted a variance, can maintain a Section 1983 lawsuit challenging the variance. This opinion may extend the protections afforded by Section 1983 and allow it to be used as a “sword” by challenging municipal zoning actions that might negatively impact property owners.

On the other hand, two decisions seem beneficial to municipalities. In *VRC LLC v. Dallas*, the Fifth Circuit Court of Appeals upheld a municipal ordinance requiring advance notice of nonconsensual tows from private property, despite a federal law prohibiting most state and local laws affecting the price, route or service provided by wreckers. The court held the ordinance in question was based on safety concerns, thus falling within a safety exception to the federal preemption.

And, in *Kidwell v. Union, Ohio*, the Sixth Circuit Court of Appeals held that a municipality may, under the First Amendment, spend public funds to oppose a referendum issue, while denying proponents of the issue the right to promote their views in a city-owned newspaper or through the use of public funds. Although this issue involves state-law questions that weren’t raised in this case, the case at least provides precedent supporting municipal rights to spend public funds to promote or oppose issues up for a citizen vote.

COURT DECISIONS

Citations to Cases from Other Jurisdictions:

Takings: The Fourth Circuit Court of Appeals held that a landowner who alleged that the municipality deliberately encouraged trespassing on her property by improperly marking a hiking trail could maintain a Fourth Amendment seizure of property claim, despite the fact that she also had a Fifth Amendment taking claim based on the same facts. *Presley v. Charlottesville, Va.*, ___ F.3d ___, 2006 WL 2709208 (4th Cir. 2006).

First Amendment: The Sixth Circuit Court of Appeals held that a municipality did not violate the First Amendment by spending tax funds to advocate the council’s position

opposing a proposed election while denying the proponents of the election access to the city’s newspaper and tax funds. *Kidwell v. Union, Ohio*, ___ F.3d ___, 2006 WL 2571139, (6th Cir. 2006).

Discrimination: The Third Circuit Court of Appeals held that the involuntary transfer of firefighters to achieve racial balance at municipal single-race fire houses violated the equal protection rights of the firefighters who were transferred without their consent because the policy was not narrowly tailored to achieve a compelling governmental interest. *Lomack v. Newark, NJ*, ___ F.3d ___, 2006 WL 2662848 (3rd Cir. 2006).

Wreckers: The Fifth Circuit Court of Appeals held that a Dallas ordinance requiring a warning sign at least 24 hours before the nonconsensual towing of a vehicle from private property was not preempted by federal statutes. *VRC LLC v. Dallas*, 460 F.3d 607, (5th Cir. 2006).

Zoning: The Third Circuit Court of Appeals held that allegations of diminished property values from the granting of a variance will support a Section 1983 lawsuit challenging the variance. *Taliaferro v. Darby Township Zoning Board*, 458 F.3d 181, (3rd Cir. 2006).

ATTORNEY GENERAL’S OPINIONS

Fire Departments: A municipal Fire Tax Fund may be used to purchase office supplies, operating supplies, computer supplies, telephone and radio communications equipment, utilities for firehouses, gasoline and oil for fire department vehicles, automobile repairs for fire department vehicles and rental of supplies and equipment assigned to the fire department. 2006-141. **NOTE:** This Opinion interprets

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Amendment 583, Constitution of Alabama, 1901, a constitutional amendment which applies only to Calhoun County.

Employees: The City Manager of the City of Talladega has authority and power to appoint and remove employees in the City Water and Sewer Department and to exercise administrative supervision and control over those employees. 2006-144. **NOTE:** This Opinion interprets the council-manager form of government applicable only to the City of Talladega.

Airport Authorities: A county executive airport authority created pursuant to Section 4-3-1, et seq., Code of Alabama, 1975, is exempt from zoning ordinances and regulations. 2006-148

Cemeteries: A municipality cannot dispose of property now being used as a public cemetery. The municipality may, however, enter a contract with a private entity whereby

that party will maintain and manage the cemetery. 2006-151.

Appropriations: Discussion of issues concerning the income and distribution of funds from the Alabama Trust Fund (“ATF”). 2006-152. **NOTE:** None of the distributions discussed in this Opinion directly affect municipalities. This Opinion is being reported for interest purposes because municipalities share in the ATF funds.

Healthcare Authorities: A health care authority organized pursuant to Sections 22-21-310, et seq., may offer incentive-based compensation that permits employees to receive additional compensation if they meet certain written goals or standards of performance, provided the incentive-based compensation is applied prospectively, is treated as a regular part of an employee’s compensation, is made pursuant to a written policy adopted by the health care authority, and is legal consideration offered to an employee in exchange for that employee attaining written goals or standards of performance. 2006-153.



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Emergency Spending Plan

It is important the emergency operating procedure and ordinance implement an emergency spending plan during disaster operations. This plan should include activation authority and payment methods not requiring high technologies (such as computers), which may be offline in a disaster.

Emergency Control Centers and Temporary Emergency Meeting Locations

Emergency control centers and temporary emergency meeting locations should be established in the event it becomes impossible to conduct governmental affairs at the regular and usual locations. These locations may be set by the municipal governing body before or after the emergency. If possible, these locations should be within the municipal corporate limits. If temporary emergency locations are established prior to the disaster, they should be incorporated into the emergency operating procedure and ordinance.

Police Power of Departments

The emergency operating procedure and ordinance should have a provision granting both the police and fire departments power to enter any property or premises as may be necessary to protect the health, safety and welfare of the citizenry as well as maintain order. The police department should be granted the authority to bar, restrict or remove all unnecessary traffic, both vehicular and pedestrian, from all local roadways. The fire department should be granted the authority to do whatever is reasonably necessary to protect persons and property while rendering first aid.

Work Hour Limits

The municipal governing body, mayor and emergency management coordinators should keep in mind overtime pay of non-exempt employees will be compensable under certain circumstances. See 29 U.S.C. § 201 et seq. It is important the governing body, mayor and emergency management coordinators work together to ensure employees are assigned shifts and managed in a way minimizing the amount of overtime worked by each employee. This will keep the overall costs of the disaster down as well as reduce employee exhaustion and injury, leading to a more efficient disaster recovery effort.

Compensation during Disaster

Non-exempt municipal employees under the Fair Labor Standards Act are entitled to overtime pay during a disaster; however, exempt employees are not. Municipal governing

bodies should take into consideration the amount of work that may be required of exempt employees during times of disaster. The governing body should also consider circumstances under which additional compensation may be granted to exempt employees for tireless efforts and work on preparation, response and recovery. If the municipal governing body chooses to grant overtime compensation for exempt FLSA employees, the emergency operating procedure and ordinance should state the municipal governing body's intentions.

Personal Property Protection Plan

The emergency operating procedure should include a plan to protect municipal personal property. The plan should address technological failures including protection and recovery procedures. The plan should address all types of breakdowns, including power, computer and telephone failures. It should also cover complete loss of municipal personal property including all technological equipment.

If time clocks are used to maintain personnel working hours, it is important to prepare and implement a plan of paper record keeping to ensure the municipality adequately complies with the FLSA.

The municipal governing body should consider a disaster recovery plan for technological data. Many public entities store data in secure, off-site locations. In the event a disaster strikes one of these locations, the municipality can download the data from another location and be operational within hours rather than days, weeks or months, as was the case following Sept. 11, 2001.

Single-Media Contact

The governing body should designate an employee or municipal official as the single-media point of contact for the disaster plan. This can be the emergency management coordinator or another municipal employee. By establishing a single-media point of contact, the municipality will cut down on confusion during the preparation, response and recovery stages of the disaster. A single-media point of contact and timely dissemination of information to the public will both serve the needs of the citizens and help the municipality operate in the most efficient manner before, during and after the disaster.

Debris Removal

The emergency plan should include a plan for debris removal and storage. Natural and manmade disasters can generate substantial amounts of debris that can overwhelm existing solid waste disposal facilities. With this in mind, a municipality should design a long-term debris removal plan

that prepares for worst case scenarios. When designing the plan, the municipality should consider federal and state aid, interlocal mutual aid agreements, equipment, recycling, collection and storage sites, hazardous waste, contracts, state bid laws and federal reimbursement options.

Emergency Exercises

Emergency exercises are an excellent way to ensure personnel adhere to an emergency operating procedure. Emergency exercises familiarize employees with the plan and assist the local governing body in developing a more comprehensive and workable plan tailored to the needs of the municipality. When conducted, emergency exercises should include schools, special care facilities, hospitals and industries handling extremely dangerous materials.

Penalties

The emergency operating ordinance should proscribe penalties for ordinance violations and violations of any powers or orders granted pursuant the ordinance. Municipalities are given the power to enforce their ordinances by Section 11-45-9, Code of Alabama 1975, which states, "No fine shall exceed \$500.00, and no sentence of imprisonment or hard labor shall exceed six months except, when in the enforcement of the penalties prescribed in Section 32-5A-191, Code of Alabama 1975, such fine shall not exceed \$5,000.00 and such sentence of imprisonment or hard labor shall not exceed one year."

Termination of Emergency Powers

Declarations, rules and orders enacted by the municipal governing body pursuant to the emergency operating procedure and ordinance shall remain in effect until the municipal governing body or other issuing individual withdraws the declaration, rule or order. In any event, all actions taken pursuant to any declaration, rule or order should cease once the conditions which gave rise to the emergency end.

Federal and State Assistance for Emergency Management

While local government is primarily responsibility for emergency response, there are times when a disaster overwhelms the capacity of local government for effective response. The operations functions of the AEMA includes those activities essential to a coordinated response in support of the local jurisdiction, such as warning, alerting, emergency communications, damage assessment and recovery assistance. The state's emergency operations center is the command post during disasters. Warning and coordination of the emergency is conducted in coordination with federal

and local governments based on the state emergency operations plan.

An invaluable resource during a disaster are the state agency personnel trained to assess damage to public and privately-owned facilities; to aid local government in warning and notification and, if necessary, the evacuation of the threatened populace; to open and operate shelters; and to assist in other response and recovery operations. This assistance generally comes from Public Law 93-288, Disaster Relief Act of 1974, as amended by the Stafford Act, Public Law 100-707.

Day-to-day support is provided by a variety of sources but the primary grant offering for local jurisdictions is the State and Local Assistance Program, formerly the Emergency Management Assistance Program. It is aimed, primarily, at increasing the operational capability of emergency management at the local and state levels of government, including development and maintenance of trained, experienced staff and emergency management personnel. In addition to this matching grant, the state legislature allocates funds for local emergency management organizations through AEMA. Several other grants for local emergency planning committees and local emergency management organizations are also available.

Numerous training, planning and exercise services are available from AEMA for city-county management organizations. Courses are delivered in the field and at the Emergency Management Institute for emergency preparedness and cover executive development/management, natural hazards, radiological preparedness, hazardous materials and national emergency preparedness.

Sticking to the Plan

The most important aspect of crafting both an emergency operating procedure and ordinance is making sure the procedure and ordinance are followed. Doing so ensures that employees, officials and residents understand how their municipal governing body will prepare for, respond to and recover from a disaster.

Conclusion

Disaster preparation, response and recovery can be overwhelming. Having a detailed emergency operating procedure and ordinance in place prior to the occurrence of a natural or manmade disaster can be the difference between an efficient and effective recovery and a long and tedious one. The municipal governing body and mayor must have positive interaction with county, state and federal emergency management officials to ensure the municipality can provide for its citizens before, during and after an emergency. With a sound emergency operating procedure and ordinance in place, a municipality can weather any storm. ■

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Committee Minutes

Finance, Administration and Intergovernmental Relations (FAIR)

Reported by Perry C. Roquemore, Jr., League Executive Director

Editor's Note: The League's Proposed Policies and Goals for 2007 will run in next month's issue of The Alabama Municipal Journal.

The Committee on Finance, Administration and Intergovernmental Relations of the Alabama League of Municipalities met on Wed., Sept. 14, 2006, at League Headquarters. Mayor Jay Jaxon, Eufaula, chair, called the meeting to order at 9 am. Mayor Jaxon welcomed those in attendance and thanked members for coming to this important meeting. He also thanked the resource advisors for taking time to attend the meeting to keep our members informed as to activities of state agencies. He asked Councilmember Debbie Quinn of Fairhope, the vice chair, for her comments. She applauded members for making a special effort to insure the success of our committee work.

The League director was asked to call the roll. Those members present were: Mayor Jay Jaxon, Eufaula, chair; Councilmember Debbie Quinn, Fairhope, vice chair; Councilmember Henry E. Uptagrafft, Brewton; Mayor Jim Trout, Chickasaw; Councilmember Terry Powell, Andalusia; Mayor Frank Houston, Coosada; Mayor Lomax Smith, Cottonwood; Mayor Joseph J. Lott, Millbrook; Mayor Fred McNab, Pinckard; Councilmember Beth M. Rogers, Rutledge; Councilmember H.H. Kuykendall, Lincoln; Councilmember Jean B. Burk, Lincoln; Mayor Gary Fuller, Opelika; Mayor Charlie Fagan, Piedmont; Councilmember Derrick McCloud, Shorter; Councilmember Elaine W. Junkin, Guin; Mayor Jerri McLain, Mooresville; Councilmember Karyl Rice, Pelham; Mayor Charles McCallum, Vestavia Hills; and Councilmember Charles Allen, Thomasville. Resource advisors present were: Bob Young of the Frazer Lanier Company; Will Martin, Property Tax Division, Alabama Department of Revenue; Bob Hill, Alabama Alcoholic Beverage Control Board; Angelo Trimble, Alabama Coalition Against Domestic Violence; Donna Joyner and Debbie Lee, Sales, Use and Business Tax Division, Alabama Department of Revenue. Also present was League Director Perry C. Roquemore, Jr., and League Communications Coordinator Niko Corley.

Bob Young of the Frazer Lanier Company was called upon for his presentation. Mr. Young said long-term interest rates were at or near historic lows. While long-term rates

are low, short-term interest rates have gone up quite a bit in the last 24 months. Adjustable rate mortgage rates are also up. He said there has not been a significant change in long-term interest rates over the last two years.

Interest rates on 30-year bonds have moved up and down in the last 10 years. From 1996 to 1998, the Russian ruble crisis and the Far East currency crisis caused these interest rates to go down. A period of inflation from 1998 to 2000 caused rates to rise. Since the events of Sept. 11, 2001, interest rates have gone up and down as the Federal Reserve Board dropped interest rates to get liquidity in the market and to create greater economic activity.

The Federal Reserve Board sets interest rates at which banks borrow from each other. If they see inflation, they raise rates. If they see economic stagnation, they lower rates to encourage borrowing.

Young said today is a great time to borrow at long-term rates. He also suggested cities invest surplus cash for longer terms. He suggests city finance officials look at both six-month maturities and one-month maturities.

The chair thanked Young for his presentation. He then called upon Will Martin, property tax division, Alabama Department of Revenue, for his presentation. He said the Alabama Manufactured Housing Association has the responsibility of inspecting every manufactured home in the state. The Alabama Department of Revenue has developed a good working relationship with the Alabama Manufactured Housing Association and now receives a copy of every inspection report on every manufactured home installed in Alabama. The Department of Revenue compiles a report and shares it with local taxing officials so they can be sure the manufactured home is registered or appraised as required by law and the proper local taxes are collected. This relationship has resulted in a big increase in the number of manufactured homes going on the tax rolls.

The 1992 Tax Incentive Reform Act was passed as an attempt to keep existing taxpaying property from being removed from the tax rolls. The act does prevent the abatement of school taxes. Therefore, all industrial property will pay some ad valorem taxes. The department investigates each tax exempt parcel of property to assure it meets the qualifications for an exemption. They notify local

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tax officials of dates when such exemptions will expire so that proper taxes are collected. Martin recommended each taxing jurisdiction report any new annexations to tax collecting officials so jurisdictional boundaries can be corrected in order to collect the proper amount of tax.

The department is continuing its effort to fully implement a GIS system for the state. The Alabama Department of Revenue and the Alabama Department of Transportation are working together to get our state GIS system in full operation. They have received some federal money to help get aerial photos, hardware and software to build base maps. Once the system is operational, it will provide a wealth of information for all levels of government.

In the mid-1970s, federal courts in the *Wysinger v. Boswell* case held that the state had to develop a standard uniform appraisal system for property on a statewide basis. The Department of Revenue was required to reappraise property every five years. This system has cost the state a lot of money and still does not comply with state law requiring taxes to be based on the property's fair market value on Oct.1 of each year. The state is now in the third year of phased-in implementation of annual reappraisals in each county. Montgomery County has voluntarily done this each of the last 11 years. In 2006, 47 counties have annual reappraisals. In 2007, there will be 64 counties doing annual reappraisals with full implementation in all 67 counties by 2008. The 47 counties currently doing annual reappraisals make up over 90 percent of the parcels in Alabama. The other 10 percent are located in rural counties. If the legislature requires going back to reappraisals every four years, local governments will lose revenue.

Martin was thanked for his presentation. Bob Hill of the Alabama Alcoholic Beverage Control Board was then called upon. He told the committee the ABC Board has regulated traffic in alcoholic beverages for many decades and has regulated the sale of tobacco products since 1997. During the last fiscal year, the board issued over 12,000 alcoholic beverage licenses and over 8,000 tobacco licenses. There were over 400 licenses issued for private package stores. Revenues in the amount of \$180 million were distributed last year to the State General Fund, various state agencies and municipal and county governments. Sales were up seven- to eight-percent this year. Much of the increase is due to price increases and more high-end beverages being offered by the board.

The board's Responsible Vendor Program works with schools to educate students on alcohol and tobacco. The board also works with employers to train their employees on the laws relating to sales of alcohol and tobacco products. A special emphasis is placed on laws relating to sales to minors. The state ABC Board's "Operation Save Teens" program received national recognition this year.

Twenty-six of the state's 67 counties are "dry" and there are 16 "wet" municipalities located in these "dry" counties. After the law authorizing a "wet" municipality was enacted in 1984, eight municipalities went "wet" in the first six years. In the last three years, eight more municipalities have gone "wet". Several bills have been proposed in the legislature in recent years to lower the requirements for becoming a "wet" municipality.

Hill said applicants located in the corporate limits or police jurisdiction of a municipality seeking an ABC license to sell table wine or spirits must receive municipal governing body approval before the ABC Board will issue the license. Applicants for a beer license are not required to obtain municipal approval but the ABC Board will make every effort to comply with municipal wishes on these matters, if possible.

Of the 41 "wet" counties, 24 allow the sale of draft beer. There may be legislation offered this year to allow beer to have up to a 14.9 percent alcohol content to make it the same as wine. The purpose of the suggested legislation is to accommodate some specialty foreign beers.

Hill suggested the committee might wish to amend Policy Position F-12.18 so as to require applications for beer to be initially filed with the municipality as is currently the case for beer and wine. He reminded municipal officials that city ordinances prohibiting the sale of alcoholic beverages within a certain distance of a church or school have certain dangers. First, no business can be grandfathered in. Second, a problem may come about as some newer churches are actually setting up in vacant buildings and in shopping centers. If the location is within the specified distance, existing long time businesses that have sold alcoholic beverages may be required to give up their license.

The chair thanked Hill for his comments. The chair then asked Angelo Trimble from the Alabama Coalition Against Domestic Violence (ACADV) to present his report. Trimble stated domestic violence continues to be a serious problem throughout Alabama. Domestic violence can involve every person in a municipality – not just police and court personnel. Domestic violence can reduce standards of living and quality of life. It affects hospitals, insurance costs and security in the workplace. It also can affect workplace productivity.

Since domestic violence is a community problem, it requires a community response. You cannot legislate a solution to domestic violence. The community must recognize it is a serious problem before a solution can be found.

He said his agency has met with a number of other southern states to develop common reporting form templates for domestic violence protection orders. Such forms will aid officers in determining if such protection orders are valid. He suggested an amendment to Policy Position F-5.17 to

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Committee Minutes

Energy, Environment and Natural Resources (EENR)

Reported by Gregory D. Cochran, Director of State and Federal Relations

The League's Committee on Energy, Environment and Natural Resources met at 9 a.m. on Wed., Sept. 12 with Ron Davis, mayor of Prichard and committee chairman, presiding. Other committee members present were Vice Chairman Mayor Howard Shell, Atmore; Mayor David Frings; Alabaster; Councilmember Joe Outlaw, Ozark; Councilmember Charles Woods, Childersburg; Councilmember Billy Pearson, Lincoln; Councilmember Sadie Britt, Lincoln; Councilmember Bill Stewart, Gadsden; and Councilmember Toulis Jones, Uniontown. Resource advisors present were Chris Howard, ADEM, Air Division; Aubrey White, ADEM, SRF Program; Glenda Dean, ADEM, Water Division; Dennis Harrison, ADEM, Water Division; Gerald Hardy, ADEM Land Division; and Dr. Dave Bolin, Alabama Oil & Gas Board. Also present was Greg Cochran, Director of Intergovernmental Relations for the League.

The chair called on Chris Howard, ADEM Air Division director. Howard discussed the EPA standards of Ozone and Particulate Matter (2.5PM) and the attainment status. EPA, on June 12, 2006, announced the state is in full attainment for the first time since the beginning of the new regulation enforcements. Howard opined the credited reasons for attainment are an additional lowering of NOx SIP levels, cleaner auto and gasoline emissions and good climate conditions.

In 2009, EPA's new utility lower emissions standards will take effect. This should help keep Alabama municipalities in attainment.

Howard said the state is in attainment of the 24 hour standard for PM2.5. Rural monitors are averaging (12 ug/m3) annually. By contrast, Jefferson County monitors are averaging 17.4 (12 ug/m3) and Russell County are averaging 15.3 (12 ug/m3) annually. In April 2005, Jefferson County, Birmingham, Walker County and Jackson County were designated in non-attainment of the PM2.5 standards. ADEM must submit an attainment plan to EPA by 2008. Mr. Howard said EPA has passed new regulations on diesel fuel emission and sulfur content to be implemented in 2009. EPA also proposes to impose lower standards on PM2.5 from 65 ug/m3 to 35 ug/m3 per 24 hours, by 2010.

The chair called on Glenda Dean, ADEM, Water Program Director. Dean discussed the updated Municipal Water Pollution Prevention (MEPP) forms and the new

Municipal Non-Compliance forms for reporting of effluence and monitoring violations.

ADEM has implemented new regulations increasing the water related permits by 7 percent.

Dean stated EPA is mandating the conversion of ADEM database from PCS to ICIS computer program and creation of the new Electronic Discharge Monitoring Report (eDMR) to replace paper submissions. ADEM is currently managing a pilot program and looks forward to being fully ramped-up by the end of 2006.

Dean said EPA is requiring ADEM to test for mercury in all municipal drinking water systems before a new or renewal permit will be granted.

Dean concluded by reviewing the six areas ADEM reviews in determining fines: seriousness of violation; standard of care; steps taken to treat; history of violations; ability to pay; and economic benefit from violation.

The chair called on Dennis Harrison, ADEM, chief, Drinking Water Program. Harrison said Alabama ranks 2nd in the nation, behind Rhode Island, in quality of drinking water delivered by municipal systems. Mr. Harrison said the cities of Trussville, Huntsville and Fayette were awarded the designation of excellence by EPA this past year.

New monitoring of the chlorine levels in drinking water will go into affect this year, with each level of compliance resulting in placement of 1 of 4 categories. Additional testing, monitoring and evaluating will depend on the category you're placed into by EPA. ADEM predicts that 95 percent of the ground water and 90 percent of the surface waters meet the compliance standards.

ADEM is working with municipal water systems in development of a disaster plans, to coordinate, build a database of equipment and assist municipal water systems during times of crisis. Last year, post-Katrina, all but two water systems were back to full service in seven days.

The chair called on Aubrey White, ADEM SRF program director. White announced EPA has cut SRF funding by 50 percent over two years. This has happened because the president and Congress have cut appropriations to EPA. EPA has been told by Congress that they wish to end the funding of SRF water programs by 2012.

During 2007, ADEM serviced between \$25-\$30 million in wastewater funds and \$20 million in drinking water funds for municipal governments.

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Committee Minutes

Transportation, Public Safety and Communication (TPSC)

Reported by Ken Smith, Deputy Director/General Counsel

The League's Committee on Transportation, Public Safety and Communication met at 9:00 a.m. on Sept. 26, 2006, at League of Municipalities' office in Montgomery, AL, with Chair, Councilmember Bobby Phillips of Calera, presiding.

Also present were Committee Vice Chair Mayor Cecil Williamson of Demopolis, and committee members Councilmember Roger Adkinson of Flomaton, Mayor Ken Williams of Saraland, Councilmember Larry Landrum of Satsuma, Councilmember Fred Watts of Millbrook, Mayor Joseph Roberson of Ohatchee, Mayor Charles O'Rear of Attalla, Mayor Gary Livingston of Eva, Mayor Melvin Duran of Priceville, Councilmember Wayne Dunkin of Priceville, Councilmember Randy Brown of Winfield, Mayor Kenneth Copeland of Littleville, Mayor David Bradford of Muscle Shoals, Councilmember George Johnson of Tuscumbia, Mayor George Roy of Calera, Councilmember Jeffrey Denton of Chelsea, Councilmember Willard Payne of Pelham, Councilmember Joe Matthews of Tarrant, Councilmember Marva Gipson of Aliceville, Mayor John Lammers of Carrollton, Councilmember Johnnie Davis of Greensboro, Mayor Jack Fendley of Pennington, and Mayor Harry Mason of Pine Hill. Technical Advisors present were Administrative Assistant Donna Treslar of Pelham and City Manager Britt Thomas of Brundidge. Also present were Ken Smith, acting secretary, Councilmember Annis Lavender of Aliceville and League Assistant General Counsel Tracy Roberts. Resource advisors present were Alan Benefield, Peace Officers Standards & Training Commission; Cecil Colson and Joe Nix, Alabama Department of Transportation; Ed Paulk, State Fire Marshal; Stephanie Blankenship and Phil Perry, Aviation Council; and Maury Mitchell and Roger Humber, Alabama Criminal Justice Information Center (ACJIC).

Councilmember Phillips called the meeting to order and welcomed those present. He called attention to the Policies and Goals and encouraged participation. He stated that issues related to railroads and airports were of particular interest to him. He then called on Alan Benefield to make his presentation.

Benefield thanked the committee members for their participation on the committee and for their contributions to the success of the League and POST. He discussed new SWAT regulations standardizing SWAT operations through

the state. These regulations enable smaller jurisdictions to create regional units and help them obtain necessary training and equipment. Benefield next discussed E-POST, a new program that allows on-line electronic application and reporting by police departments across Alabama. He noted that POST has spent two years developing the software for this program with the assistance of the Administrative Office of Courts and Alabama Criminal Justice Information Center. This secure program will reduce the amount of paper that is needed for reporting and record-keeping. E-POST will allow POST and local officials to keep track of the training and certification of their officers. He also noted that one of the key benefits of E-POST is that the computer will not accept any reports that are not complete, which reduces the amount of time POST spends reviewing records and returning them for completion. Also under this program, all officers in Alabama receive an email address.

Benefield reviewed the training requirements of law enforcement officers, which include 480 hours of training for officers, as well as continuing education requirements of 12 hours/year for officers and 20 hours/year for police chiefs. He noted that an officer who was previously certified by POST but whose training has lapsed must complete an 80 hour recertification program in order to bring their training into compliance. He said many individuals falsify their records, particularly regarding their arrest history. He stressed the need for honesty on the application, and also noted that POST does run background checks on applicants. An arrest may not prevent an applicant from obtaining certification, but dishonesty will.

Finally, Benefield stated that ADECA has given POST a grant for methamphetamine investigations. Post plans to train all officers to recognize issues associated with methamphetamines when they arise.

Cecil Colson spoke next. He pointed out that he works on nontraditional projects in DOT's multimodal transportation division. His division includes areas such as seatbelt usage, riverwalk projects, scenic by-ways and earmarked Congressional funds. He noted that this is a very competitive program, with up to 150 applications each year for the allotted funds.

Colson asked Joe Nix from DOT to speak. Nix stated that Congress has to reauthorize funding periodically that

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Human Development (HD)

Reported by Twanna Walton, League Researcher

The Committee on Human Development of the Alabama League of Municipalities met at League headquarters in Montgomery, AL, on Thurs., Sept. 14, 2006. Councilmember Isabell Boyd of Brundidge, committee chair, called the meeting to order at 9:14 a.m. She thanked all those present for their attendance and participation.

The chair introduced the acting secretary, Twanna Walton, League researcher, and asked her to call the roll. The following were present: Councilmember Isabell Boyd, Brundidge, Chair; Council President George Evans, Selma, vice chair; Council President Howard Rubenstein, Saraland; Councilmember Samuel L. Ellis, Camp Hill; Councilmember Rita H. Stubbs, Centre; Councilmember James Harris, Wedowee; Councilmember Tayna Rains, Dutton; Councilmember Robert B. Hicks, Alabaster; Mayor Charles W. Penhale, Helena; Councilmember Bob Lundell, Tuscaloosa; and Councilmember Edward Scott, Adamsville.

Also present were state agency resource advisors: Dr. Page Walley, Alabama Department of Human Resources; Rebecca Mitchell, Alabama Public Library Services; Julie Miller, Alabama Department of Senior Services; Dr. Ed Bridges, Alabama Archives & History; and Albert Head, Alabama State Council on the Arts. Also present were Perry Roquemore, League Executive Director and Acting Secretary Twanna Walton, League researcher.

The first resource advisor was Dr. Page Walley, who represented the Alabama Department of Human Resources. He said his department is a part of the infrastructure of every municipality and is a primary economic engine department of the state, touching more than one million Alabamians. The Alabama Department of Human Resources (DHR) is divided into six primary programs. The most widely known program is the Child Welfare Division, which investigates allegations of child abuse and neglect, including such allegations in foster care and adoption agencies. DHR also oversees the licensees of daycares in Alabama and provides subsidized daycare assistance for needy parents.

DHR oversees the traditional welfare program, according to Walley. He said the cash flow in this division is limited. However, job training is provided. Statewide, 49,000 Alabamians receive some traditional form of welfare. This number is a drastic decrease in the number of recipients (100,000 Alabamians) in past years.

Walley said the Food Assistance Division is the largest program DHR oversees. His department provides food assistance by way of food stamps to well over 550,000 Alabamians. In fact, for every \$5 in food stamps used by Alabamians, the economy receives \$9. The food stamp program is completely funded by the U.S. Department of Agriculture – not by state dollars. He also added that more and more stores are enabling their customers to use food stamps.

The Adult Protective Services Division investigates allegations of abuse and exploitation of senior adult Alabamians. Walley said the mission of this division is to network with and refer individuals to other state agencies because the budget for this division is limited.

Walley said many of the emails received by DHR are child support inquiries. DHR has handled well over 250,000 of the child support cases in Alabama.

The Department of Human Resources has spread its 4,400 employees throughout the state's 67 counties, especially in the county seats. Walley explained to the committee that city and county governments, along with DHR, work together in building the facilities that house the agency's offices. This has taken place in Gadsden, Athens and in Hamilton.

DHR has an annual budget of \$1.3 billion dollars, and this budget serves over one million Alabamians, Walley said. Through the Food Stamp program, DHR took care of feeding an enormous number of Hurricane Ivan and Hurricane Katrina victims. Walley said 160,000 individuals enrolled, on an emergency basis, in the Food Stamp program in an effort to provide food for their families. A large number of individuals were given assistance due to power outages and the like during Hurricane Ivan. Walley also informed the committee of a special division within the Food Stamp division comprised of 35 DHR employees whose job is to decrease the payment errors. Their hard work decreased payment errors to a low of 3.8 percent. This was largely due to automation and scanning.

The Department of Human Resources works closely with local governments in an effort to give each agency a sense of autonomy. In fact, Walley informed the committee that even as director of the Department of Human Resources, even he has no direct appointing authority. All appointments are done by the DHR Board.

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All funding of DHR comes from the state and federal government. The federal government allocates \$1 billion dollars annually and this funding is accompanied by many audits. Councilmember Samuel L. Ellis from Camp Hill commented that many Alabamians were losing manufacturing jobs and the economy was moving toward becoming a more service economy in certain regions. He asked if this situation would cause food stamp rolls to increase. Walley said there was not necessarily an increase in food stamps as much as there has been an increase in job and educational training. Of the Alabamians on food stamps, a 56 percent increase has come from children who receive such benefits. He said that in counties such as Lee county, the number of individuals on food stamps was low because they were not eligible. There are other programs however, for those in need.

Walley also informed the committee that DHR had sent a group of its employees to South Carolina to look at their program, which has been able to decrease the number of pages on their application form from twenty pages to two pages.

Councilmember Ellis also inquired if the increase in the Hispanic population has produced an increase in food stamps being given out. Walley said illegal immigrants were not eligible for the program. However, their children who are born in the United States are legal citizens and are entitled to receive food stamps. He said these numbers are prevalent in Franklin and Marshall counties. DHR is currently looking for bilingual employees because of the state's increased Hispanic population.

Culturally, there has been a rapid increase in the Vietnamese, Cambodian and Indian populations. Walley said these increases are attributed to the upswing in the fishing business in areas like Bayou La Batre.

Council President Howard Rubenstein of Saraland asked, "How much is spent on food stamps?" Walley said \$650 million is spent by the federal government on the program. This amount includes half the costs used for administration, with the U.S. Department of Agriculture paying the other half. Council President Rubenstein also inquired whether it is permissible for states to look at contracting out with a single food provider such as Wal-Mart. If food stamp recipients are only able to purchase food with a specified provider, money could be saved for other programs. He added that this idea could be compared to that of managed care where you have to go to a particular doctor. Walley replied, "No; you cannot take choice from people in where they purchase food, etc."

The chair, Councilmember Isabell Boyd of Brundidge, asked Walley to explain the TANF program. Walley said the TANF program is a remnant portion of the traditional welfare program. This program supplies temporary cash

payments while the parties participate in some sort of job training program. The TANF program, however, is time-sensitive and limited to no more than 15 months. After that, the participating parties must be a part of a job preparedness program. Individuals receive approximately \$90 per month, while a family of three will receive approximately \$240 per month. With such low payments, Walley added, "there is no incentive to not work." This program has been extended to the first six months after the recipient of TANF is working before it is withdrawn. Ms. Boyd also inquired if "a person could receive child support and receive TANF monies?" Walley said the amount an individual receives is based on a formula and it is possible for them to receive both at the same time.

Chairperson Boyd thanked Walley for his participation and encouraged the committee to log on to the DHR website.

The next speaker was Rebecca Mitchell, representing the Alabama Public Library Service. She informed the committee she had been a librarian for the past 30 years and loved the library profession. Mitchell said there are 270 public library branches and sites with high speed Internet connections. Libraries "have no barriers based on race, religion or creed," she said.

Alabama's public libraries serve 4.5 million Alabamians, yet the agency is one of the state's smallest, Mitchell said. Their office has only 50 employees and of those employed, approximately 50 percent are baby boomers and will soon retire. Some people become librarians because they like to read. She said reading is not something librarians get to do because they are busy providing information to those needing assistance.

Mitchell informed the committee that the Public Library is in the process of revamping their library program to a 50/50 program. This program would reduce books to 50 percent in availability and increase electronic accessibility to 50 percent. The Public Library Service employs four circuit riders who cover the state performing duties such as troubleshooting computers and setting up computers and other electronic equipment.

These programs are a result of a Bill Gates grant. Alabama's Public Library Service was the first state library service to receive this grant in 1998. The grant has been used to make computers accessible throughout all of Alabama's public libraries. Mitchell also informed the committee of five other statewide grants that have been used to upgrade and provide new computers.

Mitchell said state aid to public libraries is \$1.13 per capita and is based on the population of the county. She also shared with the committee an occasion last year where libraries were invited to come and take pictures at the legislature as they received their designated monies. One million dollars was given that day to Alabama's public

libraries. Some libraries received as little as \$375, while other libraries received thousands of dollars. She informed the committee that while five years ago the amount given to public libraries was \$0.91 per capita, the amount coming this year will be \$1.25 per capita. The Public Library Service's budget is \$15 million dollars and was the first agency cut during the budget crunch.

Mitchell told the committee that every library is a part of the state's virtual library and has the same type of library reference materials. She also said \$3.7 million dollars was spent on computers.

Mitchell talked about this year's program, Homework Alabama. This \$500,000 project provides free one-on-one tutors for grades four through college via the Internet. These tutors are American and have had seven-year criminal background checks to protect our children. Tutoring sessions take place from 3 p.m. to midnight, seven days a week.

She shared with the committee how libraries throughout Alabama were instrumental in assisting victims during the Hurricane Katrina disaster. She said victims from the hurricane were able to fill out FEMA and Red Cross forms online at libraries, tell their families where they were and check on their homes as best as they could. Libraries are a free, safe and familiar haven during disastrous times. She encouraged other agencies to become more proactive when Alabama citizens are affected by a disaster.

Mitchell also encouraged the committee to take back to their municipalities the idea of creating a virtual center in their libraries for municipal information. Ninety percent of the citizens may not come to city hall but they will go to the library.

Committee Secretary Twanna Walton asked Mitchell to elaborate about the Library Service's book mobile program. Mitchell said people want convenience; particularly in schools and senior centers. The book mobile program however, is an expensive program she said. One county spent approximately \$80,000 to \$150,000 on such a program. She added that the driver had to have a CDL license, there were library expenses, a second person (librarian) was needed and then there were gas costs. Computers are also on book mobiles. In view of such expenses, Mitchell said this program is best suited for unincorporated areas. Areas such as Gadsden received assistance with their book mobile program. The sheriff's department budgeted money for gas. It was their philosophy that it is cheaper to educate versus incarcerate.

Council President Rubenstein expressed his concern for homes where there is no computer or Internet accessibility. He suggested libraries assist homes in becoming Internet capable. Mitchell responded that families having Internet access is a concern for all. She also said it would take

everyone to make this option possible. Mitchell also mentioned that even some churches have programs to enable their members to use computers.

Regarding copyright infringement, Council President Rubenstein inquired as to the difference between the copyright of books on the shelf and those being read online. Mitchell responded that it is difficult to identify and to protect the copyright status of books online. She also mentioned **www.classicbooks.com** and **www.overdrive.com** as two websites with downloadable audio books that have the same check-out service as a library. Orange Beach, Gulf Shores and Jefferson County are utilizing **www.overdrive.com**. Mitchell said that blind and handicapped citizens are also able to download audio books.

Councilmember Ellis commented on there not being a lot of reference material available for the growing Hispanic population in public libraries in Alabama. Mitchell responded by saying they are constantly trying to address this challenge, particularly in North Alabama.

She shared with the committee that segments of communities cannot be ignored culturally. In times past, the library was deemed for the elite. The Alabama Public Library Service is working hard to change this mindset. She also shared information about a new comprehensive pilot program that will be distributed to libraries throughout Alabama. This program would be available in multiple languages.

Julie Miller from the Alabama Senior Services Agency commented that the Alabama Department of Education recently said there are 88 different languages spoken in Alabama.

Secretary Walton inquired if the Homework Alabama program was only accessible in the library. Mitchell answered by saying the program is available from any computer from 3 p.m. to 12 a.m.

The chair thanked Mitchell for her presentation. Julie Miller was the next resource advisor to speak. She represented the Alabama Department of Senior Services. She began by informing the committee that her agency, now in the third generation of its existence, was established as a result of the Older Americans Act. Its primary function originally was to provide meals for the elderly.

Miller said that its main mission at this time is to assist and enable the elderly to remain in their homes (instead of being sent to nursing homes). This effort is carried out as the Department of Senior Services partners up with local agencies and businesses assisting seniors.

The Alabama Senior Services Agency is funded by state and federal dollars. There are 13 area agencies. Nine of these are under a local council of government, three are

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independent and the other agency is funded by Jefferson County.

The Alabama Senior Services Agency assists people 60 years of age and older and those on Medicaid. On a state level, Miller said the Alabama Senior Services Agency functions in the capacity of advocacy, planning, seeking state monies and forming partnerships with other state agencies. Her agency's responsibility on a federal level is to monitor work done on the local level. On the local level, Miller said the agency plans, develops, advocates and gets monies to the communities.

The Department of Senior Services provides meals at senior centers and homebound meals to seniors but very little funds are available for senior centers themselves. She also stated that little funds were available for transporting seniors.

She informed the committee that her department received the Aging and Resource Center grant. This grant has allowed for the development of a single point of entry system. This has allowed the Department of Senior Services to partner up with other agencies to provide services for seniors as well as allow them to develop a prescreening process to eliminate seniors having to go to numerous agencies when seeking assistance.

Miller also shared with the committee that the Bill Gates Foundation, along with the Family Task Force, has been working to develop a system so that agencies can talk one-on-one. She also mentioned the Senior Rx program, which offers seniors 55 and older assistance with their medications through Medicare. She also shared information about a program with the Workforce Development division of ADECA that has been established to train and employ retired seniors who wish to get back into the workforce.

She said the Alabama Cares program supports client and caregiver assistance. This program includes respite care, supplemental assistance, supplies, counseling and education. They also have a legal assistance program made available to seniors and the ombudsman program which functions as a mediator for those seniors in long-term care facilities.

Miller also mentioned the Medicaid Elderly Disable Waiver program. This program works hard to assist seniors who want to stay at home as compared to going to a nursing home. She also highlighted the Elder Connect program.

The agency's website is www.ageline.net. She suggested various policies and goals. Several of these suggestions were discussed at the end of the meeting.

Dr. Ed Bridges from the Alabama Archives and History Department was called upon for his presentation. He stated that his department's responsibility is to preserve archives, laws and records for the state and to provide assistance to those archiving our laws and records. Bridges stated that his department works to not dispose or destroy any Alabama record. He also added that even hospital authorities have guidelines that they must follow as well.

Bridges told the committee that their effort of archiving makes it easy to determine which records are important. He also mentioned that 100,000 cubic feet of obsolete records were destroyed by healthcare providers. This is in part a result of the Records Disposition Act, which provides guidelines concerning the storage of records.

He also commented on legislation that provides citizens with guidelines in viewing public records. He also suggested that for the purpose of promoting history education, more municipalities could consider setting up archive programs.

The last speaker was Albert Head, who represents the Alabama State Council on the Arts. Head began by stating that every community has a cultural identity and they should be celebrated.

Head stated that the State Council on the Arts provides small grants as low as \$500 for small community activities at school to millions of dollars given to the Alabama Shakespeare Festival. His agency also provides grants to schools, cities and 501(c) (3) entities.

The State Council on Arts has a new Cultural Facilities program which provides funds for planning and construction of new cultural facilities or to enable old buildings to be restored. He stated that this program is exceptional for small cities with limited space for arts programs. The town of Gadsden transformed an old building into a theater arts building.

The state provides \$4.8 million dollars in state funds and another \$600,000 to \$700,000 comes from federal funds according to Head. The largest program that the State Council on the Arts oversees is the grants program. Technical assistance is offered to communities and individuals for project development. Mr. Head also spoke of how his office has partnered with entities such as Design Alabama for various projects. The Mayor Design Summit was held last year. This summit was composed of five cities that brought their city planners, architects and mayors to Birmingham in an effort to address issues in their cities.

In an effort to expose children to a range of arts, the Council on the Arts has participated with the Alabama Department of Education and local governments to assist schools with arts programs.

Head commented if the quality of life is positive, then it will attract more economics. He added that it is difficult to make a good first impression when downtowns are abandoned and deteriorated. To help find solutions to this dilemma, Head suggested that each city should have a vibrant arts council.

Encouraging the arts is a federal-state-local partnership. He illustrated his point by mentioning the efforts of Wynton Blount, an entrepreneur, who donated an enormous amount to the Alabama Shakespeare Festival.

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Committee Minutes

Community and Economic Development (CED)

Reported by Lori Lein, Deputy General Counsel

The Community and Economic Development Committee convened at 9:10 a.m. on Thurs., Sept. 19, 2006, at the offices of the Alabama League of Municipalities in Montgomery, AL, with Chairman Thomas O. Moore, councilmember from Demopolis, presiding.

Present at the meeting were: Committee Chair and Councilmember Thomas O. Moore, Demopolis; Committee Vice-Chair Mayor Dan Deason, Scottsboro; Councilmember Anne Marie Sasser, Brewton; Councilmember Carolyn F. Wood, Dauphin Island; Councilmember Clemente Brooks, Flomaton; Councilmember Carolyn M. Doughty, Gulf Shores; Councilmember Newton Cromer, Saraland; Mayor Bob Bunting, Ozark; Councilmember Andy Gilland, Ozark; Mayor Charles C. Gilchrist, Glencoe; Councilmember Ray Edwards, Valley; Councilmember Dianne Prestridge, Arab; Mayor Roy Dobbs, Berry; Mayor Bob Sharpe, Blountsville; Mayor Phil Segraves, Guin; Mayor Harvey Fretwell, Northport; Councilmember Roberta Jordan, Pine Hill; Councilmember Tyrone Brown, Uniontown.

Resource advisors present included: Elizabeth Brown, Alabama Historical Commission; Lee Flenory, Alabama Department of Economic and Community Affairs (ADECA); Harold Cole and Raymond Richardson, U.S. Department of Housing and Urban Development (HUD); David Echols, Alabama Development Office (ADO); and Peggy Collins, Alabama Bureau of Tourism and Travel.

Also present was Lori Lein, deputy general counsel, Alabama League of Municipalities.

Elizabeth Brown from the Alabama Historical Commission addressed the committee first. Brown advised the committee that municipalities need to change their perspective on historical preservation as it relates to economic development and emphasized that using existing historical assets can help build economic development in communities. Most areas already have existing infrastructure which can be utilized. She stressed the need for communities to accentuate their uniqueness in order to promote the community as a destination. To do this, she suggested revitalizing downtown/business areas and reworking traditional neighborhoods. Communities can also benefit economically, according to Brown, by working on developing "heritage tourism." Once again, this type of tourism and development focuses on a community's uniqueness. She emphasized the importance of property values, which in a well-preserved neighborhood result in increased value over time. Brown stressed the importance of community

involvement in historic preservation. Brown concluded her remarks by suggesting that all municipalities engage in a detailed survey of their communities so that they know what they have and to consider having eligible areas listed on the National Historic Register which may open up avenues of financial assistance. Brown complemented the League on its existing policies and goals relating to historic preservation and made no further suggestions.

Lee Flenory of the Alabama Department of Economic and Community Affairs (ADECA) was the next resource advisor to address the committee. After inquiring as to how many committee members were new to the committee, he provided the committee with a brief history of the CDBG program as administered by ADECA. He then detailed the various funding programs available through ADECA, including the competitive fund, the community fund, the planning fund and the economic development fund.

Regardless of which fund a city is seeking funds from, Flenory pointed out the criteria are basically the same. A municipality must show the area has at least 51 percent low to moderate income, that there is an urgent need for assistance and that the area is a slum or blighted. He pointed out the majority of funding comes through the competitive fund. He reminded the committee that any municipality classified as an "entitlement city" under the program must apply to directly to HUD for funding otherwise cities should apply through ADECA for CDBG program funding.

Flenory's main emphasis to the committee was that funding of the program continues to fall and that in the past year they had over \$52,000,000 in applications with on \$26,000,000 available to distribute. Flenory addressed policy C-1.14 relating to the prepared cities program and stated there were no plans for ADECA to reinstate the program. He concluded by discussing several of the committee's policies and goals and addressing questions from the committee.

Harold Cole and Raymond Richardson from the U.S. Department of Housing and Urban Development (HUD) addressed the committee next. Cole began his presentation by promoting a HUD and EPA program called the Energy Star Program. The program is attempting to encourage every business and homeowner to change at least on light bulb from a filament bulb to a high energy light bulb. After thanking the committee for being invited to attend, he informed the committee that over the past few years

continued next page

Alabama has obtained between \$100,000,000 and \$120,000,000 from HUD. Some of those funds are funneled to ADECA for administration and some of the money goes to the Entitlement Communities program which is administered through HUD.

Cole concluded his remarks by informing committee members of a grant program for historically black colleges and universities with over \$10,000,000 in funding available. He recommended that communities with a historically black college or university should consider working with those institutions to obtain funding to improve both the community and the college or university.

Cole then introduced Raymond Richardson, who is new to HUD's Birmingham office. Richardson was transferred to Birmingham due to his expertise in disaster relief. Richardson informed the committee he is responsible for assisting in the administration of over \$100,000,000 for disaster affected areas. Beyond being a contact on disaster issues, however, he wanted the committee to know he has a strong background in economic development and that he was available to assist in those areas as well. He reminded the committee HUD is about much more than just housing and that the agency recognizes having good jobs available results in better availability of housing and also results in better care and upkeep of housing. Richardson concluded his remarks by complementing the committee on its policies and goals but suggested that the committee narrow and prioritize them.

David Echols from the Alabama Development Office (ADO) addressed the committee next. He provided the committee with a handout to complement his comments to the committee. Echols discussed briefly the role of ADO in state-wide economic development and how ADO partners with public and private entities to assist in recruiting and maintaining industry in Alabama. He informed the committee that currently, Alabama has over 100,000 businesses operating in the state. According to Echols, Alabama was recently listed in the top five states for industrial development training through the Alabama Industrial Development Training (AIDT) program. Echols said this is the busiest time he can remember over his 20 years at ADO in terms of their activity to generate new business for the Alabama. With regard to the committee's policies and goals, Echols addressed several areas. First, he encouraged the committee to consider supporting legislation to create rural development centers to assist rural areas in their economic development. Second, he suggested communities make electronic technology and the use of the Internet a priority. Third, Echols encouraged the committee to consider available resources other than ADO for education and training on how to prepare communities for economic development. Specifically, he mentioned the Community Leadership Education Opportunity (CLEO), which can provide some

educational assistance. He also encouraged the use of the Small Business Development Center (SBDC) and University Economic Development Centers. Finally, he emphasized the importance of communities performing infrastructure inventories so they know what is available as they recruit new industry. After answering specific questions from the committee, Echols concluded his remarks by thanking the committee for inviting him and directing them to his contact information in his handout.

Peggy Collins from the Alabama Bureau of Travel and Tourism was the final resource advisor to address the committee. Collins informed the committee that tourism is a \$7.6 billion industry in Alabama and for every four cents made on tourism, three cents is deposited into the State General Fund. The purpose of the Tourism Bureau is to promote tourism statewide, and to that end they have divided the state into four regions: the Mountain Region, the Metropolitan Region, the River Heritage Region and the Gulf Coast Region. She informed the committee of the various publications produced by the Bureau, including the Official Vacation Guide, the events calendar and various themed brochures. Collins said any event a municipality would like to have listed on the events calendar must be submitted before June 30 of the preceding year. All of these publications are available at the eight welcome centers located around the state. Collins is particularly proud of the Bureau's themed programs and said their "Year of Alabama Food" brochure won a national award. The current year, 2006, is the year of "Outdoor Alabama" and 2007 will be the "Year of Alabama Arts."

Collins next informed the committee of the Bureau's matching grants program which helps promote communities. The program provides for a 50-50 split, up to \$4,000 on brochures and up to \$2,000 on festivals. In addition, they have funding available to assist in the development of new websites. Anyone interested in the grant programs should contact the finance division. Collins made no suggested changes or additions to the committee's policy and goals.

Following the presentations from the committee's resource advisors, Chair Moore introduced Niko Corley, communications coordinator for the League of Municipalities. Corley informed the committee about the League's Municipal Achievement Awards, a new program being conducted by the League to recognize innovative and successful municipal improvement projects that muster community support and improve quality of life.

At 11:15 p.m., Chair Moore thanked the resource advisors and Niko Corley for their presentations and after some discussion, the committee made the recommendations for changes to existing policies and goals as well as the addition of new policies and goals. Chair Moore thanked the committee members for their participation and adjourned the meeting at 11:40 p.m. ■

encompass a reference to the 2006 Violence Against Women Act (VAWA). He also suggested a new policy position encouraging the establishment of a central repository of information on Alabama domestic violence cases available to court and police personnel.

The chair thanked Mr. Trimble for his remarks and suggestions and called on Donna Joyner and Debbie Lee of the Sales, Use and Business Tax Division of the Alabama Department of Revenue. Joyner informed the committee on Act 2006-557, which became effective on July 1, 2006. The new law requires all vendors, contractors and affiliates making sales or leases to the state of Alabama to register, collect and remit state and local sales and use taxes and/or lease taxes on all items sold to Alabama customers. She emphasized that the act does not create nexus for other tax purposes. All state contracts will contain this requirement as part of the bid specs. The Alabama Department of Revenue (ADOR) will audit periodically, at least annually, the contract awardees databases to insure compliance.

The ADOR is required by law to maintain a database of all city tax rates. Municipalities were also reminded state law requires each municipality that changes a tax rate or enacts a new tax to send a copy of any ordinance and the new tax rates to Debbie Lee at ADOR. Municipal officials were also reminded that ADOR will collect personal property lease or rental taxes for municipalities. Sample ordinances are available from ADOR.

The department shares audits of taxpayers with local governments and encourages local governments to do the same. Sharing of this information leads to more efficient tax collections. Joyner told the committee about Act 2006-552, which will become effective on Oct. 1, 2006. This new act changed the threshold to \$750 (down from \$25,000) at which businesses must file tax returns electronically. The program has resulted in cost savings for ADOR and the taxpayer by reducing processing costs of paper checks and vouchers, reducing employee resources and reducing postage costs. If a municipality's taxes are state-administered, then local taxes must be paid electronically regardless of the amount due. Municipalities whose taxes aren't state-administered can opt to receive EFT payment if the threshold is met. Over four million returns have been e-filed since Oct. 2003, at a cost savings of over \$5 million to ADOR. There has been a 99 percent compliance rate.

Debbie Lee said ADOR collects taxes for 170 cities and counties. The department's new computer system, RITS, was rolled out on July 5, 2006. The system is currently being used for sales, lodgings, rental, use and motor fuel taxes. Other taxes will go online in the next two years. The new system is costing \$22 million over five years. After the initial cost, it will cost about \$2 million per year. The

new system will result in an estimated \$23 million per year in cost savings to the state.

The chair thanked Joyner and Lee for their presentations and then asked members to review the *Policies and Goals 2006*. Roquemore and members discussed the policy statement and several new and amended policy positions were added. Mayor Frank Houston of Coosada moved adoption of the amendments to the policy statement. The motion, seconded by Mayor Jim Trout of Chickasaw, passed unanimously.

The chair called on Niko Corley, communications coordinator for the League. Corley told members about a new League program to recognize successful and innovative municipal improvement projects completed by League member municipalities. Further information on the program will be sent to members this fall.

There being no further business, the meeting was adjourned at 12:15 pm. ■

HD Committee

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He discussed how the arts assist children at risk and juvenile defenders. The council has a program which exposes these children to professional writers which help give them a voice. In fact, this program has produced the anthology, "Open Door." With the school dropout rate at a high, Head mentioned that if there are programs such as the arts available to students, they will function as avenues to reach children. The arts should not be considered an extracurricular activity but should be at the core of our state's education.

Councilmember Ellis asked, "Are you held in check by individuals with Victorian views on how the arts should be?" Head responded by stating, "We have found some who felt that the private sector should meet the need."

The chair thanked every resource advisor for their participation. The committee discussed and made policy changes to the Human Development Policy Statement. Following the presentations from the committee's resource advisors, Niko Corley, communications coordinator for the League of Municipalities, informed the committee of a new program, the Municipal Achievement Awards, that the League is starting. Corley informed the committee about the program and how it aims to recognize innovative and successful municipal improvement projects that muster community support and improve quality of life. There being no further business, the meeting adjourned at 12:20 P.M. ■

EENR Committee

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White said ADEM has received \$1 million for wastewater system engineer training. ADEM offers scholarships to municipal systems to send their engineers for advanced training.

The chair called on Gerald Hardy, ADEM, Land Division. The ADEM Land Division reorganized this year (February 2006). It now has three areas, governmental hazardous waste branch; environmental services branch and the waste program branch.

Hardy said the ADEM Solid Waste Budget allocation has been reduced from \$1.6 million to \$400,000. The Land Division has made 286 landfill inspections and granted 30 landfill permits.

ADEM has received 79 of the identified 83 Solid Waste Management Plans. Four sites have yet to submit a plan to ADEM. Twenty-four of the submitted plans have been deemed incomplete by ADEM. Additional information has been requested by ADEM on these 24.

The Alabama Court of Civil Appeals has issued an opinion that the Alabama Regional Planning Commissions must perform regional "needs assessments" for all landfills before ADEM can produce a statewide needs assessment plan. ADEM Land Division faces the challenges of being under funded, under staffed and the uncertainty of the outcome of the lawsuit on the Statement of Consistency Plan.

ADEM Land Division has \$6.5 million available for Scrap Tire Site Remediation Program. Over 700,000 tires have been removed from unlicensed scrap tire sites statewide.

Hardy said ADEM will seek additional EPA funding for the Brownfield SRF program. They received initial seed monies of \$1 million this past year. ADEM issued grants of \$200,000 to Tuscaloosa, Selma and Tarrant. ADEM will assist municipalities in grant applications.

Hardy said ADEM has been involved in 170 Voluntary Cleanup Sites with 80 facilities. The Voluntary Cleanup Program provides new owners of the brownfield site with limited liability.

The chair called on Dr. Dave Bolin, executive director, Alabama Oil and Gas Board. Bolin said recent demands on natural gas and oil has increased pricing, the industry has increased activities in exploration and reviewing existing wells for more production.

Bolin said Alabama has over 6000 wells in 374 natural gas fields producing over 5.2 barrels of oil and natural gas per year. This activity will generate over \$175 million in severance taxes in 2006, while the Alabama Trust Fund has a balance of \$2.9 billion. ■

TPSC Committee

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DOT administers. The current program is called SAFETEA-LU. He discussed several programs that SAFETEA-LU makes possible, including the New Freedom Initiative and the Job Access and Reverse Commute Program.

Ed Paulk spoke next. Paulk is the new State Fire Marshal. This was his first meeting at the League and he stated that he looked forward to working with the League and local officials in the future. Paulk discussed the tools his office provides to local governments, including fire and explosion investigation as well as regulation of industries such as fire sprinklers, fireworks and pyrotechnics. Paulk stressed the need for municipalities to ensure that architects are used on projects as required by Alabama law. Failure to have an architect, he said, can result in disasters, such as the recent roof collapse of a church in Chilton County which would have been a catastrophe if it had happened when the building was occupied.

Councilmember Phillips next called on Phil Perry and Stephanie Blankenship. They said that the Aviation Council is working on passage of the Airspace Protection Act, which allows for some measure of local control over structures in the vicinity of airports. He noted another issue, which involves how fueling systems operate at airports. Most systems don't register both the amount of fuel that is sold as well as the cost. The Department of Agriculture and Industries (DIA) requires fuel pumps to show this information. Enforcement of this regulation would have jeopardized airport operations throughout Alabama. The Aviation Council, he said, was successful in working with (DIA) to have enforcement at airports rolled back.

Maury Mitchell from Alabama Criminal Justice Information Center (ACJIC) spoke next. He said that ACJIC is the information-sharing arm of the criminal justice system. He stated that ACJIC spans every part of the criminal justice system. Mitchell then gave an on-line demonstration of the ACJIC system. He also noted that his agency is working on creating a database of individuals who have been diagnosed with Alzheimer's so they can be identified.

Councilmember Phillips thanked the resource advisors for their valuable contributions. The committee then discussed needed additions and deletions to the League policy statement. After discussion, Councilmember Marva Gipson of Aliceville made a motion to adopt the recommended changes to the Transportation, Public Safety and Communication section of the policy statement. The motion was seconded by Councilmember Mayor John Lammers of Carrollton. The recommended changes will be considered at the business session during the League Convention in Huntsville. ■

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