

# THE MUNICIPAL YEAR AHEAD

On the first Monday in November, newly-elected mayors and councilmembers all over Alabama will take their oaths of office and organize to conduct the business of local government for the next four years. No more significant or reassuring event occurs in the cycle of democratic government. On this day, men and women of varied talents, professions and backgrounds gather to assume the responsibilities of a government voluntarily formed and supported by their constituents.

The rewards of the municipal official certainly are not pecuniary, and elected officials often receive abuse when honor is due. Instead, these individuals take on the tasks of running a municipality for other reasons, such as the sheer satisfaction derived from being a real living part of democracy in action, or a desire to make their municipality the best it can be. Our fullest appreciation and congratulations go out to each newly-elected official, both veteran and freshman. May your administrations be filled with progress, harmony and gratifying success.

This article is a brief preview of the municipal year ahead. While it is impossible to include the numerous local and special items of business which will confront all councils during this period, the following paragraphs will let freshmen councilmembers know what to expect and remind the veterans of items and dates which must be planned for and observed. Every council should establish an official calendar which notes the dates when final action on particular matters must be completed and the dates when preparation for such final action must begin.

## **Organization Setup**

The first date to be aware of is the first Monday in November when Alabama law states that the newly-elected council shall assemble and organize itself. Customarily, the presiding officer of the new council notifies all members of the new council regarding the time and place for the organizational meeting. The notice should comply with the Open Meetings Act. In the League's opinion, at least seven days' notice should be given of the organizational meeting.

In cities and towns of less than 12,000 in population, the mayor is the presiding officer. In cities of 12,000 and over, the president of the council performs this duty.

In most cities of 12,000 and over with a five-member council, the president of the council is not elected until the council organizes. Therefore, this duty of notification falls upon the mayor and the clerk. In these cities, the mayor should be invited to be present and take the oath of office with the council even though the mayor is not a member of the council. As a matter of practice, the clerk generally handles the details of notices and arrangements for this meeting.

Upon assembly at the organizational meeting, the presiding officer of the new council announces that the council is in session and introduces the officer who will administer the oath of office and, if desired, the minister who will give the invocation. (An invocation is not required but is customary.)

After the invocation, the oath is administered and each newly-elected official subscribes to the oath in duplicate before the administering officer. One copy of the oath of office subscribed by each official is filed with the probate judge of the county in which the municipality is located and the other is retained for the files of the municipality. The clerk customarily handles these filing requirements. The clerk may want to prepare a third copy for the elected official. The clerk records the minutes of the meeting just as he or she does for regular meetings, noting that it is the organizational session.

### **First Order of Business**

The first order of business for the council is the election of:

- A chairman pro tempore in cities and towns of less than 12,000 (This person is often referred to as the mayor pro tempore).
- A president pro tempore in cities of 12,000 or more which have a council president elected by the voters.
- A president of the council and a president pro tempore in cities of 12,000 or more which do not have a council president elected by the voters.

Nothing in Alabama law prohibits a city council from removing its president or president pro tempore at any time and electing another councilmember to fill this office. AGO 1992-145.

In cities of 12,000 or more without an elected council president, it is customary for the clerk to act as presiding officer until such elections are completed. Election of officers must be by roll call, voice vote. The record must show how each councilmember voted on the election of the successful nominee. If the city has a council president elected by the voters, the council president shall preside.

The next order of business is for the council to establish the time and place of its regular meetings to be held each month. Alabama statutes require that the council hold at least two regular meetings each month. Towns (under 2,000 in population) are only required to meet once a month.

The council should then adopt rules of procedure which it will follow in its deliberations for the coming term. Rules of procedure are covered in the article entitled "Council Meeting Procedure" in this publication and in the League publication entitled *Handbook for Mayors and Councilmembers*.

After rules of procedure are adopted, the establishment and appointment of council committees is generally the next item of business. Whether or not committees will be established is purely at the discretion of the new council. Any action taken by the previous council on this subject may be retained, repealed, amended or modified to meet the wishes of the new council. Generally, the new council determines the number of committees to be established and the duties of each. The new council also stipulates that the committees shall be comprised of a designated number of councilmembers appointed by the presiding officer of the council. The *Handbook for Mayors and Councilmembers* gives a detailed explanation of council committees and their establishment. Committee work is discussed later in this article.

### **Adopting Motions**

Next, the council should adopt a motion temporarily ratifying the use of present depositories pending subsequent permanent designation. A second motion, which states that all administrative personnel of the municipality shall continue in their respective duties pending permanent appointments at later regular meetings of the council, is also usually adopted.

It is generally understood that the council will make its final administrative appointments at the first **regular** meeting following the organizational session. The presiding officer might well make an announcement to this effect before adjourning the organizational meeting.

Section 11-43-80, Code of Alabama 1975, authorizes the council of a municipality which operates its own utility systems to appoint the mayor as superintendent of such utilities and to provide additional compensation for such duties. If the new council wishes to appoint the mayor to perform these duties, this appointment is in order at the organizational session. **Note:** If the utility system is operated by a separately incorporated board, the board appoints the utility superintendent.

### **Council Appointments**

At the first **regular** meeting of the council, or as soon thereafter as possible, the council in cities of over 6,000 in population is required to elect a city treasurer and a city clerk who shall hold office until the next general election and until their successors are elected and qualified. The council may elect an auditor, judge and such other officers as may be required by ordinance. Except as otherwise provided, the council shall have authority to fix the terms of office, prescribe their duties,

and fix the salaries of these officers. The council may, by ordinance, require the city clerk and the city treasurer to be residents of the city. Section 11-43-3, Code of Alabama 1975. The positions of clerk and treasurer may be combined into one office in such cities by a two-thirds vote of the council. Once the offices of city clerk and treasurer have been consolidated, a two-thirds vote of the council is necessary to separate the positions. AGO 1993-126.

In cities and towns of less than 6,000, the council is required to elect a clerk and is authorized to elect a judge and such other officers as the council deems necessary. No special vote is required in such municipalities to combine the offices of clerk and treasurer and no statutory term is prescribed for them. Section 11-43-4, Code of Alabama 1975.

At this first regular meeting, the council should make its final appointments of all department heads, establish all salaries, specify the duties to be performed and designate the persons authorized to administer oaths.

When the council makes appointments, it should specify the amount of bonds to be provided by the various appointees who will be required to handle money or exercise authority over property of the municipality. Such bonds are to be approved by the mayor, and the council may provide that the premium on such bonds shall be paid out of the municipal treasury.

When the council makes appointments, permanent depositories for the safekeeping of municipal funds should be officially designated. The council should also designate a member of the council who shall be authorized to countersign checks and warrants in the absence of the mayor. The council president in cities of 12,000 or more and the chairman pro tempore in municipalities under 12,000 are generally given this authority. The officers designated should make arrangements with the clerk to go to the various depositories and file authorized signature cards as required by such depositories.

### **Board Appointments**

Newly-elected councilmembers will find that a number of municipal functions are performed by special boards, either incorporated or merely created by ordinance of the municipality. The council should review the various boards operating in the municipality, make a list of the dates when vacancies will occur and indicate who is responsible for appointing board members.

Some boards have ex officio members, members appointed by the council and members appointed by the mayor. For example:

- The municipal planning board is composed of nine members – the mayor (ex officio) or mayor's designee, one administrative officer appointed by the mayor and whose term is co-extensive with that of the mayor, one member of the council selected by the council and whose term is co-extensive with that of the appointing council and six members appointed by the mayor on a staggered basis for six-year terms so that one vacancy comes up each year. Alternate forms may be found in Class 1, Class 2, Class 3, Class 5 and Class 6 cities.

- The zoning board of adjustment consists of five members appointed for staggered terms by such authority as provided by the ordinance creating the board. In addition of the five regular members, two supernumerary members are appointed for three-year terms by such authority as provided by ordinance. An alternate procedure for making appointments is applicable to Dothan. Section 11-52-80.1, Code of Alabama 1975.

- The membership of municipal housing authorities consists of five commissioners appointed on a staggered basis by the mayor. One vacancy occurs each year.

In those cities having an appointed city board of education, general law provides that the council shall appoint the board members. One vacancy occurs each year. Section 104.01, Alabama Constitution, 1901 allows the Legislature, by local law, to establish procedures for the election of city school board members. If a municipality has an incorporated municipal utility board created under the authority of Sections 11-50-310 through 11-50-324, Code of Alabama 1975, such board may consist of either three, five or seven members. Municipal officers are eligible to serve on such

boards but they only serve during their tenure in office as municipal officers or for a six-year term, whichever expires first.

Other boards which municipalities might have include, among others, recreation boards, library boards, incorporated building authorities, incorporated hospital boards, industrial development boards, airport authorities, zoning boards, regional planning boards, gas districts and special water, gas, sewer and electric boards. In making appointments, the council should carefully review the statute or ordinance under which such boards were created to ensure that an eligible person is appointed.

At times, questions are raised as to the legality of professionals serving on municipal boards. Section 36-25-9, Code of Alabama 1975, provides that nothing in the section shall prohibit real estate brokers, agents, developers, appraisers, mortgage bankers or other persons in the real estate field or other state-licensed professionals from serving on any planning boards or commissions, housing authorities, zoning board, board of adjustment, code enforcement board, industrial board, utilities board, state board or commission.

Thus far this article has treated only the “**musts**” for the organizational session and the first regular session. During this period, it is essential for council committees to spend many hours studying and preparing recommendations for the council when it meets in regular session.

### **Committee Work**

The principal job of a council committee is to investigate, study and evaluate the segment of the municipal operation assigned to it. Committees present facts and evaluations, thus relieving the council of long, tedious, unproductive meetings. It should be emphasized that **membership on a committee does not carry any administrative powers**. Committee membership should not be confused with the powers of the mayor who has the sole grant of executive and administrative powers in the municipality. Committee work involves study, comparison with other municipalities similarly situated and reporting recommendations to the assembled council. Committees should strive to work with administrative personnel and the mayor in making recommendations.

### **Audit and Budget**

In most mayor-council municipalities in Alabama, the fiscal year begins on October 1. The mayor is responsible for having the accounts of the municipality audited either by a licensed public accountant or a certified public accountant. If an audit of the fiscal year ending September 30 of the year the mayor and council took office was not contracted for by the mayor prior to the end of that fiscal year, then one of the first things the newly-installed mayor should do is procure an audit report. The completed audit report must be submitted to the council and spread upon the council minutes.

During the early days of a new municipal administration, one of the most important tasks to be performed is reviewing the audit and making budget recommendations. If the outgoing council had adopted a budget for the coming fiscal year, the finance committee should review it carefully for recommended revisions. If no budget exists, the finance committee should work with the mayor to prepare a budget for council consideration. In either case, a review of all revenues is essential.

In preparing a recommended budget, the finance committee should start with the programs sought to be accomplished, estimate the cost of each and then compare the costs with anticipated revenues. Then comes the process of either trimming programs or increasing revenues, or both. An administration that begins with a well-planned budget is off to a good start and has its major headaches conquered until budget time rolls around again toward the end of the first fiscal year. Incidentally, budget hearings are an excellent way for freshmen councilmembers to learn the powers and limitations of a municipality.

### **License Revision**

The municipal privilege license is an important source of revenue for cities and towns. The municipal privilege license year begins on January 1 and ends December 31 of the same year. If the present license schedule ordinance of a municipality is made to run from year to year, it is not necessary for the council to adopt a new schedule for the coming year. However, if the schedule was made for only one year then a new schedule must be adopted for the coming year before January 1. Likewise, if any amendments or additions are to be made to the permanent type license ordinance, changes must be made prior to January 1. This involves study and comparison by the finance committee by no later than November with the goal of introducing and passing the necessary ordinances at the first regular meeting in December.

### **Delinquent Licenses**

Municipal licenses must generally be paid on or before the last day of January each year (except for insurance company licenses which must be paid by March 1). The finance committee should investigate the status of delinquent licenses immediately after the council organizes. The committee should review the matter again in February and March of the next year to prevent escapes which cost municipalities considerable revenue. The League offers a program to its members for the collection of delinquent insurance licenses. For more information, contact League Headquarters.

### **Ad Valorem Taxes**

Any change in the ad valorem tax levied by a municipality must be made not later than the month of May. Any changes must be reported to the county tax assessor and collector before June 1. This is required by statute under the optional method for collecting municipal ad valorem taxes through county officers. (This method of collection is followed by most Alabama municipalities.) If a municipality plans a change in ad valorem tax rates which would require an election pursuant to constitutional requirement, every effort should be made to have the election early enough to make the change during the month of May – otherwise the municipality might lose an entire year of the tax increase.

### **Fringe Benefits**

Soon after the council organizational session, fringe benefits for employees should be considered. This issue is usually considered when salaries and wages are established. A municipality may already have a fringe benefit plan in operation. Benefits might include hospital insurance, disability insurance, liability insurance for employees operating municipal equipment, group annuity contracts and accidental death policies. If such a plan exists, the council should become familiar with the benefits offered to employees. If no plan exists, the council may wish to consider implementing a fringe benefit plan.

Also, consideration should be given to the municipality's workers compensation program and liability insurance program to make sure that the city or town is adequately covered. The League offers complete programs for municipalities which need workers compensation, liability, auto, or property insurance. For more information, contact the Alabama Municipal Insurance Corporation (AMIC) or the Municipal Workers Compensation Fund (MWCF).

On the subject of insurance, the council must review the insurance coverage of the municipality to determine if municipal property is adequately insured and when existing policies need renewal.

The use of city-owned vehicles is under the control of the council, which should promulgate a policy regarding their use. The amount, if any, to reimburse an individual when a personal vehicle is used for municipal business is set by the council. AGO 1995-091.

### **Working Conditions**

The municipality may have a personnel system in place which sets out municipal working hours, vacation, holiday and sick leave policies. If not, a good time for the establishment of municipal working hours, vacations, holiday and sick leave policies is when the council considers salaries and fringe benefits for personnel. This should be done soon after the organizational session.

### **Reports Required**

When establishing its calendar for the year, the council should include reports which are required, either by statute or by ordinance, to be submitted to the council. By statute, at least once every six months, a financial report must be submitted to the council by the mayor. Section 11-43-84, Code of Alabama 1975.

The council may require additional reports from the clerk and other administrative personnel as it deems wise and expedient and it may specify the form and content required in such reports. Committees should set a deadline for reports assigned to them.

The council calendar is in fact a time budget which is almost as important as the fiscal budget. Very few deadlines have been imposed upon municipal councils by the Legislature. This indicates confidence in local officials to get the job done without prompting.

### **Suggestions to Start on the Right Foot**

Newly elected municipal officials – and many seasoned – officials, should keep in mind that they were elected to run your municipality along with a group of other people, not by themselves. Each of these folks was elected by the citizens. Each of them made commitments and promises. Each of them brings their own set of ideals, goals, dreams and experiences to this new job of governing a city.

While there may be changes you'd like to see implemented, making those changes is going to require negotiation, compromise and adjustment. Maintaining the right temperament will go a long way toward helping you accomplish the improvements you'd like to see.

Lord Acton stated that absolute power corrupts absolutely. With that in mind, local governments were set up for each elected position to act both as a source of power and a check on the power of the other. Through working together and negotiating for solutions, a municipal government best represents the citizens. Officials need to study the extent of their power, respect the fact that they can't always do what they want to do the way they want to do it, and keep the ultimate goals in mind – providing the best government possible to the citizens of the community.

### **Quotes From a Pro**

Quotes from a pro are in order to close these observations. The following excerpts are taken from Arthur W. Bromage's book, *On The City Council*:

Speaking on matters that come before the council, "All you can hope for is a general condition whereby everyone is reasonably dissatisfied.

"The reasonable citizen comprehends that election does not make a magician.

"The councilman will do well to keep his inquiries, investigations, and requests in the appropriate administrative channels. To circumvent the executive ... is to ask for trouble. This is known as councilmanic meddling officially, and by other terms unofficially.

"Once you are on a city council, you run into many situations and problems which had never crossed your mind."