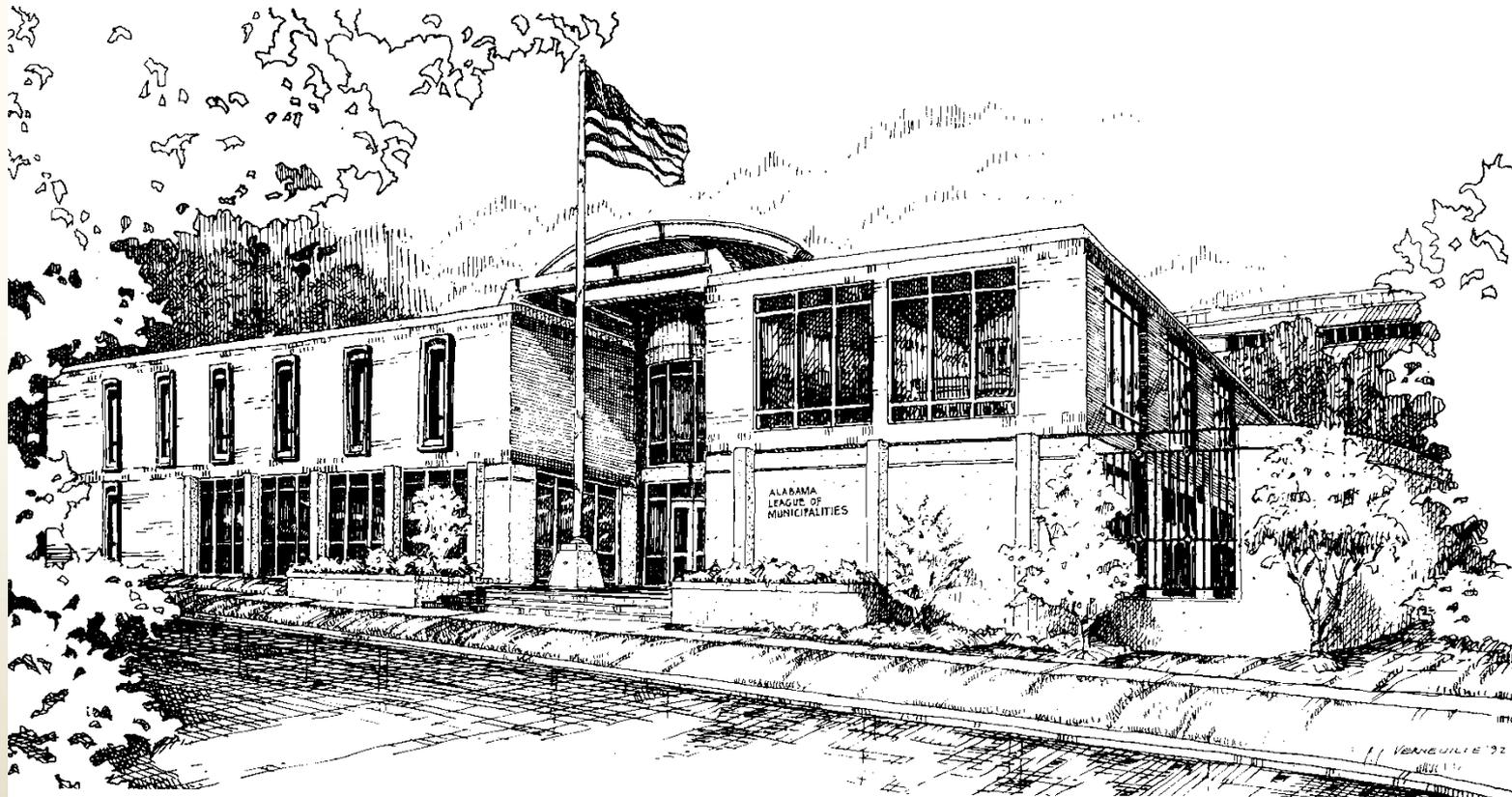


# THE LEAGUE LEGAL DEPARTMENT



Serving Alabama's Municipalities since 1935

# THE LEAGUE LEGAL DEPARTMENT



**Lori Lein**



**Rob Johnston**



**Sharon Carr**



**Tenee' Frazier**

# WHO MAY INQUIRE



- Mayors and Council members
- Board members
- Clerks, attorneys & other representatives
- Public?

# MAKING INQUIRIES



- Telephone
- Letter
- Email



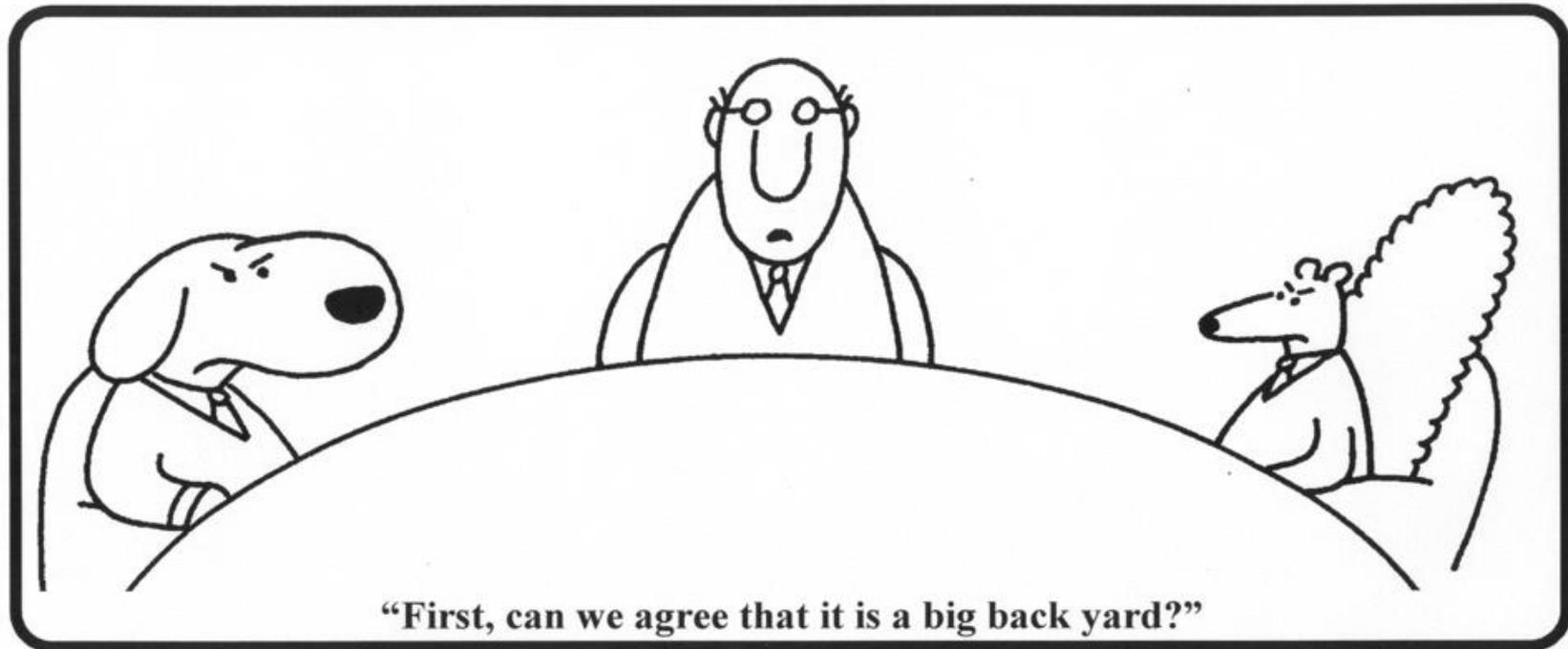
# OTHER SERVICES PROVIDED



- Amicus Briefs
- Sample Ordinances
- AAMA and AMJA
- Relationship with AMIC and MWCF
- Working with State Agencies



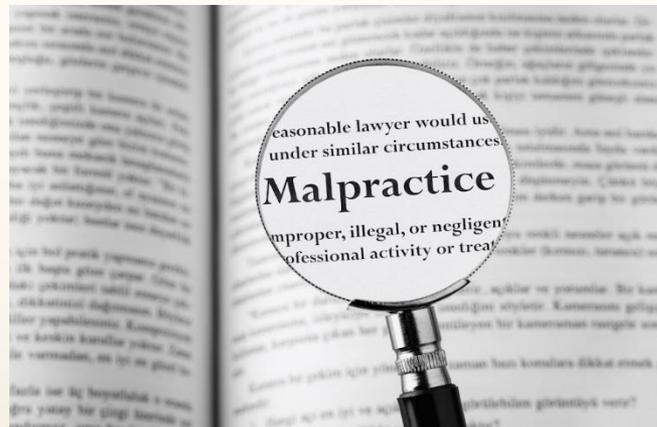
# LOCAL POLITICAL DISPUTES



# LIMITATIONS ON LEAGUE ATTORNEYS



- Drafting ordinance and contracts
- review of applications for grants or legal responses
- on-site training
- litigation
- direct representation or negotiations



# EVERY MUNICIPALITY SHOULD HAVE ITS OWN LOCAL ATTORNEY!



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# YOUR LOCAL ATTORNEY – THE RULES



- You and your attorney are on the same team.
- Remember who the client is.
- Involve your city attorney early.
- Prepare before speaking to city attorney.
- Be very clear regarding expectations.

# YOUR LOCAL ATTORNEY — THE RULES CONT'D



- Plan ahead for legal services.
- Provide the city attorney with the resources requested or clearly limit the scope of the job.
- Be candid with your city attorney.
- Understand your city attorney cannot always give a concrete answer.
- Remember lawyers are advisors NOT policy makers.

# DON'T HESITATE TO CALL THE LEAGUE LEGAL DEPARTMENT

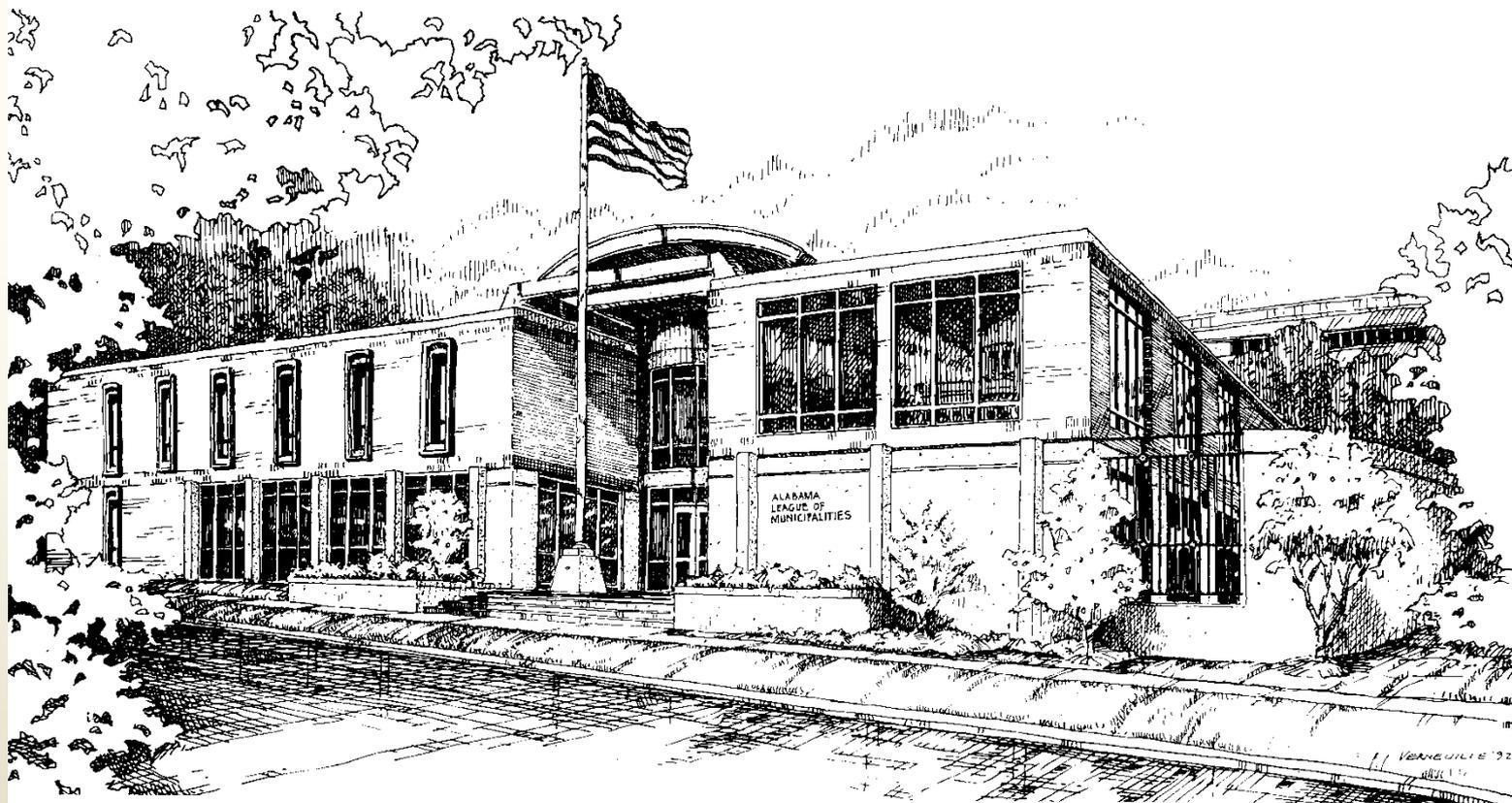


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# MUNICIPAL POWERS & LEGAL AUTHORITY



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# SOURCES OF POWER – THE “DILLON” RULE



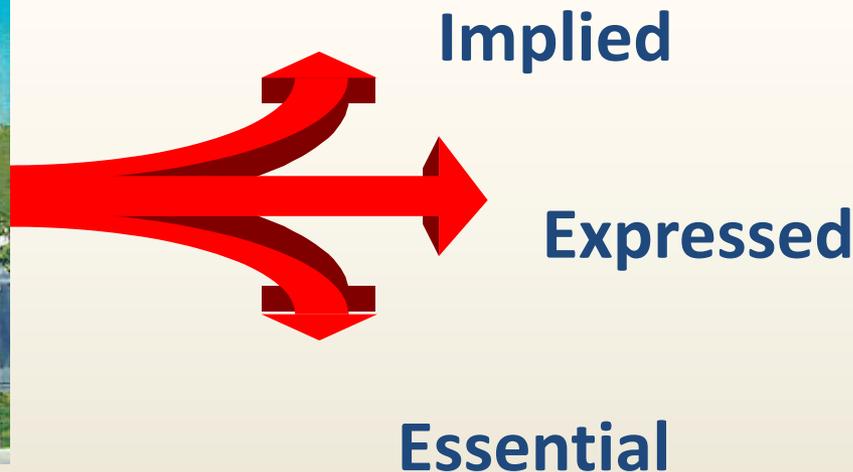
- Alabama Constitution
- Alabama Code
- Local Laws
- Ordinances
- Policies and Rules



# DILLON RULE



Municipal powers flow from the Legislature



# TYPES OF POWER



- **POLITICAL (LEGISLATIVE)**
  - General and permanent nature
  - Affect public generally
  - Public health, safety, welfare
  
- **CORPORATE (MINISTERIAL)**
  - “Private” benefit of corporation
  - Similar to a board of directors

# EXERCISE OF POWER



- Legal Meeting – OMA
- Statutory procedure or discretion of Council?
  - Shall, Must, May
  - Self Executing
- Delegation of Power?

# “POLICE” JURISDICTION



- Not limited to “corporate limits”
- Criminal Jurisdiction
  - Speeding
- Taxing/Licensing authority
  - Taxation w/o representation?
- Services?
- Subdivisions



# WHO GETS TO EXERCISE THE AUTHORITY?



MIKE LUCKOVICH  
ARTIST JOURNAL-CORRESPONDENT  
OF THE ALBANY 4-8-7

**Council Chambers**

**Mayor's Office**



# MAYOR/COUNCIL FORM OF GOV'T



## Under 12,000 Pop.

- Mayor presides over Council
- Mayor may vote
- Mayor has no veto power

## 12,000 or More Pop.

- Council President Presides over Council
- Mayor may veto
- Council may override a mayoral veto



# THE COUNCIL



**“[a]ll legislative powers and other powers granted to cities and towns shall be exercised by the council, except those powers conferred on some officers by law or ordinance.”**

§ 11-43-43, Code of Alabama (1975).

# EXPRESS POWERS OF COUNCIL



- Elect a city clerk and treasurer.
- Provide for a tax assessor/collector, police chief and fire chief.
- Set salaries of municipal employees & officers.
- Regulate the use of streets by utilities and others (franchises).
- May “require the mayor to act as superintendent” of any municipal-owned utilities; must compensate the mayor.
- Control of the finances and all property.

# MAYOR



- Chief Executive Officer
- “general supervision and control of all other officers and the affairs of the city or town”, except as otherwise provided by law.



# OPPORTUNITY FOR GROWTH & DEVELOPMENT #1: Spending Money

- Signing Checks
- Authorizing Expenditures
- Budget?
- Audit



# OPPORTUNITY FOR GROWTH & DEVELOPMENT #2: Employees - hiring



Mayor has the power to appoint all officers whose appointment is not “otherwise provided by law”. §11-43-81, Code of Alabama 1975

*Scott v. Coachman* Case in 2011 changed the landscape of how certain employees/officers are appointed.

# OPPORTUNITY FOR GROWTH & DEVELOPMENT #2: Employees - hiring



The city council is the appointing authority:

Statute:

**(no discretion/delegation)**

City Clerk

City Treasurer

Municipal Judge

City Manager

Ordinance:

**(discretion of council)**

Police Chief

Fire Chief

Other “Officers”

Attorney?

# OPPORTUNITY FOR GROWTH & DEVELOPMENT #3: Employees - Firing



**YOU'RE FIRED!**

“Officers” vs. “Employees”

# OPPORTUNITY FOR GROWTH & DEVELOPMENT #4: Contracts



- Mayor has power to “execute” contracts
- Council has power to “authorize” contracts

- Only exception is the annual audit



# Contact the League Legal Department with Questions



**334-262-2566**

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