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
“First, can we agree that it is a big back yard?”
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!
• 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

(334) 262-2566
MUNICIPAL POWERS & LEGAL AUTHORITY
Sources of Power – The “Dillon” Rule

- Alabama Constitution
- Alabama Code
- Local Laws
- Ordinances
- Policies and Rules
Municipal powers flow from the Legislature

- Implied
- Expressed
- Essential
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?

Mayor’s Office

Council Chambers

Serving Alabama’s Municipalities since 1935
**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
“[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.”

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
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.
The city council is the appointing authority:

<table>
<thead>
<tr>
<th>Statute: (no discretion/delegation)</th>
<th>Ordinance: (discretion of council)</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Clerk</td>
<td>Police Chief</td>
</tr>
<tr>
<td>City Treasurer</td>
<td>Fire Chief</td>
</tr>
<tr>
<td>Municipal Judge</td>
<td>Other “Officers”</td>
</tr>
<tr>
<td>City Manager</td>
<td>Attorney?</td>
</tr>
</tbody>
</table>
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

Lori Lein, General Counsel
loril@alalm.org

Rob Johnston, Asst. General Counsel
robj@alalm.org

Tenee’ Frazier, Asst. General Counsel
teneej@alalm.org

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