



City of Auburn

Council/Manager Form of Government

Presentation for
Auburn City Council
June 3, 2019

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Tonight's task is to shed some light on the current situation and to clear up confusion.





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Council-Manager Government

An Overview



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- **Q: What is the council-manager form of government, which is used in so many cities, towns, and counties?**
- **A:** In council-manager government, the *mayor of the governing body* and *council members* are the leaders and policy makers elected to represent the community and to concentrate on policy issues that are responsive to citizens' needs and wishes.
- The *manager* is appointed by the governing body to carry out policy and ensure that the entire community is being served.



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- **Q: What is the council's function?**
- **A: The council** is the legislative body; its members are the community's decision makers. Power is centralized in the elected council which, for example, approves the budget and determines the tax rate.
- **The council** also focuses on the community's goals, major projects, and such long-term considerations as community growth, land use development, capital improvement plans, capital financing, and strategic planning.
- **The council** hires a professional manager to carry out administrative responsibilities and supervises the manager's performance.



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- **Q: What is the manager's function?**
- **A:** The manager is hired to serve the council and the community and to bring to the local government the benefits of training and experience in administering local government projects and programs on behalf of the governing body.
- The manager prepares a budget for the council's consideration; recruits, hires, and supervises the government's staff; serves as the council's chief adviser; and carries out the council's policies.



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- **Q: Where does the mayor of the governing body fit in?**
- **A:** Mayors in council-manager communities are key political leaders and policy developers and their duties, responsibilities, and authorities depend on the organization's charter.
- In council-manager communities, typically the mayor presides at council meetings, serves as a spokesperson for the community, facilitates communication and understanding between elected and appointed officials, assists the council in setting goals and advocating policy decisions, and serves as a promoter and defender of the community.
- In addition, the mayor serves as a key representative in intergovernmental relations. The mayor, council, and manager constitute a policy-development and management team.



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- **Q: Is this form of government used only in certain kinds of cities?**
- **A:** No. In fact, it is not restricted to cities. It is used by towns and counties too. More than 3,677 cities operate under this form, and more than 371 counties operate under the council-administrator form. They vary greatly in size and characteristics.
- 66% of cities with a population between 25,000 and 250,000 operate under the Council-Manager form of government.
- More than 105 million people in the U.S. live in communities that operate under the Council-Manager form of government.



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- **Q: How do we know that the Council-Manager form works?**
- Two-thirds of Moody's Aaa-bond-rated communities are run by professional local government managers, and many operate under the Council-Manager form of government.
- An IBM Global Business Services report titled "Smarter, Faster, Cheaper" found that cities that operate under the Council-Manager form of government are nearly 10 percent more efficient than those that operate under the mayor-council form.
- The National Civic League, America's oldest advocate for community democracy, has endorsed Council-Manager government through its *Model City Charter* since 1915.
- Seventy-five percent of communities recognized between 2013 and 2016 with the National Civic League's coveted All-America City Award are Council-Manager.



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Local Governments in the Southeast with City Managers/Administrators

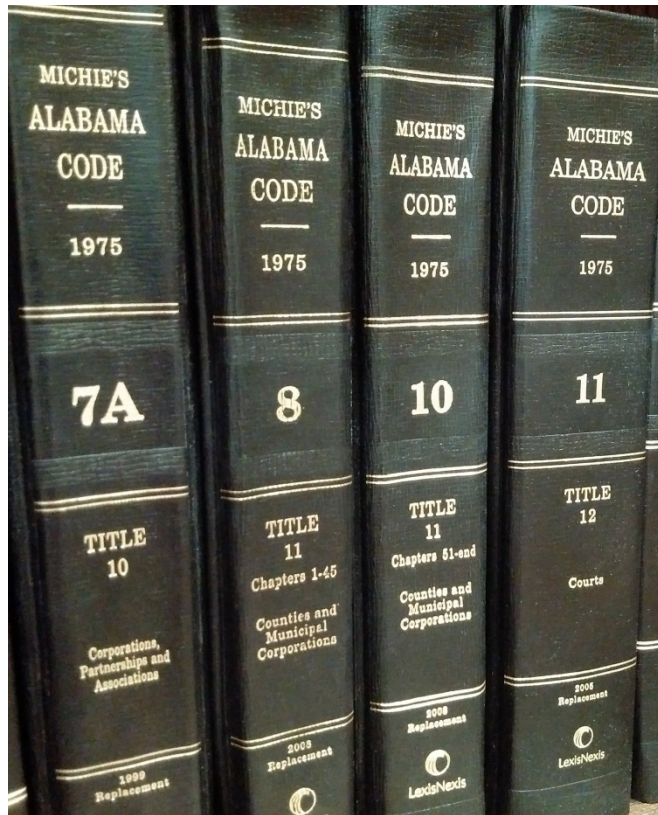
- Council-Manager Form of Government is especially popular in the South (pop. >10,000)
 - **Virginia** has 34 of 35 (97%)
 - **North Carolina** has 45 of 46 (98%)
 - **Florida** has 96 of 111 (86%)
 - **Georgia** has 35 of 42 (83%)
 - **South Carolina** has 22 of 30 (73%)
 - **Alabama** cities using Council-Manager Form include Anniston, Auburn, Dothan, Mountain Brook, Pell City and Vestavia Hills



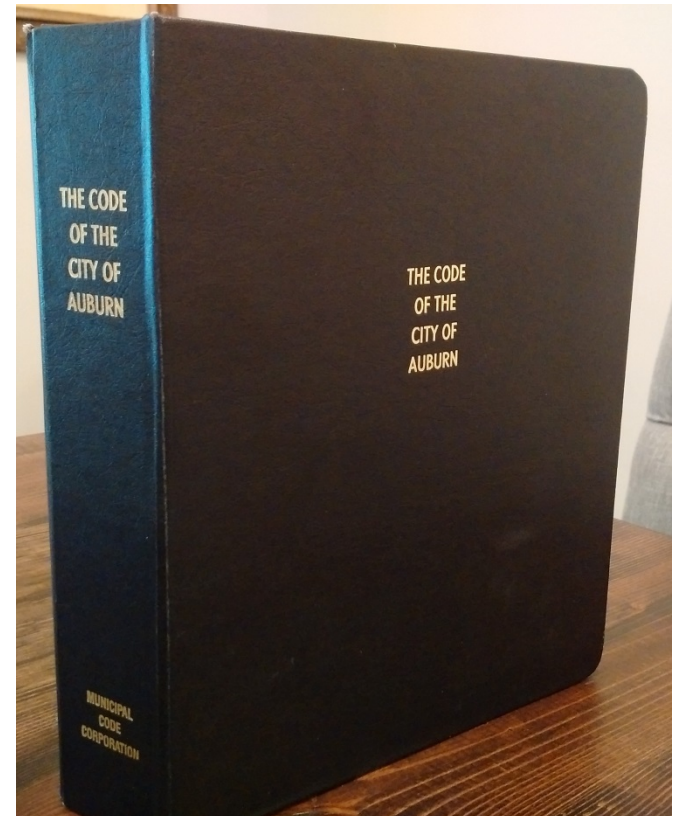
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Legal Authority

State Code



City Code





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Legal Authority - Council

- **Alabama Code Section 11-43A-17 Powers of council.**
- All powers of the municipality including all powers vested in it by this chapter and by the Constitution, the general and local laws of this state, and **the determination of all matters of policy shall be vested in the council.** Without limitation of the foregoing, the council shall have the power (1) to appoint and remove the city manager and (2) to establish other administrative departments and distribute the work of such departments.
- ***See also: identical provisions in City Code Section 2-24.***



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Role of the City Council

- Establish Policy to guide the City
- Adopt an Annual Budget
- Hire the City Manager
- Appoint Boards and Commissions
 - Auburn has 22 Boards and Commissions
(122 people)
 - Mayor nominates Planning Commission members and Historic Preservation Commission members; appoints members to the Housing Authority



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Legal Authority - Manager

- **City Code Sec. 2-51. Powers and duties generally.**
- The city manager shall have all the powers and shall perform all the duties prescribed for city managers under the provisions of Chapter 43A, Title 11 of the Code of Alabama, 1975. (See §11-43A-28 Code of Alabama)
- **City Code Sec. 2-52. Qualifications of city manager; duties; designation or appointment of administrative officer to perform duties of manager during temporary absence or disability; appointment of officers and employees.**
- The city manager shall be **the head of the administrative branch of the municipal government**. He shall be **responsible** to the council for the **proper administration of all affairs of the municipality** and, subject to the provisions of any civil service or merit system law applicable to such municipality and except as otherwise provided herein, he shall have power and shall be required to:
 - (2) **Appoint and**, when necessary for the good of the service, **remove all officers and employees of the municipality** except as otherwise provided by this chapter and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office; provided that he shall not appoint or remove officers and employees of:
 - (3) **Exercise administrative supervision and control over all officers, employees, offices, departments, boards and agencies** created by this chapter or hereafter created by the council, except those enumerated in paragraphs a. to j. of subdivision (2) inclusive, set out above in this section, and except those otherwise given independent status; and subject to any civil service or merit system law in effect in such municipality;
- **State Law Reference:** Similar provisions Code of Alabama §11-43A-25



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Role of the City Manager

- Prepares and administers the annual budget
- Hires and supervises all administrative staff
- Advises the **City Council** on questions of policy
- Responds to the desires of the **City Council** and the citizens



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Role of the Department Heads

- Serve at the pleasure and direction of the City Manager
- Provide services to the community or other departments
- Manage departmental budgets
- Develop and update departmental goals
- Recommend personnel action for the City Manager's approval





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Legal Authority - Mayor

- **City Code Sec. 2-23. Duties of mayor; vacancy in office of mayor to be filled by mayor pro tem; vacancies on council.**
- The mayor shall preside at the meetings of the council and shall be recognized as the head of the municipal government for all ceremonial purposes and by the governor for purposes of military law, but shall have no other administrative duties.
- **State Law References:** Similar provisions, Code of Ala., § 11-43A-16.



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What is the Mayor's role?

- Mayor is a voting member of a nine member council (See Ala. Code §11-43A-8)
- Presides at the meetings of the council
- Is recognized as the head of the municipal government for all ceremonial purposes and by the governor for purpose of military law **but shall have no other administrative duties.**



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City Management can be Challenging





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- **Question:** What is an administrative duty? Is following up on a citizen complaint an administrative duty? Can the city manager request assistance from the Mayor or another member of the Council?



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Administration Literature

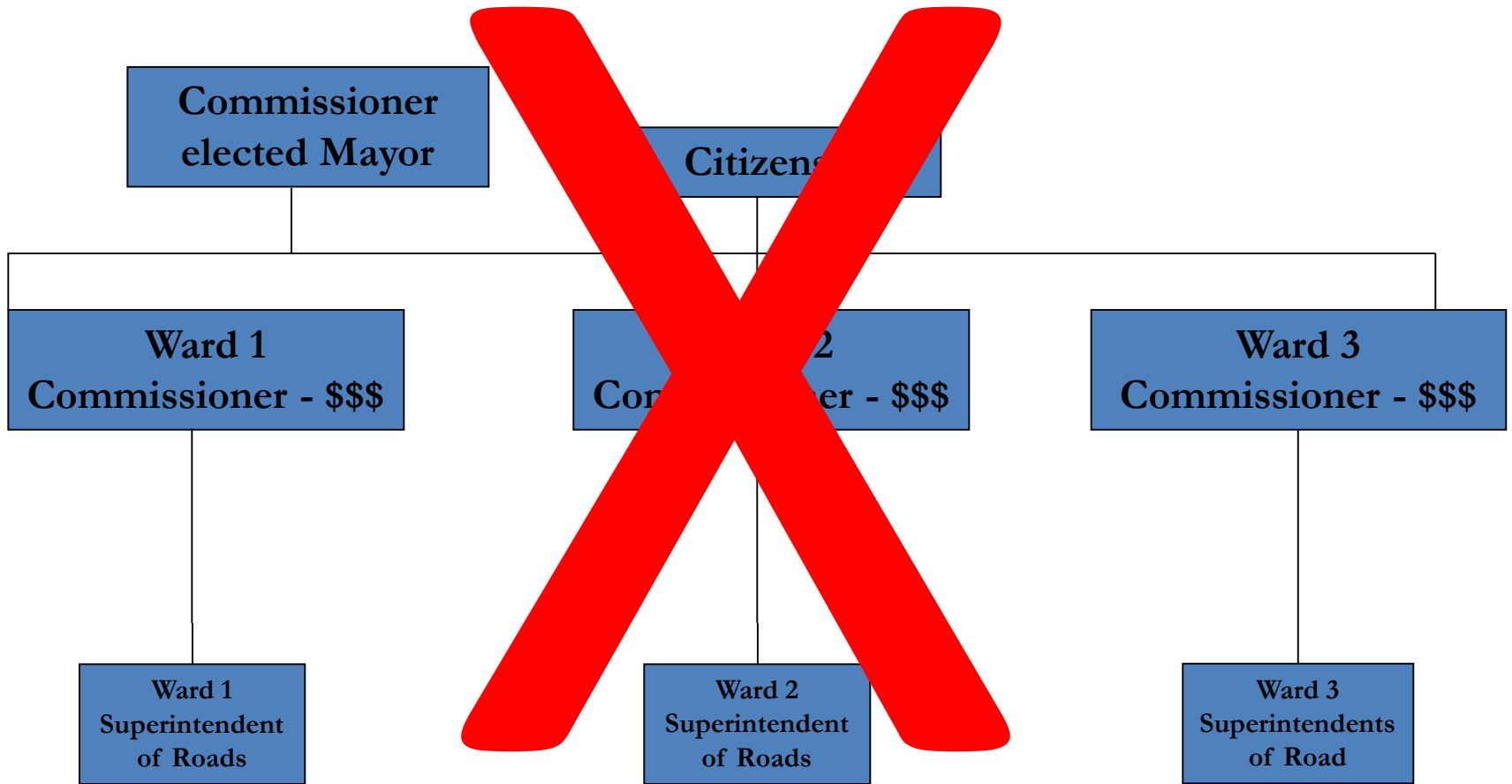
- **Administration – implementation**; specific decisions, regulations, and practices employed **to achieve policy objectives**
- **Management – includes controlling and utilizing** the human, material, and informational **resources** of the organization to the best advantage.
- Includes the elements that determine the ongoing operations of the city government: the internal organization and assignment of authority; methods for hiring, developing, and appraising staff; systems for budgeting and fiscal control; procedures for purchasing and contracting; systems for information storing and processing; and the technical details of performing tasks. **Management, therefore, controls and coordinates resources within the organization.**

The Complementary Roles of Officials
in Council-Manager Government
James H. Svara 1988



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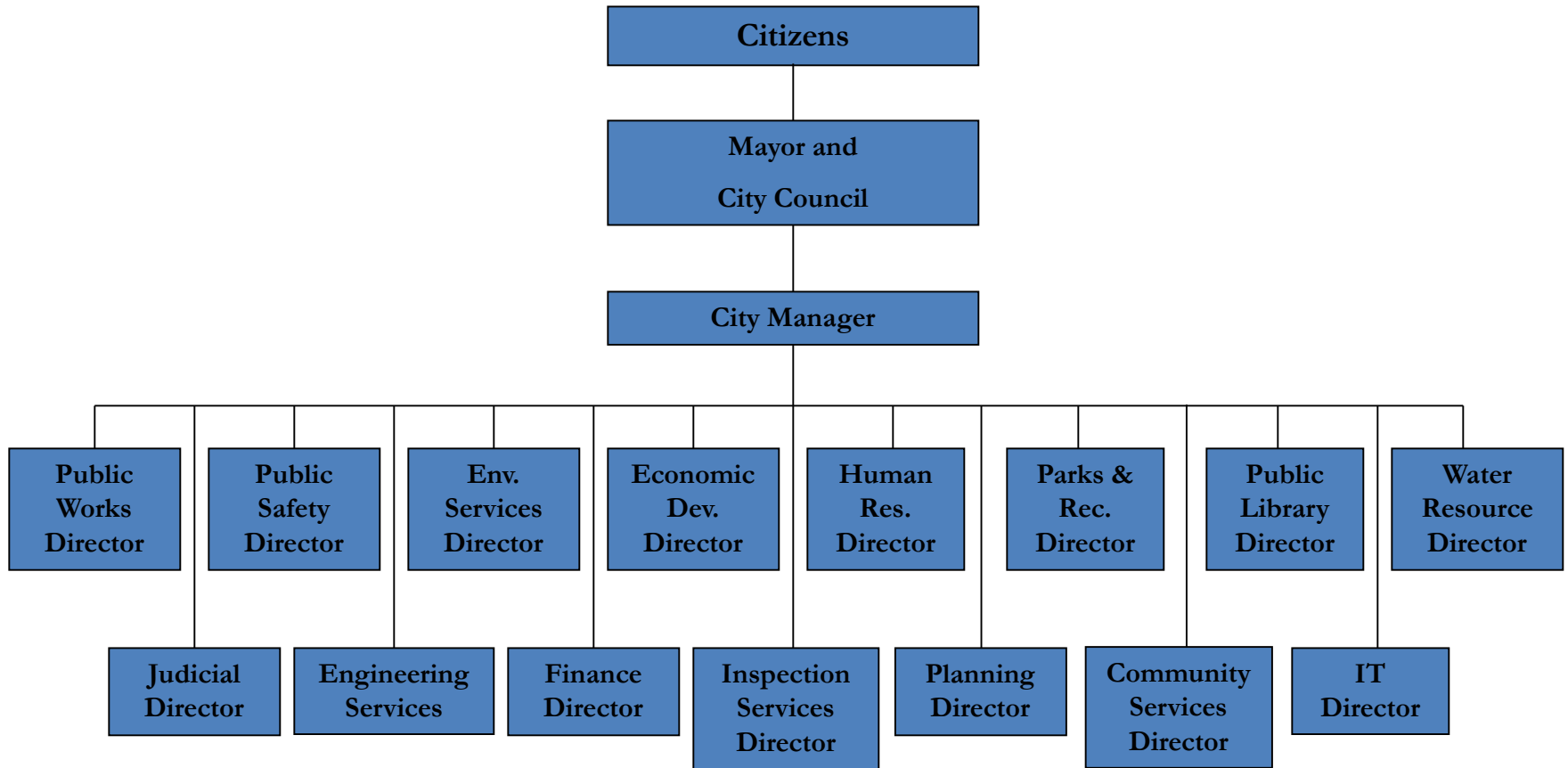
Commission Form of Government





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Council-Manager Form - Auburn





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Respect for the roles that each of us play is paramount.





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Recent questions and direction to
the City Manager by individual
Council members.



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Individual Council Members participating in Administrative Functions

- “Also, It would not be appropriate for you to attend the meeting since this should be a meeting between the developer and the staff.”
 - “If it is unethical or illegal please advise.”
 - “You are specifically prohibited from taking part in the daily operations of the municipal government.”
-
- “I’ve just finished my meeting with the [citizens]. I’m disappointed that I didn’t get a timely response from you prior to the meeting...I still need to know if ROW maint on [the Road] is on a schedule...I told them that the situation doesn’t warrant a retaining wall. Please answer my question so I can advise them. [They’ll contact Scott directly after we get them more info.”]



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Individual Council Members Demanding use of Staff and Instructing Staff to Complete Specific Tasks

- “Assuming the community agrees with the recommendations what is the path forward for implementing these changes?
 - “it is customary for the professional **staff to meet** with the neighborhood so that the residents understand what can be done and what cannot be done and for **staff to understand** the issues of the residents to better **[allow staff to] devise a solution.**”
- “**Our community meeting** with residents of the area will be on Wednesday evening at 6:00. Is it possible for **Allison Fraizer** to join us. Also, can we get 15 maps printed”
 - “Staff will not be available Wednesday evening. Maps are printed and in your box.”



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Individual Council Members Demanding use of Staff and Instructing Staff to Complete Specific Tasks Cont...

- “Please provide me a list of fire response times for the farthest residents living off of Highway 14 off of North Donahue off of Richland Road and off of Heath Road. Also please provide me a narrative explaining how areas north of our water system would be serviced particularly those on Heath Road and further east.”
 - “I would have thought this would be readily available info, not something that has taken a week (so far) to determine. Shouldn’t this be a consideration when we consider annexations? How can Public Safety determine if they can support a particular annexation request without knowing the response time?”
-
- “It appears the council has been misled...I request staff immediately prepare a resolution for council consideration since the entire council, not an individual, referred this to the PC...Once again, staff and the city manager, have found a way to prevent the council’s wishes from being fulfilled instead of finding a path to achieving them.”



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“Horse crap explanations”

- “To make sure we are staying within the laws of Alabama...the best thing for you to do is send me an email summarizing what was discussed at the meeting you had with residents. **I can then decide the best way to engage the staff with the information...**I am thinking some of our options might be to schedule a community wide meeting run by staff, or have staff contact individuals to verify their concerns/ideas or invite/schedule a meeting for citizens in that area to sit down and talk to staff maybe more individually, etc.”
 - **“This is one of the biggest horse crap explanations I’ve received...2 councilmembers want to meet w the city manager and appropriate staff...Ron, remind Jim who he works for”**



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“Ron, remind Jim who he works for”

Legal Authority

- **Ala. Code §11-43A-18/City Code §2-25:**
- **The council, by a majority vote of the whole qualified membership of the council, shall appoint a city manager**, who shall be an officer of the city, and shall have the powers to perform the duties in this chapter provided. No councilman shall receive such appointment during the term for which he shall have been elected nor within one year after expiration of his term.
- Neither the council nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the city manager, or in any manner take part in the appointment or removal of officers and employees in the administrative service to the city. Except for the purpose of inquiry, the mayor and the members of the council shall deal with the administrative service only through the city manager and **neither the mayor nor any member of the council shall give orders to any subordinates of the city manager, either publicly or privately. The mayor or any member of the council violating the provisions of this section or voting for a resolution or ordinance in violation of this section shall be guilty of a Class C misdemeanor. Upon conviction of a second violation of this section, the person so convicted shall forfeit his office.**



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Conclusion

- The council is the legislative branch. The council has authority over the finances and property of the municipality. The council authorizes contracts, establishes policies, passes ordinances, sets tax levels, determines what sorts of services the municipality will offer and has authority over all other legislative aspects of municipal government. Section 11-43-56, Code of Alabama 1975.
- Citizens and councilmembers must understand that individual councilmembers, acting alone, have no greater power or authority than any other citizen of the municipality.
- The council can only act as a body at a legally convened meeting. No official action may be taken by any individual council member. All official action must be taken by the council acting as the governing body.

Alabama League of Municipalities *“Selected Readings for the Municipal Official 2016 Edition”*

- Alabama Attorney General Opinions:
 - Individual council members cannot direct the activities of a municipal fire department, even pursuant to a properly enacted ordinance. - AGO 1988-262.
 - Individual city council members may not supervise and control municipal departments. The city council must approve expenditures of municipal funds. AGO 1991-147.
 - A town council may not delegate its authority to appoint recreational board members to individual councilmembers. AGO 1991-402.



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- In his book **Making Democracy Work: Civic Tradition in Modern Italy**, Harvard Professor Robert Putnam addressed the question of why are some governments so successful while others are incompetent, nonproductive, and disliked? After two decades of research his conclusion was that the difference lies in how citizens relate to one another and to their governments.
- Where there is trust, involvement, and cooperation, governments do well, and so do local economies. In addition, he found that these factors are self-reinforcing and cumulative as newcomers adapt and become part of the civic culture.

Quoted in the “Message From the Mayor” in Auburn 2020



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Questions



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- *Capretta v. Brunswick City Council*, 2012 WL 5193386 (Ohio 9th Dist., 2012)

§ 36-25A-1. Purpose; open meetings requirement; short title., AL ST § 36-25A-1

Code of Alabama

Title 36. Public Officers and Employees. (Refs & Annos)

Chapter 25A. Alabama Open Meetings Act. (Refs & Annos)

Ala.Code 1975 § 36-25A-1

§ 36-25A-1. Purpose; open meetings requirement; short title.

Currentness

(a) It is the policy of this state that the deliberative process of governmental bodies shall be open to the public during meetings as defined in Section 36-25A-2(6). Except for executive sessions permitted in Section 36-25A-7(a) or as otherwise expressly provided by other federal or state laws or statutes, all meetings of a governmental body shall be open to the public and no meetings of a governmental body may be held without providing notice pursuant to the requirements of Section 36-25A-3. No executive sessions are required by this chapter to be held under any circumstances. Serial meetings or electronic communications shall not be utilized to circumvent any of the provisions of this chapter.