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League fall seminars cover wide array of municipal issues
City budgets, workers’ compensation, land use and planning were all on the table during seminars this fall at League headquarters.

Mitigating disaster
Experts agree it’s only a matter of time before the New Madrid Seismic Zone produces an earthquake large enough to cause considerable damage. State and federal agencies are preparing for that day.

Municipal tort immunity secure
Recent amendments to the state’s Good Samaritan Law won’t affect cities’ tort immunity.

Retain this; destroy that
Cities and towns must take care to follow state law when retaining and destroying public records. This summary will help you decide what stays and what goes.

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- Arkansas City Management Association
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as December approaches, cities and towns across the state should be well on their way to estimating expenditures and preparing to adopt their municipal budgets for the new year.

“Everyone’s interested in their money, or lack thereof,” Paragould Mayor and League President Mike Gaskill told a full house Sept. 15 at League headquarters to tackle municipal financing issues.

September’s municipal budgeting and financing seminar was one of three educational meetings held at League headquarters in North Little Rock this fall. The League also hosted seminars covering workers’ compensation and loss control and municipal land use to help city leaders with the business of keeping cities running.

Money matters

Utilizing the local sales tax option remains cities’ greatest source of revenue, League Executive Director Don Zimmerman said, but other sources are available as well, including property taxes, franchise fees, utility service fees, fine and forfeiture collections and others.

This year’s increase in state turnback of $6.85 per capita has been a boon for cities. Zimmerman encouraged municipal leaders to communicate with their legislators how much the increased funds mean to their cities.

“Let them know what kind of improvements you’re going to make with that turnback money,” Zimmerman said. “We hope that’s a precedent they will follow in the future.”

Tom Atchley, Excise Tax Administrator with the state Department of Finance and Administration, provided seminar attendees with an overview of the new streamlined sales tax going into effect in 2008. The new system, which has been in development since 2000, aims to “even the playing field,” Atchley said. Out-of-state sellers, from whom it’s difficult for the state to collect sales tax on items and goods, have in recent years had an advantage over local business, especially as the popularity of Internet shopping has increased.

The biggest change municipalities will experience with the streamline sales tax is a shift to destination-based taxing of goods that will affect deliveries to other cities. Goods and deliveries are taxed locally now.

It’s a very complex issue, Atchley admitted, and he encouraged city officials to contact him at the DFA to discuss the new system in more detail. (The League is currently working with Atchley and the DFA to produce a more in-depth look at the streamline sales tax to appear in a future issue of City & Town.)

“Budget conservatively, perhaps based on last year,” League President Gaskill suggested, “until we see how the streamline tax plays out.”

Cities working safely

Cities and towns aren’t just streets, buildings and people. They are also workplaces, and workplaces naturally present employee safety issues. State agency representatives and League staff covered hazard prevention and claims management topics during
the workers’ compensation and loss control seminar Oct. 10.

“Accidents happen,” said Pat Burge, Director of Health and Safety at the Arkansas Workers’ Compensation Commission and self-proclaimed “safety girl” as she walked attendees through the compensation process.

Arkansas employers since 2006 have spent between $175 and $225 million per year on workers’ compensation, Burge said.

“That’s money down a rat hole.”

She urged city leaders to create safe work environments for city employees and, when accidents occur, to not abandon employees to the system. Take an active role to get them through the claims process and back to work. A safe workplace saves money on workers’ compensations costs.

“Good safety equals good business,” she said.

Many municipal employers in the state have or will be deemed hazardous employers. The Commission determines hazardous employers based on compensable claims, number of employees and incident rates. Becky White, the Commission’s Rule 32 Program Manager, discussed what cities can expect “when you receive that certified letter.”

The Rule 32 program offers free resources to help cities perform safety evaluations and inspections and develop a proper health and safety plan.

One of the program’s first steps is to consult within 30 days of the letter’s arrival with an approved professional safety source (APSS), of which the League’s Loss Control and Chief Security Specialist Preston Brailsford is one.

For a municipal health and safety program to be a success, Brailsford stressed, a city’s top management must be involved and actively support workplace safety.

Planning to grow

According to state law, Arkansas municipalities have the power to adopt and implement the “coordinated, adjusted, and harmonious development of the municipality and its environs (ACA 14-56-402).” And more cities and towns are taking advantage of the opportunity to improve their communities and encourage sustainable growth through better planning.

Planning and zoning can be “lightning rod” issues, however, warned League General Counsel Mark Hayes during the land use and municipal planning seminar, held Oct. 17.

Controversial zoning changes that don’t follow existing city ordinances can result in costly and time consuming litigation. It’s important that everyone involved in planning and zoning have a working knowledge of both the general planning powers granted cities by the state and the city’s own ordinances.

“If you’re not familiar with what’s in your ordinances,” Hayes warned, “you’ve got a problem waiting to happen.”

There’s truth in the old adage, “plan now; zone later,” he added. Have a plan and know where people fit into it.

Bryant Planning Coordinator LaVenia Jones and Fort Smith Deputy City Administrator Dean Kruithof have each been at the helm in recent years creating and implementing plans in their respective cities. They both offered similar advice to municipalities just getting started: Get some outside professional help.

“Get help. Don’t take it on internally,” Kruithof advised. A devastating 1996 tornado in Fort Smith provided the impetus to seek new directions for that city’s future growth, he said, and they’ve had great success since then.

In 2000, Bryant had a population of about 9,000 and not much to offer, Jones said. By the next census the population is expected to be 20,000. Bryant can’t afford to be just a “bedroom community” any longer, she said.

With the help of League planning consultant Jim VonTungeln, Bryant in 2005 adopted a new plan, one that promotes growth, new development and includes parks and green space. Bryant is no longer just a bedroom community, but a “small town blossoming into a prosperous community,” Jones said.

Single-use zoning has been a negative force in many communities, VonTungeln said. He encouraged cities to pursue mixed-use zoning based on contextual uses of land and buildings. Don’t be afraid of mixed-use, he said. “The world won’t crumble!”

VonTungeln also urged city leaders to develop higher design standards for new development and to hold developers to those standards. Why settle for unattractive metal buildings along a street the city spent a great deal of money upgrading, he asked? Focus on the size, shape and look of development. Developers will follow your standards.
Not if, but when

In 1812 an earthquake estimated to be at least 8.0 in magnitude rocked the then sparsely populated New Madrid Seismic Zone. Since then, smaller quakes—most too small to be felt—have rattled the region almost daily. Experts agree that while predicting earthquakes is an inexact science, it’s only a matter of time before the New Madrid produces a quake to be reckoned with. Will cities and towns be ready? The Arkansas Department of Emergency Management and the Federal Emergency Management Agency are working to prepare the state.

By Preston Brailsford, League staff

The New Madrid Seismic Zone crosses five Southern and Midwestern states and includes a large portion of Northeast Arkansas. Experts consider the chances an earthquake with a magnitude 6.0—one that can cause severe damage—or greater will strike the Zone in the near future significant. The Federal Emergency Management Agency (FEMA) has been busy working with state, local and non-governmental organizations to develop a plan before disaster strikes.

Working with the Mid-America Earthquake Center, the Central United States Earthquake Consortium, representatives from George Washington University and the Arkansas Department of Emergency Management (ADEM), FEMA has initiated an evacuation support planning project to help establish better practices to improve disaster response in the region and nationwide.

Using software designed to assess losses resulting from a New Madrid quake, FEMA created a scenario in which a 7.7 magnitude seismic event occurred along the southwestern extension of the New Madrid Seismic Zone. Here are some of the study’s findings:

• A seismic event of that magnitude would affect Arkansas, Missouri, Illinois, Louisiana, Tennessee, Mississippi, Oklahoma and Kentucky.
• Arkansas would experience the most devastation. Of 34 eastern counties affected, Mississippi, Craighead and Poinsett counties would see the most damage.
• 16,640 casualties would result.
• 12 percent of all buildings in the state would collapse.
• 54,000 buildings would receive structural damage and another 67,667 residences would be considered uninhabitable.
• The day after the event, 55 of the state’s 103 hospitals would be non-operational.
• 179,000 residences would be without potable water.
• 119,000 residences would have no electricity.
• 14 percent of the state’s bridges would sustain structural damage.
• The economic loss from building, transportation system and utility system damages would top $22.5 billion in Arkansas.

ADEM will be conducting more workshops across the state covering such issues as direction and control of communications, damage assessment, first responder duties, medical mass care, transportation and evacuation coordination, continuity of operations and government functions, infrastructure recovery, debris removal and evacuee support.

Armed with information from the workshops, ADEM will continue to enhance the state’s Emergency Operations Plan. FEMA is requiring each state in the New Madrid Seismic Zone to begin developing an earthquake emergency plan.

What can cities and towns do to help prepare? Start by contacting your ADEM county coordinator to begin preparing a plan for your community.

Preston Brailsford is League Loss Control and Chief Security Specialist.
Several city officials have called the League expressing concern about Acts 683 and 1038 of 2007, which amended the Arkansas “Good Samaritan Law,” ACA 17-95-101. Two recent attorney general opinions—2007-174 and 2007-174A—have magnified the concern.

The Good Samaritan Law provides:

(a) Any health care professional under the laws of the state of Arkansas who, in good faith, lends emergency care or assistance without compensation at the place of an emergency or accident, shall not be liable for any civil damages for acts or omissions performed in good faith as long as any act or omission resulting from the rendering of emergency assistance or services was not grossly negligent or willful misconduct.

(b) Any person who is not a health care professional who is present at an emergency or accident scene, and who:

(1) Believes that the life, health and safety of an injured person or a person who is under imminent threat of danger could be aided by reasonable and accessible emergency procedures under the circumstances existing at the scene thereof;

(2) Proceeds to lend emergency assistance or service in a manner calculated in good faith to lessen or remove the immediate threat to the life, health or safety of such a person, shall not be held liable in civil damages in any action in this state for any act or omission resulting from the rendering of emergency assistance or services unless the act or omission was not in good faith and was the result of gross negligence or willful misconduct.

(c) No health care professional who in good faith and without compensation renders voluntary emergency assistance to a participant in a school athletic event or contest at the site thereof or during transportation to a health care facility for an injury suffered in the course of the event or contest shall be liable for any civil damages as a result of any acts or omissions by that health care professional in rendering the emergency care. The immunity granted by this subsection shall not apply in the event of an act or omission constituting gross negligence.

(d) For the purposes of this section “health care professional” means a licensed physician, chiropractic physician, dentist, optometric physician, podiatric physician and any other licensed health care professional.

ACA 17-95-101

The attorney general, in opinion 2007-174A, concluded that “any first responder who qualifies as a ‘health care professional’ would consequently enjoy qualified immunity for providing emergency care, but only if he did not receive compensation either for his time or expenses, in consideration of his efforts in doing so.” Since most first responders will receive at least some compensation for expenses, this raises the question whether first responders are left without immunity from lawsuits arising from the performance of their duties.

It is the League’s opinion that immunity will still be provided by ACA 21-9-301, the general tort immunity statute for cities and towns. Although this law does not mention first responders

(see Good Samaritan, page 11)
To retain or destroy: That is the question

Paper, paper, everywhere! And now, electronic data as well! These records pile up through the years, and municipal officials often need to know the legal requirements for record retention or destruction.

By David Schoen, League staff

The Arkansas Freedom of Information Act (FOIA) provides that the public shall have access to governmental records “in any medium required by law to be kept or otherwise kept and that constitute a record of the performance or lack of performance of official functions …” [ACA 25-19-103(5)]. (There are exceptions, of course, and more information is available in the FOIA handbook, available from the League and downloadable on the League’s Web site, www.arml.org.)

In some cases, destruction of a public record could constitute a violation of Arkansas Criminal Code section 5-54-121, which forbids tampering with public records for the purpose of impairing the record’s “verity, legibility or availability.” In addition, several state statutes have specific requirements for certain types of records.

The following summary of these specific laws is provided to assist city officials in complying with state requirements. As this information is presented in summarized form, please read the statutes and, when necessary, consult with your city attorney or League counsel.

A few general observations: First, Arkansas cities now have more leeway to establish their own record retention policies than in the past, so long as state law is followed (see below). In addition, cities with employees will need to comply with federal record-keeping requirements. While those are beyond the scope of this article, we have included a Web page below containing that information.

Record retention laws for Arkansas municipalities

Destruction/retention—ACA 14-2-201 through 203

These statutes provide for destruction of paper records and reproduction in another format. In addition, section 14-2-203 was amended in 2005 to provide that:

(b) Cities of the first class, cities of the second class and incorporated towns may by ordinance declare a policy of record retention and disposal, provided that:

1. The city or town complies with any specific statute regarding municipal records; and

2. The following records are maintained permanently in either the original or electronic format as required by law:

   A. Ordinances;
   B. City council minutes;
   C. Resolutions;
   D. Annual financial audits; and
   E. Year-end financial statements.

Court records—ACA 13-4-201 through 204; 16-46-101

These statutes are similar to the above, except that any document over 50 years old may not be destroyed or its preservation is otherwise required by law.

Accounting—ACA 14-59-114

Accounting records fall into two groups: “support documents” and “permanent records.” Support documents must be kept for three years and may not be destroyed prior to an audit. They consist of cancelled checks, invoices and bank statements.

Permanent records must be kept for seven years with the same restriction regarding an audit. They consist of journals, ledgers, subsidiary ledgers, minutes and fixed asset and equipment detail records.
Good Samaritan
continued from page 9

specifically, the Arkansas Supreme Court has extended the law’s protection to city officials and employees [Matthews v. Martin, 280 Ark. 345, 658 S.W.2d 374 (1983)]. Although there is no case construing the immunity of “volunteers,” the court’s interpretation to include employees would most likely be extended to include authorized volunteers as well.

Note, however, that ACA 21-9-301 provides immunity only for negligence and not for any intentional acts that may cause harm [Battle v. Harris, 298 Ark. 241, 766 S.W.2d 431 (1989)]. Additionally, if a city has insurance to cover a first responder’s acts of negligence, then the immunity will be waived up to the limits of the policy.

Some city officials have expressed concern that because the amendments are “later in time” than ACA 21-9-301, the protections in the latter statute are no longer valid. However, the courts have held that statutes must be harmonized if they are not clearly in conflict with each other, and in this case there does not appear to be any conflict. Each statute is designed for a different purpose. The Good Samaritan Law applies broadly to persons who render aid, while ACA 21-9-301 applies specifically to cities and their employees. Nothing in ACA 17-95-101 or its amendments purports to affect the tort immunity of cities or their employees.

Police ticket books—ACA 16-10-207

Until recently, ticket books were to be kept for three years and audited before destruction. Act 627 of 2007 deleted this provision. Therefore, the general rules for records established in ACA 14-2-201 through 14-2-203 now apply as of July 31, 2007, the effective date of the Act.

Police department records—ACA 14-2-204

Records to be maintained seven years after closure of the case file or permanently in the case of records related to crimes of violence as defined by ACA 5-4-203 and complying with ACA 124-12-104 and 14-2-203(b)(1): closed municipal police case files for felony and Class A misdemeanor offenses and expungement orders of municipal police cases.

However, if maintained for more than 10 years after the date the record was created, the police records listed above may be copied and maintained under ACA 14-2-203.

Records to be maintained three years: accident, incident and offense reports; fine, bond and parking meter records; radio logs and complaint cards; employment records, payroll sheets, time cards and leave requests. They may then be copied electronically or disposed of.

Water and sewer—ACA 14-237-112

The provisions are the same as for accounting records. See above.

Historical—ACA 13-3-107

Before any records “other than ephemeral materials” are destroyed, city officials must advise the history commission in writing and give any records deemed to have historical value to the commission.

U.S. Equal Employment Opportunity Commission (EEOC) requirements for historical records

Guidelines are available on the EEOC Web site at www.eeoc.gov/employers/recordsandreports.html.

Updated June 21, 2007
In Conway, we believe we have accomplished something that has never been done before in the history of the United States, and possibly even the world. As a community, we have come together to construct quality, personalized, oak bookcases and give them along with a starter set of books to children in low-income families. This project began in June 2005 when a group of 14 citizens from a wide variety of backgrounds came together at city hall to form the Conway Bookcase Project Committee.

We were armed with the information that 61 percent of low-income families in the nation do not own any books, and the United States had slipped from being the world leader in test scores for reading, math and science to 18th out of 21 industrialized nations in these important benchmarks. We were also conscious of the fact that illegal drugs, gangs and crime had become a problem of cataclysmic proportions and that illiteracy was a major contributor. Without question, the children being reared in low-income and often single-parent homes were the ones at greatest risk. While there are many factors involved, most of the problems in our nation’s educational system can be traced back to the home. In 1955, 81 percent of parents read to or with their children at home. Today that number is around 21 percent.

Those of us who were there that day were committed to making some positive changes. With all volunteers and using no tax money or government grants, we set out to build 50 bookcases each year, conduct a book drive and read to children each week in our local Head Start Centers. We also want them to feel loved, something that is missing in many of their lives. The real focus of our bookcase project is to encourage parents to read to their children in the home environment, and we are having real success.

Each of our local Head Start Centers has a lending library of children’s books that parents can check out for home use, and this year they have experienced a 76 percent increase in parents checking out books. We will soon have 200 of these personalized bookcases being used by children in low-income homes in our community. The project costs only the wood and supplies to build the bookcases. No one profits monetarily in any way, and this is accomplished by citizens making non tax-deductible donations and by purchasing copies of my book, Learning, Earning and Giving Back. This is my way of giving back as purchasing books provides awareness and ownership in the project. Books are still around as a constant reminder, long after the money has been spent.

We’re amazed we’re able to conduct the project with all volunteers and without using one penny of tax money or government grants. We recruit volunteers from our churches, civic clubs, women’s groups and major employers, people who for the most part have never been involved in a literacy project before. This project can have a positive impact on these deserving children for decades to come. In every city and town in America we compete for each one of our children against all the negative influences they face on a daily basis. What better way of competing than offering a child hope, teaching them there is a world that is wide open to them through reading, and
Gifts to cities tax deductible

Donations, gifts and other charitable contributions made to cities and towns may be tax deductible, as long as they are for a public purpose.

By Paul Young, League staff

Periodically, the League receives questions about the tax deductibility of gifts to cities and towns. In the event someone is interested in making a contribution to support a city activity or project, you can tell him or her that the gift can be tax deductible under federal tax provisions. Section 170(c)(1) of the Internal Revenue Code provides that tax deductible gifts can be made to governmental entities if made exclusively for a public purpose.

In a recent example, an individual who was interested in providing supplemental support for the local volunteer fire department contacted the city. As long as the government activity supported by the gift does not benefit a specific individual, group or property, the contribution should be deductible. A gift to provide enhanced fire protection for the donor’s property would not be deductible. However, the gift can be subject to a condition that it be used for the support of a specific purpose, such as compensation for volunteer firemen.

In addition to supplementing funds used for activities, a donor may be interested in supporting a capital project to be acquired or constructed by a city, such as a community center. Once again, a deduction should be permissible as long as the project is exclusively used for and by the public. However, problems may exist if a project is to be leased or operated by a private entity. In such a case, the donor should seek advice from his or her tax advisor.

Charitable contributions that are deducted must be documented as required by the IRS. Beginning in 2007, a cash contribution may not be deducted—regardless of the amount—unless the donor keeps a bank record (such as a canceled check, a bank copy of a canceled check, or a bank statement containing the name of the charity, the date, and the amount) or a written communication from the qualified organization receiving the contribution. The written communication must include the name of the organization, the date of the contribution and the amount of the contribution. Cities receiving gifts should also document in this manner and should include an additional statement describing the public purpose for which the gift is to be used.

You can find more information on charitable gifts by obtaining a copy of IRS Publication 526 (available online at www.irs.gov), which also includes rules and requirements related to gifts of property rather than cash. Naturally, any person considering a gift to a city should contact his or her own tax advisor to confirm the tax treatment of the transaction and resolve any questions related to the individual circumstances.

Paul Young is League Finance Director.
WINTER CONFERENCE
Peabody Hotel
January 9-11, 2008

**REGISTRATION**

Registration and payment must be received in League office by Dec. 14, 2007, to qualify for advance registration.

<table>
<thead>
<tr>
<th>Registration Type</th>
<th>Fee</th>
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<tr>
<td>Advance registration for municipal officials</td>
<td>$100</td>
</tr>
<tr>
<td>Registration fee after Dec. 14, 2007, and on-site registration for municipal officials</td>
<td>$125</td>
</tr>
<tr>
<td>Spouse/guest registration</td>
<td>$50</td>
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<tr>
<td>Child registration</td>
<td>$50</td>
</tr>
<tr>
<td>Other registrants</td>
<td>$150</td>
</tr>
<tr>
<td><strong>WEDNESDAY NIGHT BANQUET ONLY</strong></td>
<td>$25</td>
</tr>
</tbody>
</table>

- Registration will be processed ONLY with accompanying payment in full. Make checks payable to the Arkansas Municipal League.
- Registration includes meals, activities and copies of *Handbook for Arkansas Municipal Officials, 2007-'08 edition*.
- No daily registration is available.
- Registration must come through the League office. No telephone registrations will be accepted.
- **No refunds after Dec. 14, 2007.**

**HOUSING**

To set up direct billing, contact hotel accounting offices.
- Capital Hotel—501-374-7474
- Doubletree Hotel—501-372-4371
- Wyndham Hotel—501-371-9000

<table>
<thead>
<tr>
<th>Hotel</th>
<th>Room Type</th>
<th>Rate</th>
<th>Check-in</th>
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<tr>
<td>Peabody Hotel</td>
<td>Single/Double</td>
<td>$114</td>
<td>3 p.m.</td>
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<tr>
<td>Capital Hotel</td>
<td>Single</td>
<td>$179</td>
<td>3 p.m.</td>
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<td></td>
<td>Double</td>
<td>$199</td>
<td>3 p.m.</td>
</tr>
<tr>
<td>Doubletree Hotel</td>
<td>Single/Double</td>
<td>$105</td>
<td>3 p.m.</td>
</tr>
<tr>
<td>Wyndham Hotel</td>
<td>Single/Double</td>
<td>$89</td>
<td>3 p.m.</td>
</tr>
</tbody>
</table>

- Cut-off date for hotel reservations is **Dec. 14, 2007**.
- Rooms in Little Rock are subject to an 11.5 percent tax; in North Little Rock a 14 percent tax.
- If your first choice and second choice are unavailable, the Housing Bureau will assign you to an available facility.
- Rooms will be held until 6 p.m. and then released unless guaranteed by credit card.
- Contact the Housing Bureau at 501-376-4781 (9 a.m. to 4:30 p.m. M-F) to make changes or cancellations in hotel accommodations until **Dec. 14, 2007**. Contact the hotel after that date.
- Hotel confirmation number will come directly from the hotel.
Step 1: Delegate Information
Name: ____________________________________________
Title: ____________________________________________
City of: __________________________________________
Address: __________________________________________
City: __________________________ State: __________ Zip: __________ Telephone: __________________________
Spouse/Guest will attend: □ Yes □ No
Name: ____________________________________________
Children will attend: □ Yes □ No
Name(s): _________________________________________

Step 2: Payment Information
• WHAT IS YOUR TOTAL? (see opposite page for fees)
  □ Advance Registration □ Regular Registration □ Spouse/Guest □ Child □ Other Registrants
  $100 $125 $50 $50 $150 __ __ __ __
  Total __ __ __ __

• HOW ARE YOU PAYING?
  □ Check  Mail payment and form to: Arkansas Municipal League
  2008 Winter Conference
  P.O. Box 38
  North Little Rock, AR 72115
  □ Credit Card  Complete information below and send to address above.
  Credit Card: □ Visa □ MasterCard
  Card Number: __ __ __ __ — __ __ __ __ — __ __ __ __ — __ __ __ __ Exp. Date: __ /200
  Card Holder Name (as it appears on card):
  ____________________________________________
  Billing address (as it appears on statement):
  __________________________
  City: __________________________ State: __________ Zip: __________
  E-mail address (required for credit card payment):
  ____________________________________________

Step 3: Housing Reservation Request
□ Make my hotel reservation as indicated below.
□ I do not require hotel reservations.
Arrival Date: 01 / __ / 2008  Time: 3 p.m.
Hotel Choices: First choice: ____________________________________________
Type of Accommodations: □ 1 bed □ 2 beds
List all people staying in room (include yourself): ____________________________________________
□ I prefer a SMOKING room (if available).
□ I need information for handicapped accessibility.
Departure Date: 01 / __ / 2008  Time: __________________________
Second choice: ____________________________________________

Step 4: Housing Payment
Payment Options: □ Credit Card □ Direct Bill  Note: only two payment options.
□ Direct bill my city. (The Peabody does NOT accept direct billing. Otherwise, contact hotel to set up an account.)
□ Use my credit card to obtain/guarantee my reservations.
Credit Card: □ Visa □ MasterCard □ Discover □ AMEX
Card Number: __ __ __ __ — __ __ __ __ — __ __ __ __ — __ __ __ __ Exp. Date: __ /200
Card Holder Name (as it appears on card):
________________________________________________________________________
Winter Conference Q & A

With the 2008 Winter Conference quickly approaching, City & Town dropped by League Assistant Director Ken Wasson’s office to get the lowdown on the event’s invited speakers, general session issues, breakout session topics and more.

Q Are you expecting a good crowd this year?
A Yes! The League staff is hard at work preparing for the estimated 900 to 1,000 city officials expected to be in attendance at the annual Winter Conference, Jan. 9-11, at the Peabody Hotel and Statehouse Convention Center in downtown Little Rock.

Q Who will speak at the Conference?

Q What topics will be covered during Conference sessions?
A Speakers have been invited to discuss proposed state constitutional amendments. Sessions will focus also on a broad range of topics, such as emergency management issues, trauma centers, municipal annexation issues, statewide water policy and many other topics of municipal interest. We’re working also to arrange a special session to inform city officials about opportunities for public service and current election laws. And as usual, representatives from a variety of state agencies will be on hand to inform city leaders about ways they can help meet needs in their communities.

Q What awards will be presented?
A Main Street Arkansas awards will be presented at the Conference’s opening night banquet. During the noon luncheon Thursday, Volunteer Communities of the Year will be recognized.

Q Is there still time to register?
A Of course! See pages 14-15 to register. We encourage everyone to make plans to attend this very special Winter Conference.
Approximately 90 percent of the municipalities across Arkansas that offer employees and officials medical benefits have joined the Municipal Health Benefit Fund and receive $1,000,000 major medical coverage with stop-loss, employee life, accidental death and dismemberment, dependent life, dental and vision coverages.

The Municipal Health Benefit Fund provides quality health protection for your officials and employees at a reasonable rate.

For further information, call 501-978-6100.
**Notice**

Municipal Health Benefit Fund (MHBF)
Change in Eligibility Requirements

The MHBF Board of Trustees met Wednesday, Nov. 7, 2007, at League headquarters. During the meeting, the Board voted to amend the eligibility requirements for participants in the MHBF.

The new eligibility requirements for cities and towns are:
- Less than three (3) full-time employees
- 100% participation rate of all eligible employees

For more information on joining the Municipal Health Benefit Fund, please call 501-978-6100.

---

**REGISTRATION FORM**

Name(s): ____________________________
______________________________

Agency/Department: ________________
______________________________

Office Address: _____________________
______________________________

Phone: _______________ Ext.: ______

Make checks payable to: LECC Fund

Complete form and return to:

**Mandy Warford, LECC Coordinator**
U.S. Attorney’s Office Eastern District of Arkansas
P.O. Box 1229, Little Rock, AR 72203

---

**LECC studies future crime trends**

“Future Trends in Crime: Survival skills for Law Enforcement Personnel and Managers” is a conference Dec. 6 in Jacksonville, presented by the Law Enforcement Coordinating Committee (LECC).

The one-day course examines America’s changing cultural landscape, the increased diversification of the population, the role of technology in crime and crime fighting, the changing nature of violence in America and other trends facing law enforcement officials.

Conference check-in and breakfast begin at 8 a.m., Dec. 6 at the Jacksonville Community Center, 5 Municipal Drive, Jacksonville. To register for the conference, complete and mail the registration form below. Registration is $10 and is required in advance (check or cash only). Registration deadline is Dec. 3.

For more information, call Mandy Warford, 501-340-2648.
If your municipality’s checking balances are earning less, the cash management tool can help increase your municipality’s ability to provide services to your residents.

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To learn more contact, Lori Sander at 501-374-3484, ext. 238.

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Arkansas Municipal League’s Winter Conference
January 9-11, 2008
Statehouse Convention Center
Little Rock

National League of Cities’ Congressional City Conference
March 8-12, 2008
Hilton Washington Hotel & Towers
Washington, D.C.

Arkansas Municipal League’s 74th Convention
June 18-20, 2008
Hot Springs Convention Center
Hot Springs

National League of Cities’ Congress of Cities and Exposition
November 11-15, 2008

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**Sheriffs relieved from bonds**

**Opinion:** 2007-228  
**Requestor:** Lowery, John—State Representative

Do provisions of ACA 21-2-701 et seq. relieve sheriffs and county officials from having to obtain bonds as required under ACA 14-14-1201? Q2) If so, what recovery options does a citizen possess when a sheriff fails to properly execute his legal duties? **RESPONSE:** Q1) Yes. I need not address the law firm’s suggestion that ACA 14-14-1201 might afford a private individual an avenue of monetary relief from a surety bond company that had bonded a public official. I consider this question moot because, in enacting ACA 21-2-701 et seq., the legislature unequivocally declared that participation in the Self-Insured Fidelity Bond Program would be in lieu of any otherwise applicable bonding requirements. The Self-Insured Fidelity Bond Program secures only participating governmental entities against the fraudulent and dishonest acts of their officers and employees and does not create a potential cause of action for citizen plaintiffs. Q2) ACA 16-65-202 and -118 expressly authorize an aggrieved judgment creditor to proceed against the sheriff or his surety for failure to levy an execution.

**New municipal commission raises constitutional concerns**

**Opinion:** 2007-235  
**Requestor:** Crumbly, Jack—State Senator

Is the proposed West Memphis city ordinance, created to establish a municipal Human and Civil Rights Commission to review the personal dignity standards practiced within the city’s public agencies and investigate all forms of discrimination by public agencies and employees, constitutional? **RESPONSE:** The proposed ordinance gives rise to several constitutional issues and concerns, under state and federal law. The provision making “privileged” those “opinions expressed and votes cast” by members of the Commission is likely contrary to the Arkansas Freedom of Information Act (FOIA). The ordinance may also be suspect to the extent it might be interpreted to vest in the Commission disciplinary authority that has been granted to the mayor by ACA 14-53-504(b)(1). A note of caution regarding the Commission’s grant of authority to conduct “hearings” and “proceedings,” and to “take legal action in situations deemed necessary,” is warranted, given the ordinance’s failure to articulate what these matters might entail. The prospect of procedural Due Process violations, while not fatal to the ordinance’s constitutionality, may also be a matter of concern, in light of the stigmatization that may result from a reprimand or “vote of no confidence” issued by the Commission.

**Some city openings must be advertised**

**Opinion:** 2007-229  
**Requestor:** Miller, Paul—State Senator

Can a county or municipal government legally hire employees without first offering the positions to the public in some form? **RESPONSE:** In my opinion, as a matter of state law, the answer to this question is “yes” for most positions, so long as the employment is reasonable and would not amount to an illegal exaction in derogation of ACA 16, Sec. 13. However, advertising of openings is statutorily required for certain positions such as police and firefighters in cities having a civil service commission. See ACA 14-51-301(b)(3)(A) (Supp. 2007). Furthermore, under certain circumstances, the failure to advertise a position might expose a city or county to liability under title VII of the Civil Rights Act of 1964, at 42 U.S.C. Sec. 2000e et seq, and 42 U.S.C. Secs. 1981 and 1983. See Chambers v. Wynne School District, 909 F.2d 1214 (8th Cir. 1990) (entertaining such a challenge).

**Withholding all requested info likely violates FOIA**

**Opinion:** 2007-272  
**Requestor:** Gibson, Robert J.—City Attorney

Is the decision of the custodian of records to withhold release of all complaints filed against a former Bono City police officer, all records of disciplinary actions taken against the former officer, administrative reports filed by the former officer, any internal affairs investigations conducted regarding the former officer, and documents related to the firing of the officer in response to a Freedom of Information Act request, consistent with provisions of the FOIA? **RESPONSE:** Although I have not been provided with all the relevant records, I consider the decision of the custodian to withhold all of the requested documents in all likelihood inconsistent with the FOIA for the reasons discussed in the opinion.
Municipal Property Program

Your Municipal Property Program offers broad coverage for your municipal property. The limits of coverage are $50 million per occurrence per member for damages from fire, windstorm and other incidents in excess of $5,000. Coverage is $15 million per occurrence per member for losses exceeding $100,000 on earthquakes and flooding.

The Municipal Property Program’s 2007 annual meeting adopted rates according to the following scale.

The rates are:

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For more information, call Linda Montgomery at League headquarters, 501-978-6123 or 501-374-3484, ext. 233.
New interest in an old zoning tool

An old concept in planning circles, the transfer of development rights might be just the tool cities and towns need to expand while protecting historic districts, agricultural zones and other sensitive, low-density parts of town.

By Jim vonTungeln

The concept called “transfer of development rights” (TDR) has been around forever but seems to be mentioned frequently of late in planning circles. A former planning director in our capital city introduced it more than 20 years ago but found little interest and no takers. Perhaps this time around it may receive more attention.

Before explaining TDR as a tool in the zoning code, we should first examine the so-called “bundle of rights concept” as it applies to “real property” (as opposed to “real estate,” which includes land and all things that are a natural part of it as well as all things that are attached to it by people, e.g. buildings, pavement, etc). Real property owners have a bundle of different rights, including the right to use land, lease it, sell it, give it away, rent it or mine it.

An individual property owner may own all the rights in the property or may own a portion of them. In the event that the property owner owns all the rights, the resulting title is held in “fee simple,” a common term heard at real estate closings. One of the most common (and timely of late) unbundling of rights involves separating and selling the mineral rights to a piece of real property.

Getting back to the concept of transferring development rights, this simply allows the owner to transfer the right to develop one parcel of land to another one in a different location. The two sites invariably face different development issues. TDR then allows a municipality to redirect development from a sensitive area to one that it deems more suitable for development. Most often, it protects historical sites or agricultural property.

Say, for example, a city wants to protect a historical area. Suppose a property owner wants to develop land in this area in a manner inconsistent with protection of its historic nature. The parties may agree to preserve the historical property while granting the developer the right to develop at the desired density and under the desired conditions on property located elsewhere in the city’s jurisdiction. If all works out, everyone is happy.

The property from which development rights are transferred is commonly referred to as “the sending parcel.” The property to be developed is called the “receiving parcel.” When TDR is accomplished, some form of permanent conservation easement is used to restrict the use of the sending parcel. In most cases, the development of the receiving site involves higher densities. This provides the developer the incentive to negotiate for a TDR. Thus the concept assumes that the receiving parcel is available to and suitable for the original purposes of the developer. Finding appropriate matches may prove difficult. It necessarily involves careful foresight on the part of the municipality.

Another problem to anticipate is the reaction of adjoining property owners near the receiving parcel. TDR often seeks to protect agricultural land, and since it may involve an increase in densities, municipalities must convince neighbors that the protection of agricultural areas is worth such higher densities.

This suggests another shortcoming in the case of protecting agricultural land. There must be agricultural land to save where a municipality seeks to use TDR. In our state, the areas with real agricultural land, i.e. not “hobby farms,” exist largely in parts of the state where development pressures are not the greatest.

It is worth noting, however, that TDR can be used to preserve not only historic and agricultural areas, but also open space, parkland and natural areas. The concept can also be used to direct growth from areas where development is not desired at the present time to where development is desired. In many cases, this means redirecting growth to areas where urban services and utilities already exist.

Sound complicated? It is. This tool isn’t for communities without a trained staff or for communities that haven’t carefully analyzed and planned for the relationships between land uses and densities.

Used with caution and planning, TDR can, as pointed out, help preserve sensitive portions of the planning area. It can also promote orderly development of the community. Since participation involves individual property owners and is voluntary, it should not require onerous or restrictive regulations on the part of the city.

Though you may never seek to use TDR in your city, this should provide you with a working knowledge of the concept.

Jim vonTungeln is staff planning consultant available for consultation as a service of the Arkansas Municipal League and is a member of the American Institute of Certified Planners. Persons having comments or questions may reach him at 501-372-3232. His Web site is www.planyourcity.com.
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Emotional investment high for animal control officers

A little acknowledgement and compassion can go a long way when it comes to showing appreciation for your animal control officers, whose work is far more emotionally taxing than many realize.

By Dan Bugg

We all have people in our lives we feel are special, or perhaps someone who has left a positive mark. It’s those warm fuzzy feelings about someone that helps us feel secure in who we are. Having those special memories and thoughts about those who mean so much to us establishes confidence, surety and comfort in each of us.

In our daily work life, we also meet those types of people, whether it’s someone for whom we’re providing a service or a coworker that inspires us in a special way. Some very special people work in local government. Whether it’s someone working in an entry-level position or someone who is providing a leadership role in the community, they are many, and they are spread throughout the framework of local governments.

One group of employees in particular in many of our local governments works in a very emotionally taxing line of duty: your animal control employees. The very breadth and depth of the emotional issues they face each day would have your average private-sector employees seeking long-term mental counseling.

The ability to keep your feet planted firmly, your head on straight and the uncanny ability to keep a positive attitude is quite remarkable. These are your employees, your personal link to the pulse of animal and people problems in your community.

They often are unheralded, underappreciated, misunderstood and undervalued for the services they provide. Yet they continue, working as if their lives depend upon the outcome. They understand that other lives depend on the outcome. The unborn puppies and kittens that will fill their shelter in the coming months coupled with the discouraging fact that the sad face of “disposability” will once again make its presence known as the numbers coming in outweigh the numbers going out.

It’s a story that does not go untold, but it’s a story that does not get understood.

A term exists for this poor return on an emotional investment: “compassion fatigue.” Mental health professionals consider the condition as very real and potentially disabling. It is caused by the emotional weight of what they do for a living. Animal control officers’ jobs are more engaging, demanding and challenging than most of us will ever experience in our work. The emotional highs are higher. The lows fall off the scale.

They are our “walking wounded” of sorts. Their hearts may be in conflict, yet they do not wear their emotions on their sleeves. They believe in what they do and take the approach of community awareness as their goal.

The most significant thing that we can do is to acknowledge their commitment and tell them how we appreciate their efforts and their consistency. Doing so would likely make their day. Believe me—personal acknowledgement and support can be the best medicine for employees.

Remember your employees for what they give each and every day. They provide the services and the smiles that make your community worth living in.

Dan Bugg is supervisor of Hot Springs Animal Services.
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To plan well, plan together

When embarking upon an international business venture, include your sister city in your planning to ensure results that are mutually beneficial.

By Sherman Banks

As Sister Cities moves further into the 21st Century and into its next 50 years, economic development will parallel culture and educational development. Assessing local businesses to determine your greatest assets for an export plan through your European sister city is a good way for communities to start participating in the new global market.

To ready your area for exporting, first approach your sister city and together answer the short-, medium- and long-term goals for export preparedness:

- What is to be gained from exporting?
- Is exporting in line with other company long-range strategies?
- What demands or restrictions will export have on the company’s resources—management and personnel, production capacity and fi-nance—and how will these demands be met?
- Are the potential benefits worth the risk, or would resources be better utilized for domestic business development?

After answering, compare your findings with those of your sister city to determine what impact exporting might have on your companies. Plan together with your sister city to develop an export plan with a purpose that is of mutual benefit and takes into consideration all the facts, the constraints and the goals, and provide for an action statement that takes all of the aforementioned into account. Doing so will establish a measurable way to determine the success.

Once companies are ready to act on the plan, it will be time to ask several important questions:

- Which product is to be chosen for export development?
- Will there be any modifications required to adapt to an overseas market?
- What is the basic customer profile?
- How should you market to the country, and what will be the distribution channel?
- What special marketing problems exist—competition, cultural differences, custom controls, etc.—and what strategies will be needed to deal with them?
- What or how will the export sale price be determined?
- What is the timeframe for implementation?
- What company resources are needed?
- How will you evaluate the results and modify the plan if needed?

Keep in mind that the export plan should be kept simple, just a few pages, especially since the marketing data and planning elements may not be available at planning time. As the initial plan takes shape, more information will gradually be generated. During the development stages of the plan you will learn more about your company’s competitive position and the export plan will become more detailed and complete. Keep in mind from the start that the plan should be written as a management tool and not a static document. The plan’s objectives should be compared to actual results. If a change in strategy is needed, don’t hesitate to modify the plan, taking into account new information.

With the help of your sister city you can avoid the usual pitfalls that many companies encounter. Typical problems experienced when formulating an export strategy are poor planning and being misled. A strong sister city relationship almost guarantees the formulation of an export strategy based on good information and proper assessment, increasing the chances that the best options are chosen, that the available resources are used effectively and the plan will be executed with success.

In December I will conclude this series of articles with a discussion of how to utilize your sister city in developing the most common methods of market research.

For further information about how Sister Cities can help to bridge the gap between public and government engagement, please contact: Sherman Banks at 501-376-8193, Fax: 501-372-6564 or e-mail, shanks@aristotle.net or surface mail, P.O. Box 165920, Little Rock, AR 72216.
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Arkansas Municipal League’s Volunteer Firefighters Supplemental Income Program

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Books continued from page 12

being helped by a caring, compassionate community?

We are pleased to report that the Bookcase for Every Child project is spreading to other cities and towns. Russellville held its first awards ceremony on Oct. 28. North Little Rock, with the full support of Mayor Patrick Henry Hays, has a tremendous project under way that is facilitated by Steve Nawojczyk, Director of Youth Services. Nawojczyk is a former Pulaski County coroner and a noted national authority on gang violence. Local citizens also have projects under way in Magnolia, Danville and Prescott.

For more information on how your town or city can participate, visit www.jimdavidsoncolumn.com, e-mail jimdavidson@conwaycorp.net or call 1-800-242-2618.

Jim Davidson is a nationally syndicated columnist and founder of the Bookcase for Every Child project. Davidson lives in Conway.
So much work, so little money

Street maintenance gets more expensive all the time, and funding hasn’t kept up the pace, but the issues aren’t going away and potholes still need filling.

By A.E. (Al) Johnson Jr.

It has been a long time since I wrote an article on street maintenance, possibly because I have seen so little street maintenance being performed.

The only thing I see happening on city streets is the installation of more traffic signals, which is not always a good thing.

Street maintenance is about cleaning ditches, sealing cracks, patching pot holes and fixing drainage problems. It is tough work, and somebody has to do it, but nobody wants to.

With rising fuel prices, the cost of asphalt and cement has increased significantly. The high cost of fuel has taken a big bite out of cities’ maintenance budgets.

High fuel costs have imposed an economic crunch on everyone. Recently, a U.S. congressman proposed a two- or three-cent increase in the federal gasoline tax to address some of the nation’s critical bridge needs. The idea certainly had merit, but it was quickly squelched by the administration.

After reducing the sales tax on food, there is little chance that our state legislators would consider imposing a gasoline and diesel tax on their constituents.

The outlook for highway, road and street maintenance funding looks very bleak. It would be very easy for city officials to give up and throw in the towel, but now is not the time.

It has taken hundreds of years to develop the network of streets that we now have in place. It is our responsibility to citizens and those who developed the street system in the past to maintain what we have.

This country’s infrastructure is its greatest asset. Excellent water quality, wastewater treatment and our transportation systems are what set this country apart.

The water department and wastewater utility have their own rate base that is set by the city or a commission. The street department has only the turnback funds from the state and budgeted local revenue.

There is only one way to address deferred street maintenance, and that is with additional funding. This funding may come in the form of additional road-user taxes or by a city sales tax dedicated to a specific street maintenance need, such as an overlay program.

Street maintenance needs are not going to go away, and addressing the issue is not going to get any easier. In the meantime, keep sealing the cracks, cleaning out the culverts and spraying the weeds!

Contact Al Johnson, P.E., staff engineer, at 501-374-7492. He is available to consult with member cities and towns for one on-site consultation a year as a service of your Arkansas Municipal League.
Mortgage reform bill takes aim at cities’ housing challenges

Cities being hit hard by foreclosures and predatory lending would see some relief from a bill introduced Oct. 22 by House Finance Chairman Barney Frank, according to the National League of Cities (NLC) in a media release. The bill, The Mortgage Reform and Anti-Predatory Lending Act of 2007, would increase consumer protections and prohibit predatory lending practices through a variety of new requirements.

“America’s cities need tools to reduce predatory lending practices that destabilize our neighborhoods and create a nightmare for families faced with losing their homes,” said NLC President Bart Peterson, mayor of Indianapolis. “This legislation provides communities with these tools. It will strengthen America’s housing finance system while protecting the gains in homeownership we’ve made and bring confidence back to the homebuyer by ensuring that all mortgage brokers and lenders are licensed and held accountable for their actions.”

Peterson noted that a recent NLC survey of municipal housing directors found that 52 percent identified predatory lending as a problem in their communities. A little more than half also found that foreclosures posed significant housing challenges for their communities.

“Developing an effective housing finance system is one of NLC’s top legislative priorities,” Peterson said. “This legislation appears to go a long way toward correcting some of our most difficult problems without harming the underlying ability for people to buy homes in our communities.”

The bill offers several key provisions to better protect consumers in the home buying process:

• Requires all mortgage lenders and brokers to determine at the outset if a homebuyer has a reasonable ability to repay the entire loan, or a refinance loan has a net tangible benefit to a homeowner.

• Helps regulators weed out predatory lenders by requiring all mortgage lenders and brokers to be licensed and registered at the state or federal level.

• Prohibits mortgage originators from steering consumers into mortgages with higher interest rates than they could otherwise qualify.

• Requires mortgage creditors who discover that their loans violate minimum standards, such as the ability to repay the loan, to “cure” the loan within 90 days of discovery.

For information on NLC’s housing policy or to get a copy of the new NLC report on local housing conditions, contact Sherry Conway Appel at 202-626-3003, or Laura Sweeney at 202-626-3051.
Make a memory ... plant a tree

Starting a commemorative tree planting program is a beautiful way to celebrate important events in the community and can help fund your municipality’s urban forest.

By John Slater

What is a commemorative tree planting program, and how can it help your community? The planting of a celebratory tree in honor of a life event will bring people together in a very special way. It is different from a memorial tree planting, which honors the memory of someone who has passed, though you could include it as a part of the program.

One of the first articles I wrote for City & Town was about my father’s planting a tree in our yard in 1958 in California. He celebrated the planting by taking a picture of two of my six siblings and me. That will always be a special event in my life.

I am sure many other people would like to celebrate an important event in their lives like we did. Parents and/or grandparents can celebrate the birth of their child or their grandchild, and weddings and anniversaries can be commemorated, as well as many other special events.

Many communities in Arkansas celebrate with commemorative tree plantings, but did you know this has been done since recorded time in many countries all over the world?

In the spring of this year, my wife Cathy and I made our first trip to Europe for a cruise of the Mediterranean, which was the trip of a lifetime. I would love to go into great detail about our trip, but I will save you from that. One of our stops was in Turkey, and the tour we chose allowed us to see much of the countryside. I noticed that there were trees planted in small groups with no rhyme or reason to their planting. Of course, being a tree guy, that piqued my curiosity, so I asked the tour guide about it. She replied that tree planting is an age-old custom to celebrate weddings, births and anniversaries in their country. The individual groups of celebratory trees belonged to different families.

Every city we visited had an active urban forestry program. I saw trees planted along many city streets. Where there wasn’t room for trees, people had plants on the balconies of their apartments to get their flower and green fix. In some cities, the streets were lined with lemon trees. Fruit trees can be a real problem along urban streets and are not something we recommend, but somehow it did not seem to be a problem along those streets, most likely because people sweep in front of their homes every morning.

A commemorative tree planting program will help communities and their tree boards fund their urban forestry activities. If promoted properly and managed with care, you can have a successful commemorative tree program. Remember, you are going to be the keeper of people’s memories, so it’s very important that you have a long-range plan to care for these special trees.

Here are suggestions on starting a commemorative tree program:

• Let everyone know you have a commemorative tree program. Develop a nice brochure that can be distributed at special events in your community. Put it on your city’s Web site. Place an announcement in your local newspaper. Advertise.

• Develop a list of trees that grow well in your part of the state. Make the list flexible. If one tree be-
comes too popular, you might need to drop it from the list. Work with a local nursery to see what tree species are available. Check out the state Forestry Commission’s Web site at www.forestry.state.ar.us for ideas on trees that grow well in Arkansas.

- Develop a list of locations from which people can choose the site for their commemorative tree plantings. List public places, such as parks, cemeteries, street rights of way and golf courses. Keep in mind that large trees need plenty of room to grow.
- Decide the amount of the fee to be charged for the tree planting. Consider the cost of the tree and the cost to maintain the tree for three years, including any supplies that you might need, such as water hoses, mulch, water bags (or perhaps a water tank) and herbicides. It’s easier to plant a tree than it is to maintain it. The reason trees usually die is poor maintenance. Trees need at least one inch of water each week.
- Keep good records of commemorative trees, the people who purchased the trees, the type of sponsorship and the locations of the plantings. Decide whether you want to take pictures of the people celebrating the event so they can have a keepsake.

You might want to take a picture of the commemorative tree 10 years later and send it to whomever it was dedicated. Share the pictures with the local newspaper.

- See how other communities around the state and the country administer their commemorative tree or memorial tree plantings. Contact Little Rock Urban Forester Pete Rausch, Fort Smith Urban Forester Lacy Jennings, Fayetteville Urban Forester Sarah Patterson, Wynne City Beautiful or the McCrory Tree Board to find out how they have set up their programs.
- Remember not to interfere with the aesthetics or upkeep of the trees. Don’t put plaques or signs at the base of each tree. A nice certificate can be mailed to commemorators, and a list can be added to a Web site or put on a plaque or sign.

Make a memory ... plant a tree.

John Slater is urban forestry partnership coordinator with the Arkansas Forestry Commission. Contact him at 501-984-5867, or at john.slater@arkansas.gov.
Eat smart this holiday season

Celebrating the holiday season means food and lots of it, but you can avoid the unhealthy consequences of overindulging by eating smarter and exercising.

By Reza Hakkak, Ph.D.

With the holidays approaching, it’s a good time to think about food and how we can enjoy it without unhealthy consequences. Not only will our families prepare more big meals, many of those meals will be followed by homemade cakes, pies, cookies and other desserts. And there are the parties with co-workers and friends where tasty food is so abundant that leftovers wind up at the office.

The temptations are almost nonstop.

Calorie dense foods
Imagine the food you’re likely to sample at the parties you will attend. Your favorite appetizers and other treats tantalize you. Unfortunately, nearly all of this holiday fare will be “calorie dense.” Cookies, cakes and other desserts fall into this category because they’re loaded with fat and sugar.

An average-sized cookie contains about 200 calories. Burning the calories from that one cookie would require jogging or fast walking three to four miles. And how many people eat just one cookie?

Obesity has link to diseases
With two-thirds of our adult population either overweight or obese, it’s important that we don’t let the holidays become the trigger that either puts us in this majority group or expands an already unhealthy waistline.

Being overweight is dangerous and even threatens to make this generation of children the first with a life expectancy that’s shorter than that of their parents. Being overweight is directly linked to diabetes, cardiovascular disease and even cancer.

Rethinking holiday eating habits
Consider the following simple tips that can help you maintain your weight through this season as well as year-round:

• Enjoy those calorie dense foods but in moderation.
• Try beginning meals with healthy salads and vegetables like broccoli and cauliflower, which provide nutrition and leave less room for the not-so-healthy foods.

• Don’t fall into the trap of the infamous New Year’s resolution to “go on a diet” after the holidays. This gives us permission to overindulge, and as we all know, diets and New Year’s resolutions rarely succeed.
• Exercise at least five days a week for 30 minutes a day, and 60 minutes to 90 minutes a day if you are trying to lose weight.
• Don’t let the cold or even wet weather that comes with the season hamper your exercise routine. Put on some extra layers, grab an umbrella and go for that walk.
• Park your car so that it is at least a 10-minute walk from your office.
• Limit your portion sizes at meals. Use a smaller plate, and resist the urge to get seconds.
• When cooking, look for recipes that require less fat and sugar and use olive oil and sugar substitutes if possible.
• Limit your intake of alcoholic beverages. They’re all calorie rich.

Sidewalks Needed
Arkansas is one of the least healthy states, ranking 46th in one recent survey of key health indicators. As individuals, we can make better eating and exercise choices, which would go a long way toward improving our state’s health status. But our local governments can help, too.

One of the best ways to encourage more physical activity is to provide more and better opportunities to exercise. Cities can play an integral role by requiring that more sidewalks be built in their communities. Sidewalks provide a safe place for children and adults to walk, run and bicycle—in other words, burn calories.

Reza Hakkak is Chairman and Professor, Department of Dietetics and Nutrition, College of Health Related Professions, University of Arkansas for Medical Sciences.
Fairs & Festivals


Nov. 30, **EUREKA SPRINGS**, Christmas Parade, 800-638-7352, www.eurekaspringschamber.com


Dec. 2, **SHERWOOD**, 35th Christmas Parade, 501-835-7600, shwdchamber@cityofsherwood.net


Dec. 4, **NASHVILLE**, 4th Holiday Lighting in the Park, 870-845-7405, nashpark@sbcglobal.net


Dec. 9, **ALTUS**, Christmas Parade, 479-468-4684, www.altusar.com

Dec. 15, **NEWARK**, 11th Old Fashioned Christmas Parade, 870-799-8888, carolslater@cei.net

Visit Us. www.arml.org

NOVEMBER 2007
Fund-finding help has arrived!

To help municipalities better explore state and federal funding options, the League has partnered with Legacy Consulting, a new DeQueen-based company dedicated to helping Arkansas cities and towns navigate the tricky terrain of grant acquisition.

By Chad Gallagher

Describing the day-to-day tasks of a municipal official is often difficult. The daily demands of the job can range from immediate concerns of law enforcement and city services to long-term issues like city planning, community development and visionary leadership.

The Municipal League recognizes these challenges and has partnered with The Grant Book Company and, most recently, Legacy consulting, two organizations working to assist cities and towns in need.

The Grant Book (www.thegrantbook.com), founded and compiled by former state Sen. Kevin Smith, is a unique tool provided exclusively for municipalities. This book compiles every available grant for which Arkansas municipalities are eligible to apply. The database is searchable and will help you find the grant that is right for your community.

Because of the fast-paced nature of grant writing, and with grants constantly being updated or becoming outdated, it is imperative that municipalities have a tool keeping them up-to-date on the latest available grants. The Grant Book is a unique service that is up-to-date, contains all available grants and is available at no charge.

As many of you have experienced, however, the battle for grant money does not end after the grant has been found. Writing a grant can be a difficult, often tedious process. The League recognizes grant writing’s inherent challenges and has partnered with Legacy Consulting to not only help successfully receive grant money, but to assist your municipality in its varying short- and long-term community needs.

Legacy Consulting (www.legacyincorporated.com) provides assistance with grant acquisition, community needs assessment and community development for your municipality. First, Legacy Consulting offers specialized assistance in helping to prepare the applicant for the grant-writing process. A grant application will rarely be successful if the proper preliminary steps are not taken.

After the applicant is suitably prepared to write the grant, Legacy Consulting also provides ongoing support throughout the writing process. We want to ensure that the applicant feels confident and prepared through every step of the grant process. Remember: There is a lot of funding available, and often all it takes is a well-written grant to secure these funds.

Another component of Legacy Consulting is community development. Ours is a three-step approach to community development. First, it is important to assess the needs of the community. Second, it is important to develop a community blueprint that articulates your vision and strategic plan. Third, the plan must be implemented with tangible benchmarks that help you purposefully and methodically turn your vision into reality. Legacy Consulting is prepared and excited to help you in all three stages of building a better community.

Following these three steps will help position your community to receive grant funds and will bring to life your dreams of a great city!

Each community is entitled to one on-site visit per year from Legacy Consulting. Legacy will spend a day focusing on the areas of your choosing and will draft a follow-up report with recommendations for your municipality. In addition, each city receives unlimited telephone and email assistance regarding grants, community development issues and any other questions you might have. And you can thank the League for understanding your needs and equipping you with this service at no charge.

With the limited funding available to most municipalities, successful grant writing can be vital to a community’s ability to grow and improve. These two League partnerships alleviate many of the difficulties of obtaining grants. I hope in the days to come you will visit the League Web site, www.arml.org, and utilize The Grant Book and that you will contact me about letting Legacy Consulting assist you in building a better community. Both of these services have such great potential to improve your community and ease the burdens that accompany grant writing and community development. We’re motivated to do everything in our power to help make your city great because we really believe in the League’s motto: “Great cities make a great state!”

Chad Gallagher is principal of Legacy Consulting and a former mayor of DeQueen. Contact him at 501-580-6358 or by email at Chad.Gallagher@legacyincorporated.com.
Check us out.

www.arml.org

- eNewsRoom offers online news articles from Arkansas’s municipalities’ dailies.
- City & Town is available to download in its entirety in PDF from the Publications page.
- Cities of Arkansas local government portal page gives visitors a sneak peek at the quality of life in the municipalities across Arkansas.
- Flyout menus provide easier navigation and cut down on search time.
- A search engine makes it easy to locate topics, based on specific words.
- Legislative Action Center is now home to legislative matters, including a new Legislative Bulletin.

Keep checking back ...
- eCart, order and pay for publications and mailing lists online.
Act 637 Q&A

Reporting certain alcohol or drug test results to state is a reality.

Act 637, passed during the 86th General Assembly, was created to improve commercial driver safety by requiring the reporting of certain alcohol or drug test results for an employee who holds a commercial drivers license (CDL) and by requiring an employer to obtain a report from the Commercial Driver Alcohol and Drug Testing Database maintained by the state of Arkansas.

What is the guidance used by the Commercial Driver Alcohol and Drug Testing Act?

The term used in the regulations cited in 49 C.F.R., Part 40.3 is effective Jan. 1, 2007.

To whom does it apply?

(1) An Arkansas employer who is required to comply with the drug and alcohol testing provisions under the Federal Motor Carrier Safety Regulations (FMCSA) effective Jan. 1, 2007; (2) an employee who holds a CDL and who either (a) is employed by an Arkansas employer in a safety-sensitive transportation job for which drug and alcohol tests are required under the FMCSA regulations, or (b) has submitted an application for employment with an Arkansas employer for a safety-sensitive transportation job for which drug and alcohol tests are required under the FMCSA regulations; (3) a medical review officer (MRO) who reviews laboratory test results generated by a drug that an Arkansas employer is required to conduct under the FMCSA regulations, effective Jan. 1, 2007.

Who is exempt?

This does not apply to an individual who is exempt from holding a CDL.

What about testing?

Employers must test an employee for alcohol and drugs if the provisions above apply to both the employer and employee.

How is the reporting of test results done?

(A) An Arkansas employer shall report to the Office of Driver Services within three business days the results of an alcohol screening test that is performed on an employee who holds a CDL license if (1) the alcohol screening test is performed pursuant to 49 C.F.R., parts 382.303 or 382.305, as in effect on Jan. 1, 2007, and (2) one of the following occur regarding the alcohol screening test: (a) a valid positive result, or (b) the refusal to provide a specimen for an alcohol screening test.

(B) An MRO shall report within three business days to the Office of Driver Services any of the following occurrences regarding a drug test result of an employee who holds a CDL: (1) a valid positive result on a drug test for any of the following drugs: marijuana metabolites, cocaine metabolites, amphetamines, opiate metabolites or phencyclidine (PCP); (2) the refusal to provide a specimen for a drug test; (3) the submission of an adulterated specimen, a dilute positive specimen or a substituted specimen on a drug test performed.

Who maintains the information and what about confidentiality?

(A) The Office of Driver Services shall maintain the information provided under this section in a database called the Commercial Driver Alcohol and Drug Testing Database for at least three years.

(B) Unless there are other provisions of law to the contrary, personally identifying information of em-
employees in the database is confidential and shall be released by the office only as allowed. (C) The use of one report generated from the database to establish noncompliance for the imposition of a penalty shall not subject the contents of the entire database to disclosure.

When does an employer use the database?

(A) An employer shall submit a request for information from the Database for each employee who is subject to drug and alcohol testing under this provision. (B) The employer shall submit the request for information to the Office of Driver Services with an authorization that is signed by the employee. (C) The fee for the request for information is a nominal fee not to exceed $1 per employee per request. (D) The Office of Driver Services shall determine the amount of the fee. (E) The Office of Driver Services shall set the fee prior to implementation by rule. (F) The fee shall be assessed to and paid by the employer requesting information. (G) The employer shall maintain a record of the report from the Database that results from the request for information submitted under this section for at least three years.

How does an employee use the database?

(A) An employee who holds a CDL may submit a request for information from the Database for his or her report. (B) The employer shall submit a request for information with a signed authorization to the Office of Driver Services. (C) The fee for the request is $1 per request. (D) The fee shall be submitted with the signed authorization.

Are there penalties involved?

Yes. (A) If an employer knowingly fails to check the Database as required under Act 637, the penalty is $1,000 and shall be assessed beginning July 1, 2008. (B) If an employer knowingly hires an employee with a record of a positive alcohol or drug test in the Database the penalty is $5,000. (C) The penalty does not apply to an employee who has completed a treatment program or an education program prescribed by a substance abuse professional and who has been found eligible to return to duty by the employer as provided in 49 C.F.R., parts 40.281-40.313, as of Jan. 1, 2007. The penalty for an employer who fails to report an occurrence regarding an alcohol screening test as required is $500. The penalty for an MRO that fails to report an occurrence regarding a drug test result as required is $500. If the MRO is out of state, the penalty under this section shall be extended to the employer that contracted with the MRO. The penalties under this section shall not apply to the state of Arkansas, an agency of the state, or a political subdivision of the state. Money collected under this section shall be special revenues and be deposited into the State Treasury to the credit of the State Highway and Transportation Department Fund.

Who is governing this Act?

The Office of Driver Services of the Revenue Division of the Department of Finance and Administration shall pursue grants from the U.S. Department of Transportation or other entity to assist with the cost of this program. The Office of Driver Services may (1) adopt rules to administer this program; (2) receive and expand any monies arising from grants, contributions or reimbursements from the U.S. Department of Transportation or other entity form performing its duties under this subchapter; and (3) contract with a third party to administer the Database.

Is there any immunity from civil liability?

The state or any entity required to perform duties under this subchapter shall be immune from civil liability for performing the duties required under this subchapter. Except for the penalty levied under this Act, this Act shall apply to alcohol and drug testing beginning on Jan. 1, 2008.

arkansas municipal league
Codification Service

Having your city ordinances codified to a single book is like carrying a miniature city hall with you!

Contact Cathy Moran at 501-374-3484, ext. 214
## Changes to the 2007 MHBF Directory, as of November 1, 2007

Also visit League Programs on League Web site, www.arml.org, for these changes and providers.
Local Option Sales and Use Tax in Arkansas

Sales and Use Tax Year-to-Date 2007 with 2006 Comparison (shaded)

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2007 Elections

CONWAY COUNTY, March 13. Defeated. 0.25% for 5 years
For: 770   Against: 1,058

HOWARD COUNTY, March 13. Passed. 1¢ for hospital
For: 866   Against: 804

CRAWFORD COUNTY, May 8. Renewed. 1¢ for 7 years
For: 3,592   Against: 884

FARMINGTON, May 8. Renewed. 1¢ for 7 years
For: 232   Against: 17

HELENA-WEST HELENA, May 8. Passed. 2% for 7 years
For: 1,692   Against: 1,415

MAGNOLIA, May 8. Passed. 1.125% for hospital
For: 1,089   Against: 518

McGHEE, May 8. Passed. 1¢ for jail
For: 417   Against: 249

CLARK COUNTY, June 12. Passed. 0.5% for 7 years
For: 1,755   Against: 904

CONWAY, June 12. Passed. 1% of existing 2% extended
For: 1,340   Against: 591

CRAWFORD COUNTY, June 12. Passed. 1% for 3 months
For: 2,332   Against: 1207

POC-HOMAS, June 12. Passed. 1¢ for hospital
For: 1,010   Against: 34

BENTONVILLE, Aug. 14. Passed. 1¢ for 25 years
For: 521   Against: 147

SEARCY, Sept. 11. Defeated. 1% temporary
For: 607   Against: 1,112

Source: Debbie Rogers, Office of State Treasurer
See also: www.arkansas/dfa
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NOVEMBER 2007
FREE space is provided to Arkansas municipalities with job opportunities or products to buy and sell. Ads will run for two consecutive months unless the sponsor notifies City & Town to extend or discontinue an ad. FAX: 501-374-0541; E-mail: citytown@arml.org.

ELECTRICAL ENGINEER—Benton Utilities is accepting applications for Electrical Engineer. This position involves shared responsibility for the successful management and operation of the city-owned electric utility. Responsibilities include, but are not limited to, design, operation and maintenance of electrical facilities, construction coordination and customer service. Preferred qualifications include: experience in the power utility industry or related business, SCADA knowledge, management experience and a bachelor’s degree in engineering. This position is responsible for an annual budget and management of a 22-25 member department. The successful candidate will be a key member of the management team and will assist in planning for future electric services and negotiating effective solutions. Salary DOE, up to $70,000. An application, complete job description and benefit summary can be printed from the City of Benton Web site at www.benton.ar.gov. Application with cover letter should be mailed to the Human Resources Department, P.O. Box 607. Benton, AR 72018-5007. Position is open until filled. EOE.

GENERAL MANAGER—Fairfield Bay is seeking a General Manager for the Fairfield Bay Community Club. Fairfield Bay is a resort/retirement area with fishing, boating, golfing and tennis amenities located at Little Rock. The Community Club is a nonprofit corporation managed by a board of directors. The General Manager will be hired by and report to the board of directors. The General Manager’s position has an anticipated salary of $70,000-$85,000 plus an excellent health benefit package. A master’s degree is preferred. The Board will expect at least 3 years’ experience as a Community/Club Administrator/Manager or Assistant in a community of similar complexity. Applicants must have strong financial management and budgeting skills. The General Manager will be responsible for interacting positively and successfully with the board of directors, Club membership, City government and Board members as well as Club managers and staff. The General Manager will be required to reside within Fairfield Bay. Apply in confidence to: Fairfield Bay Community Club, Inc., Attn: Carol Messer, Director of Human Resources, P.O. Box 1370, Fairfield Bay, AR 72068. E-mail: carol.messer@fairfieldbay.com.

POLICE CHIEF—Burlington is seeking a Police Chief. Performs a variety of complex administrative, supervisory and professional work in planning, coordinating and directing the activities of the police department. Plans, coordinates, supervises and evaluates police department operations. Develops policies and procedures for the department in order to implement directives. Plans and implements a law enforcement program for the city; reviews department performance and effectiveness. Coordinates the information gathered and work accomplished by various officers; assigns officers. Evaluates evidence, witnesses and suspects in criminal cases. Supervises and coordinates the preparation and presentation of an annual budget for the department. Directs the development and maintenance of systems, records and legal documents. Trains and develops department personnel. Handles grievances, maintains department discipline. Prepares and submits required reports. Attends required meetings and conferences. Ensures enforcement of laws and ordinances. Desired qualifications: Graduation from a college or university with a bachelor’s degree in police science, law enforcement, criminal justice, public administration or a closely related field; or an equivalent combination of education and experience. Seven years of experience in police work, 3 yrs. of which must have been equivalent to police work, 3 yrs. of which must have been equivalent to police officer or higher. Completion of the basic law enforcement training academy or equivalent. Salary commensurate with education, skill ability and experience. Application by sending resume to: Burlington Police Department, P.O. Box 3039, Burlington, AR 72223, or pick up application at the City of Burlington Administration Office, Mon.-Fri., 8:00 a.m.-5:00 p.m. Army veteran of the US Armed Forces, on or before 12/31/09.

POLICE OFFICER—Marianna Police Department is accepting applications for a full-time police officer. Certification is required. Must be willing to relocate or live in area. Insurance, LOLPI retirement and 3 weeks’ paid vacation. Application available at the Marianna Police Department, or mail resume to Chief Kevin Evans, Marianna Police Department, 16 Court St., Marianna, AR 72360.

POLICE OFFICER—Caddo Valley in Clark County seeks applicants for a FT certified police officer. Benefits include paid holiday, health, dental, eye insurance, retirement, 3 weeks’ paid vacation and LOLPI. Send resume and copies of certifications to Caddo Valley Police Department, 137 Malvern Rd., Arkadelphia, AR 71923.

POLICE OFFICER—Pangburn is accepting applications for a full-time police officer. Certification required. Must be willing to relocate or live in area. Insurance, LOLPI retirement and 3 weeks’ paid vacation. Applications available at Pangburn City Hall or mail Form F-3 and/or resume to Pangburn Police Department, P.O. Box 577, Pangburn, AR 72221.

PUBLIC WORKS DIRECTOR—Owasso, one of Oklahoma’s fastest growing communities, is seeking resumes for Public Works Director; position is responsible for planning, organizing, directing and coordinating the activities of the Public Works Department. Requirements: bachelor’s degree from an accredited college or university, master of science degree in Civil Engineering or related field preferred; P.E. certification and LOLPI retirement; 5 yrs. experience in a broad range of municipal services including engineering/architectural design and construction, traffic system operations, water/wastewater and/or street maintenance; Okla. Class “A” license as Wastewater Operator and Okla. Class “A” license Water or Operator and ability to obtain; other concerns of experience and education that meet the minimum requirements may be substituted. If you want a to be a part of an organization that promotes character and is dedicated to improving the lives’ of its citizens through a innovative public works concepts, log on to www.cityofowasso.com for more information. Position is open until filled.

STREET DEPARTMENT DIRECTOR—Pine Bluff is currently seeking applicants for the position of the Street Department Director. The Street Department Director oversees and reviews the preparation of plans and specifications for public works projects, assists in projecting a broad plan of public works improvements and administers and coordinates all city capital improvement projects with all other city departments, utilities and outside contracts. The Street Department Director gives technical engineering and architectural advice to heads of various city departments as directed by the City Administrator and City Engineer, and coordinators the investigation, development, design and construction of a variety of engineering projects and supervises the operation and maintenance of all street department equipment and stock of material used in the operation of the department. A bachelor’s degree in Civil Engineering from an accredited college and/or 5 yrs. of increasingly responsible experience in engineering work, 2 yrs. of which must have been in a manager/supervisory capacity is preferred. All applicants must have knowledge of the federal flood plain management program and the federal, state and local regulations. Applications will be accepted in person or by mail at the City of Pine Bluff, HR Department, 200 E. 8th Ave., Room 104, Pine Bluff, AR 71611. Resumes may be faxed to 870-850-2449 or e-mailed to vickiec@cityofpinebluff.com. Applications may be downloaded at www.cityofpinebluff.com. Closing date: Until filled.

FOR SALE—Crafo Crank Sealer, Super Shot 125 Diesel Melter, Engine Isuzu Twin Cylinder, Model 3LB1-25.4 BHP RPM, a 1989 with 127 Hours, like new. Contact Mayflower City Hall at 501-470-1337.

FOR SALE—Ozark has for sale a 1972 Howe pump. 1972 Ford F-750 361-cubic-inch engine, 5-speed manual transmission, Holly carburetor. 500-gallon tank will not hold water. A Waterous 750-gpm pump with annual certifications. Tires are almost new. Both 1 yr. old. $9,000. Call 479-467-2062 or e-mail ozarkfd@centurytel.net with questions about the trucks. Send correspondence or bids to City of Ozark, City Clerk Carol Swath, P.O. Box 253, Ozark AR 72949.

FOR SALE—Redfield is taking sealed bids on a 2001 Chevrolet Impala, V6, with 117,000 miles. Minimum bid price is $1,000. Available for inspection at the Redfield Police Dept. Sealed bids are to be sent to City of Redfield, P.O. Box 61, Redfield, AR 71253 by 4:00 p.m. July 20th, 2015.

FOR SALE—Two waste water pump stations. Each station contains two pumps with alternating action. These surface type pump set-up pumped waste water from below surface tanks. Approx. 12 feet were replaced with a higher capacity pumps. Asking $3000. Contact John Kraft at 870-685-2894 for additional information.

FOR SALE—West Memphis has for sale 8 police cars, 1997 through 2003. For police dept., these units may be purchased complete with lights, radio and all emergency equipment. Your choice, $4,500. Contact Rex Suggs at 870-732-7380.

MUNICIPAL MART

CITY ADMINISTRATOR—Willard, Missouri (4,500 est. population). A growing community located north-west of the city of Springfield in the beautiful Ozarks. The City of Willard has a position open for City Administrator. Mayor and six-member Board of Aldermen. $4.53 million budget. Position is appointed and supervised by the Mayor. City is seeking candidates with successful background of service as a city administrator, assistant city administrator or in similar public sector executive level position. The ideal candidate will hold at least a bachelor’s degree in public or business administration. Residency desired, but not required. The City of Willard is looking for a strong leader with excellent communci- cation skills and must be able to work with a wide variety of people. Salary—open and commensurate with background and experience. Full benefit package. To receive an application and job description, please e-mail your request to Karen Robson, cityclerk@willard.org. The City of Willard is an equal opportunity employer and considers applicants for all positions without regard to race, religion, sex, national origin, age, marital or veteran status, the presence of a handicap, or any other legally protected status.
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LEFT TO RIGHT: Bobbie Nichols, Carey Smith, Dennis Hunt, Kevin Faught, Mark McBryde - Executive Vice President and Manager, Chris Angulo, James Rouse, and Jack Truemper