

September 30, 2020

FRAME/WORK

Creating a dynamic guide for Tuscaloosa



Welcome

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Staff

Ashley Crites, AICP, Director of Planning

Will Smith, Associate Director of Planning

Jimbo Woodson, Deputy City Attorney

Grant Wilson, Associate City Attorney

Planning Commission Members

Bill Wright, Chair

Tim Harrison, Vice-Chair

Alvin Brewer

Vince Dooley

Anne Hornsby

Phillip Maxwell

Councilwoman Phyllis Odom

Dena Prince

Steven Rumsey



Planning Commission Role

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State of Alabama Code

11-52-2 (Creation of Planning Commissions):

- Authorizes cities to **create municipal plans** and **create a planning commission**

11-52-6 (Powers and Duties):

- Promote municipal **planning**
- Promote **public interest in and understanding of** the master plan
- Recommend programs for public structures and improvements along with financing

State of Alabama Code

11-52-8 (Adoption of Master Plan):

- “It shall be the function and duty of the commission to **make and adopt a master plan** for the physical development of the municipality, including any areas outside of its boundaries which... bear relation to the planning of such municipality.”

State of Alabama Code

11-52-9 (Conduct of surveys):

- “The plan shall be made with the general purpose of guiding and accomplishing a **coordinated, adjusted, and harmonious development** of the municipality and its environs which will, in accordance with present and future needs, **best promote health, safety, morals, order, convenience, prosperity, and general welfare** as well as **efficiency and economy** in the process of development...”

State of Alabama Code

11-52-10 (Procedure for Adoption):

- “The adoption of the plan or any such part or amendment or extension or addition shall be by resolution of the commission carried out by the affirmative votes of not less than six members of the commission...”

What is a comprehensive plan?

A **citywide policy guide** that expresses the **values** and **aspirations** of a community. It sets forth a long-range vision and actions for development, housing, environment, economic development, transportation, and related topics. The comprehensive plan acts as a **guidebook for decision-makers** and is not a legally binding document.



More specifically...

1. **Contains policies, projects, and programs** to address community aspirations and opportunities
2. **Implemented over time** through capital improvements, development approvals, city budgets, departmental work programs, economic incentives, private development decisions, etc. (10-20 year horizon)
3. **Foundation of the City's regulations** (zoning and other ordinances) but the plan is not legally binding
4. **Marketing tool** that articulates community's vision and how the private sector can support that vision



Meeting Expectations

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Meeting Expectations

- **Steering Committee:**
 - *Will **note role in process** (state that they were a Steering Committee member at the podium/on record) if providing public comment*

Meeting Expectations

- **Planning and Zoning Commission Members:**
 - Should *re-read and refresh* on the Framework document in advance of the meetings
 - Should *rely* on the *three* Planning and Zoning Commission *Steering Committee members* to guide the process
 - Should *refrain from arguing* with public commenters
 - Should *listen*, ask questions only if you do not understand and need *further clarification*, be *respectful*, and desire an expedited proceeding

Meeting Expectations

- **All:**
 - *Meetings will begin at 5pm and end at 7pm*
 - If a topic is not finished, it will roll into the next scheduled meeting.
 - *A two-minute timer will be used and visible to all parties (PZC, staff, public)*
 - Only the PZC members can grant a specified time extension
 - *Staff will manage the flow of the meeting for efficiency*
 - *Staff will provide an overview of the Future Land Use Map and Future Land Use Character Types*
 - October 7, 2020 virtual meeting

Framework Refresher

Why Framework?

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What is Framework?

Framework is a process to define a **long-term vision for Tuscaloosa**. It will set the **direction** for the City's **growth** and development.

The process will create a comprehensive plan and update the City's zoning and land development regulations.

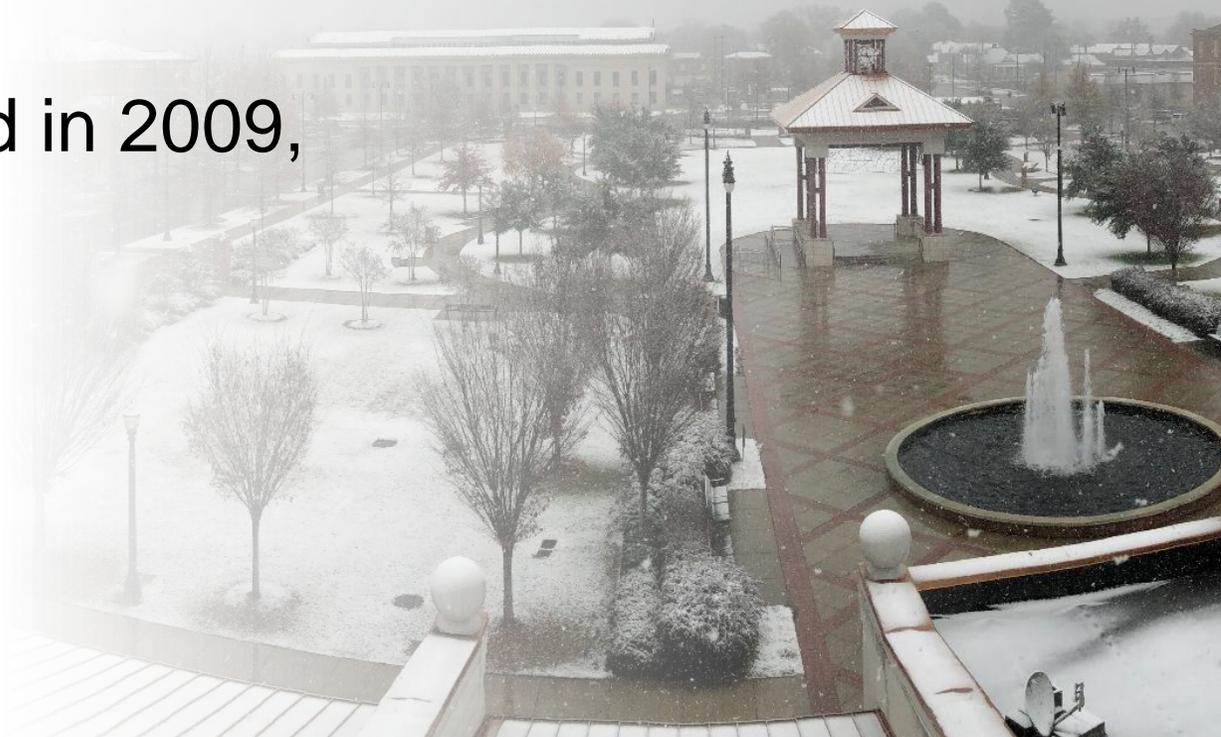


Why is the City doing a plan update?

Planning represents good stewardship, and there has never been a better time to consider recent events and trends to develop well-supported policies.

Since the previous plan was drafted in 2009, the community has experienced:

- A global recession,
- Significant population growth,
- The 2011 tornado, and
- 2020 COVID-19 Pandemic

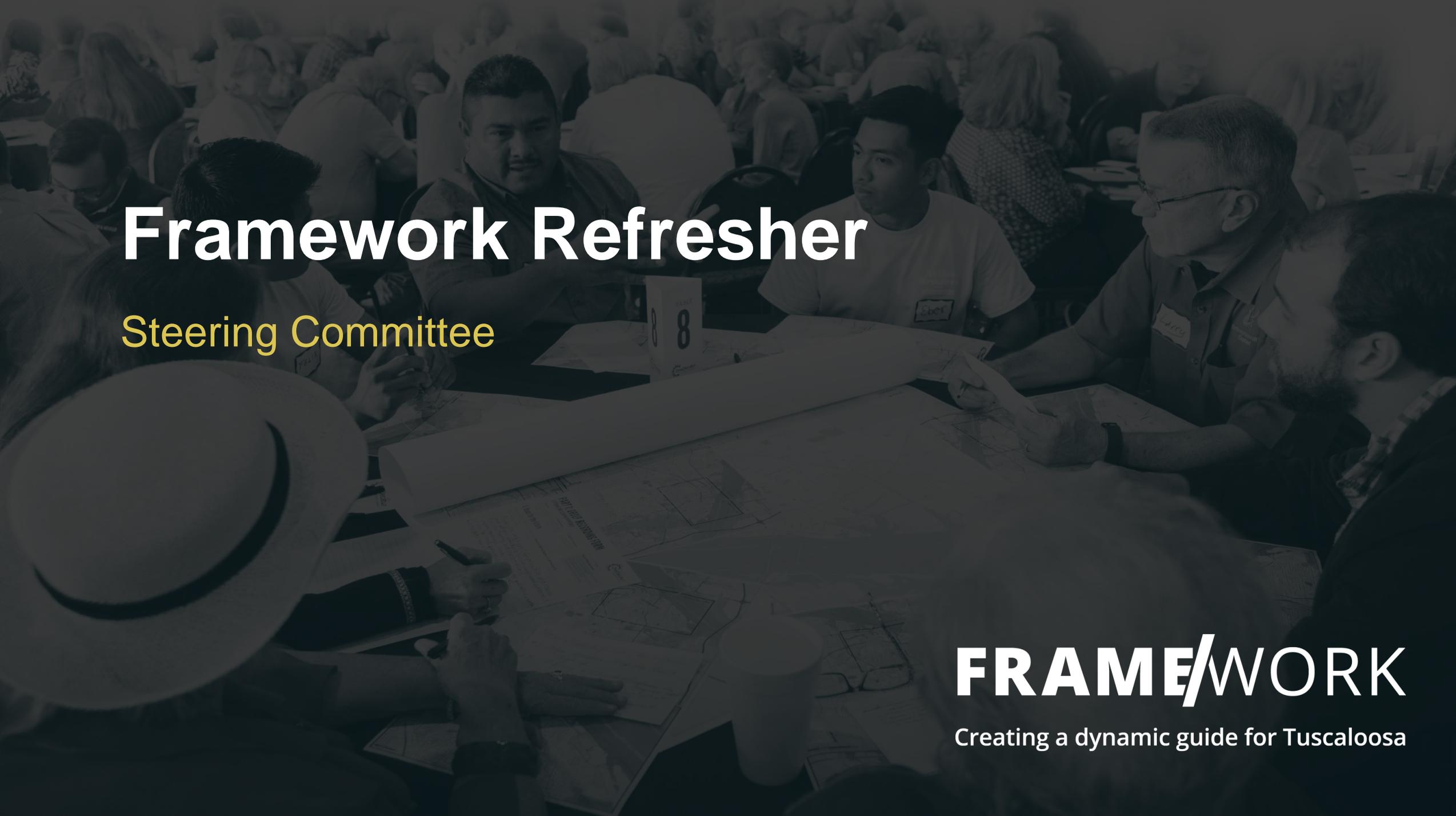


This effort is unique for Tuscaloosa

Framework will be the City's first "comprehensive plan" since 1972.

It will update, integrate, and reconcile many past plans:

- 2007 strategic plan that contained a citywide vision statements and actions covering a range of topics (citywide)
- 2009 Future Land Use plan (citywide)
- Various topical and geographic-focused plans in recent years that vary in level of detail and community support



Framework Refresher

Steering Committee

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Who's involved in the process

Steering Committee

process and substance

Stakeholders

targeted input

Public

general input
and feedback

Staff

project management, local
knowledge

Elected officials

monitor, adopt

Consultants

facilitate, technical expertise

Steering Committee Members

Attendance Record (13 total meetings)

Council District 1	John Rainey	23%
Council District 1	LaShonda Lockett	67%
Council District 2	Paul Rollins, Jr.	23%
Council District 2	Willie Gordon	67%
Council District 3	Tom Chambers	69%
Council District 3	Cindy Stephenson	85%
Council District 4	Craig Williams	77%
Council District 4	Clint Mountain	100%
Council District 5	Michele Coley	100%
Council District 5	Jay Welborn	31%
Council District 6	Daphne Curtis	69%
Council District 6	Wade Feltman	38%
Council District 7	Susie Smith	100%
Council District 7	Stephon Lewis	43%

University of Alabama	Tim Leopard	69%
Tuscaloosa Association of Realtors	Gerald Ross	85%
Chamber of Commerce of West AL	Blake Madison	92%
Homebuilders Assoc of Tuscaloosa	William Blakeney	85%
Stillman College	Lamin Drammeh	46%
Black Warrior Riverkeeper	Nelson Brooke	77%
Tuscaloosa Neighbors Together	Serena Fortenberry	100%
Planning Commission	Robert Reynolds	92%
Planning Commission	Tim Harrison	69%
Planning Commission	Steven Rumsey	69%
Planning Commission	Bill Wright	69%
Mayor appointment	Nicole Prewitt	100%
Mayor appointment	Lydia Avant	62%
Mayor appointment	Erica Grant	73%
Mayor appointment	Chris Hall	75%
Mayor appointment	Brock Corder	100%

Subcommittees

Lakes

1. Private property: Lakefront development, water quality, infrastructure
2. City property (on acquisition line): Docks, piers, boat houses, etc.
3. Recreation: tourism, activities, nuisances

Housing

1. Examine the results of the Housing Study
2. General topics: Design, density, and infrastructure
3. Two broad categories:
 - *Workforce and Affordability*
 - *Student Rentals*

Subcommittee Members

Attendance Record

Housing (5 meetings)

Council District 2	Paul Rollins, Jr.	0%
Council District 4	Lee Busby	40%
Council District 5	Michele Coley	100%
Council District 6	Daphne Curtis	80%
Council District 6	Wade Feltman	0%
Council District 7	Susie Smith	100%
University of Alabama	Tim Leopard	100%
Tuscaloosa Association of Realtors	Gerald Ross	100%
Chamber of Commerce of West AL	Blake Madison	100%
Homebuilders Assoc of Tuscaloosa	William Blakeney	40%
Tuscaloosa Neighbors Together	Serena Fortenberry	80%
Planning Commission	Steven Rumsey	60%
Planning Commission	Bill Wright	80%
Mayor appointment	Nicole Prewitt	80%
Mayor appointment	Erica Grant	60%
Mayor appointment	Chris Hall	100%
Mayor appointment	Brock Corder	100%

Lakes (4 meetings)

Council District 1	John Rainey	0%
Council District 3	Tom Chambers	0%
Council District 3	Cindy Stephenson	100%
Council District 4	Craig Williams	75%
Council District 6	Wade Feltman	100%
Homebuilders Assoc of Tuscaloosa	William Blakeney	50%
Black Warrior Riverkeeper	Nelson Brooke	100%
Planning Commission	Robert Reynolds	75%
Planning Commission	Tim Harrison	50%
Planning Commission	Steven Rumsey	75%
Mayor appointment	Brock Corder	75%

Steering Committee

Job description

- Officially **represent the community** in the process
- Provide guidance and direction at **crucial steps**
- Act as **spokespersons**
- Volunteer to **facilitate** at public meetings
- **Disseminate information** during the planning process through individual networks
- **Support the process** and its events in various other ways



A group of people are gathered around a table in a meeting room, looking at documents and talking. The scene is dimly lit, with a dark overlay. The people are wearing name tags and some are holding pens. There are papers and a small sign with the number '8' on the table. The overall atmosphere is professional and collaborative.

Ethics Refresher

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Ethical Conduct

- **As it pertains to public service, “Ethical Conduct” can be defined as:**
 - *Promoting both **the reality of integrity** in government and the **perception of integrity** in government by adhering to certain **principles of conduct***
 - *Adherence to these principles of conduct (i.e., the Alabama Ethics Law), will help you avoid **actual impropriety**, as well as the **appearance of impropriety**, as you conduct the public’s business.*

Ethical Conduct

- **A public servant's highest responsibility:**
 - *Always conduct your official business with **openness, transparency, and honesty**, so there is no question whether or not your decisions or actions are grounded in lawful, ethical principles..*

Ethical Conduct

- **How do you know if your actions are ethical?**
 - *One of your best allies is your “gut” or intuition.*
 - *Ethics Law is very intuitive: **If it walks like a duck and talks like a duck, it probably is.***
 - *Always err on the side of caution; if you think you might be crossing a line into unethical conduct, you probably are.*
- **Thankfully, law provides guidance in case intuition is not always correct.**

Alabama Ethics Law

- **As a Public Official:**
 - *Your conduct is governed by the **Alabama Ethics Law** (Chapter 25 of Title 36 of the Alabama State Code).*
 - *All public officials should take time to **read and learn** this code section.*

Alabama Ethics Law

- **Why:**
 - *Not the responsibility of the Office of the City Attorney.*
 - *Consequences of violating the law could be **severe***
 - *Adherence to the law is **individual responsibility**; lawyers are there for guidance, but **following the law is up to the individual***
 - *Above all, you are **public servants**, charged with adhering to a high standard of public service that places the public trust and well-being along with the lawful use and expenditure of public funds as first and highest priority.*

Public Servants

The rules are different:

- **Private Citizen:**

- *Generally can engage in any behavior or conduct not otherwise prohibited by law.*
- Bedrock constitutional principle: As private citizens we have certain inalienable fundamental rights

- **Public Servant:**

- *In official capacity as Public Official, no power other than power granted by state.*
- Alabama is a **Dillon Rule state**
- Dillon Rule is theory of state preeminence (authority) over local government.

Public Servants

- **Why Dillon Rule Matters:**
 - *Consequences of acting outside authority:*
 - Actions of Commission could be **invalidated**
 - Anyone relying on actions could **sue for damages** (the **scary part**: you could theoretically be sued **in your individual capacity**).
 - Acting **outside the boundaries** of your given authority is an ethics law violation in and of itself, which carries **severe consequences**.

Alabama Ethics Law

- **Covers (including, but not limited to):**
 - *Public use of office*
 - *Lobbying*
 - *Acceptance/solicitation of gifts*
 - *Conflicts of interest*
 - *Bribery*
 - *Public contracts*

Alabama Ethics Law

- Is a **criminal statute**. If violated:
 - Punishable as Class A Misdemeanor if violated by mistake
 - Punishable as Class B Felony if violated intentionally
 - Both have potential for **fines** and **jail time**
 - Penalty provisions: §36-25-14(e); §36-25-26(1) and (2); §36-25-27
 - **Remember: Ignorance of the law is NOT a defense.**

Alabama Ethics Law

- **Created to declare:**
 - *It is essential and proper operation of democratic government that public officials be **independent** and **impartial***
 - *Governmental decisions and policy should be made in the **proper channels** of the governmental structure*
 - *No public office should be used for private gain other than the remuneration provided by law*
 - *It is important there be **public confidence** in the **integrity** of government*
 - *The attainment of one or more of the ends set forth... is impaired whenever there exists a **conflict of interest** between the private interests of a public official... and the duties of the public official...*

Alabama Ethics Law

- **Key Prohibitions (1/2):**
 - *NEVER* use official position to obtain **personal gain** for yourself or family member or any business with which you are associated (§36-25-5(a))
 - *CANNOT* vote or participate in any matter in which you or your family has a **conflict of interest** (§36-25-5(b))
 - *CANNOT* use public equipment, facilities, time, materials, human labor, or other public property for your **personal benefit**, your **business' benefit**, or the **benefit of another** (§36-25-5(c))

Alabama Ethics Law

- **Key Prohibitions (2/2):**
 - *CANNOT solicit a **thing of value** from a subordinate or person or business with whom you directly inspect, regulate, or supervise in your official capacity (§36-25-5(e))*
 - *CANNOT use or disclose **confidential information** of the City if it results in financial gain for you, a family member, or for any other person or business (§36-25-8)*

Special Emphasis: Conflicts of Interest

- **Law is Clear:**
 - *No public official shall **vote** or **participate** in any matter in which he/she has a conflict of interest*
 - *A conflict of interest is any **action, inaction, or decision** you make in your official capacity **materially affects** you, your family's, or your business's **financial interest**.*
 - *“Family member” means a spouse, a dependent, an adult child and their spouse, a parent, a spouse's parents, a sibling and their spouse*
 - *“Business” means you or a family member is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of the business.*

Special Emphasis: Conflicts of Interest

- **Important Notes:**
 - *The aforementioned includes conflicts of interest you **know** and those you **should have known**.*
 - *It is your responsibility to **thoroughly vet** every issue that comes before you. **Staff will not do it for you. It is not our job.***
 - *Voting on, deliberating, discussing with the public or among yourselves, or otherwise attempting to influence **any issue** that comes before you in which you have a conflict of interest, whether you know about it or not, is an Ethics Law violation.*

Special Emphasis: Conflicts of Interest

- **Advice:**
 - *Recuse, recuse, recuse*
 - *If there is ANY question, recuse.*
 - *If you think there might be a conflict of interest, no matter how small or remote: recuse.*
 - *Walk out of the room during discussion*
 - *Do NOT vote; do NOT deliberate; do NOT discuss*
 - *Leave no doubt that you are completely removing yourself from the decision-making process*

Special Emphasis: Conflicts of Interest

- **Consequences:**

- *Important for public to have **trust** in public officials and **confidence** in their ability to carry out duties in ethical way*
- ***Any violation** observed by or reported to the Office of the City Attorney **will be reported** to the Alabama Ethics Commission.*
 - This is not by choice – as attorneys, we have an ethical duty to report.
- *The Ethics Commission has a relatively new general counsel, and she will investigate you – **thoroughly and aggressively**.*
- *You will be called to Montgomery for a hearing, and upon a showing of probable cause, your case will either be referred to the attorney general or district attorney. This is very serious business.*

Example: Conflict of Interest

- **Scenario 1:**
 - *A commission member, who is an engineer, is an employee of a large general contracting firm*
 - *Proposed development comes before the PZC for approval*
 - *General contracting firm plans to submit a bid to construct the proposed development*
 - *What should the commission member do?*

Example: Conflict of Interest

- **Answer to Scenario 1:**

- *The commission member must not participate in the deliberation or discussion on the issue and must not vote*
- *Participation in the matter could materially impact the financial interest of a business with which the commission member is associated*
- *Even though the benefit of the business is not immediate (would happen in the future) or certain (general contracting firm could lose the bid), there would be a direct link between the commission member's vote for approval and the general contracting firm signing a contract to construct the development.*

Example: Conflict of Interest

- **Scenario 2:**
 - *The spouse of an attorney who sits on the Commission is an employee of an architect who also sits on the Commission.*
 - The spouse is not a partner in the architectural firm, has no ownership interest, and has no direct financial interest in any project that has ever come before the Commission
 - *The architectural firm that employs the spouse often represents clients before the Commission*
 - *What should both Commission members do when matters concerning the architectural firm come before the Commission?*

Example: Conflict of Interest

- **Answer to Scenario 2:**
 - *The Commission member whose spouse is employed by another member of the Commission may not vote, attempt to influence, or otherwise participate in any matter that comes before the Commission that involves the architectural firm employing his/her spouse*
 - *The other Commission member (whose firm represents a client before the Commission) must also recuse*
 - *BOTH Commission members must provide notice of the representation to the Ethics Commission within 10 days of the representation having taken place (Ala. Code § 36-25-10)*

Example: Conflict of Interest

- **Scenario 3:**
 - *A Commission member is an insurance agent*
 - *Three years ago, the Commission member wrote the insurance policy for a student housing complex that has a matter currently pending before the Commission*
 - *According to the articles of incorporation for the LLC that owns the student housing complex, the Commission member is also listed as an officer*
 - *Can the Commission member vote or participate in a matter that comes before the Commission regarding the student housing complex?*

Example: Conflict of Interest

- **Answer to Scenario 3:**
 - *The Commission member ABSOLUTELY MAY NOT vote or participate. Because the Commission member is an officer for the LLC, the vote could materially affect the financial interest of the business with which they are associated*

Example: Conflict of Interest

- **Answer to Scenario 3:**
 - *What if he was not an officer and only wrote the insurance policy for the development three years ago?*
 - Tougher call. The Commission member is no longer an officer, owner, partner, board of director member, or employee of the business – he is the insurance agent (an independent contractor)
 - Does the vote impact the insurance policy already in place? Does it raise the premium? Does it offer any personal gain to the Commission member?
 - Depending on the facts, the Commission member may not technically have a conflict of interest, but should he vote on the matter? Remember: **AVOID EVEN THE APPEARANCE OF IMPROPRIETY**. Don't give the Ethics Commission a reason to investigate you.

Example: Conflict of Interest

- **Scenario 4:**
 - *A Commission member owns property within the Tuscaloosa city limits*
 - *A matter comes before the Commission that has the potential to benefit the property owned by the Commission member*
 - This could be the consideration of a new regulation, rule or District plan
 - *What should the Commission member do?*

Example: Conflict of Interest

- **Answer to Scenario 4:**
 - *The Commission member should recuse himself from any discussions, deliberations, or voting.*
 - *The financial benefit to the Commission member does not have to be immediately apparent in order for a conflict of interest to exist*
 - *From this point forward, matters such as this WILL BE referred to the Alabama Ethics Commission for investigation*



Adjourn

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