



2012-2013

ANNUAL

RESOLUTIONS

Adopted By:

*NMML Membership
August 30, 2012
Las Cruces, NM*

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RESOLUTION 2012-1

CONCERNING INCREASING THE JURISDICTIONAL AMOUNT OF PETTY MISDEMEANOR OFFENSES

Whereas, municipal courts currently have jurisdiction over violations of several petty misdemeanors involving monetary limits, including worthless checks; and

Whereas, the maximum monetary values associated with issuing worthless checks has not been evaluated in many years; and

Whereas, readjustment upward of the maximum monetary values associated with the offense of issuing worthless checks would give municipal courts more latitude in dealing with this offense.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to increase the dollar value of the crime of issuing worthless checks to \$100.00.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-2

CONCERNING INSPECTIONS BY STATE CERTIFIED MUNICIPAL BUILDING INSPECTORS

Whereas, the construction industry has placed a burden on municipalities to perform building inspections (general construction, plumbing, mechanical, and electrical) in a timely and more cost-effective manner; and

Whereas, New Mexico law currently requires the State of New Mexico Construction Industries Division to conduct inspections on all public buildings, whether they lie within the boundaries of a municipality or outside the municipal boundaries; and

Whereas, municipalities employ building officials, certified by the State of New Mexico, who are not permitted to conduct inspections on publicly-owned properties; and

Whereas, municipalities find that such restriction is unreasonable and causes unnecessary delays; and

Whereas, municipalities are urging that New Mexico law be changed to allow certified building inspectors to conduct inspections on all properties within the municipal boundaries, including municipally-owned properties outside the municipal boundaries; and

Whereas, the many municipalities have an immediate need for multiple certified residential and commercial, and “Residential Combination” and “Commercial Combination” inspectors; and

Whereas, many municipalities across the United States utilize the ICC certification of “Combination Dwelling Inspector” for all of their residential construction inspectors and “Commercial Combination Inspectors” for all of their commercial construction inspectors; and

Whereas, ICC “Residential Combination” and “Commercial Combination” inspectors would allow small communities to gain efficiencies in building departments in rural areas of the state, and create career paths within municipal inspection departments; and

Whereas, CID has stated it is in favor of municipalities “sharing” inspection resources with other local governments.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports “multiple-disciplined”, ICC “Residential Combination”, and “Commercial Combination” inspectors to allow all New Mexico municipalities the same flexibility in building inspections that the rest of the nation enjoys; and

Be It Further Resolved that the New Mexico Municipal League should take the lead on behalf of all municipalities in the state to encourage CID to cooperate in the implementation of all New Mexico municipalities employing multiple disciplined residential, ICC “Residential Combination”, and “Commercial Combination” inspectors, and employing methods of allowing “sharing” of code compliance resources between local governments; and

Be It Further Resolved that applicable statutes and all CID rules should be reviewed and revised to allow cooperation and implementation of Policies by which municipalities may utilize multiple disciplined residential, ICC “Residential Combination”, and “Commercial Combination” inspectors, and agreements for the “sharing” of code compliance resources among local governments; and

Be It Further Resolved that CID rules should be amended to allow residential and/or commercial multiple disciplined or “ICC Combination” inspector candidates to qualify for additional inspection certifications with field experience in only one trade.

Be it Further Resolved that the New Mexico Municipal League supports a change in the law to provide that state certified municipal inspectors be permitted to inspect all public buildings, except those owned by the municipality that employs the inspector.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-3

**CONCERNING THE PROVISION FOR A MUNICIPAL JUDGE TO SIT ON THE
JUDICIAL STANDARDS COMMISSION**

Whereas, there are 85 Municipal Judges in the State of New Mexico; and

Whereas, complaints are filed against Municipal Judges; and

Whereas, Judicial Standards Commission reviews those complaints; and

Whereas, the State law does not allow for a Municipal Judge to sit on the Commission.

Now, Therefore, Be It Resolved that the New Mexico Municipal League shall introduce legislation to amend Section 34-10-1 to allow for a Municipal Judge to be appointed to the Judicial Standards Commission.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-4

CONCERNING CONFIRMATION OF APPOINTIVE OFFICIALS AT THE ORGANIZATIONAL MEETINGS

Whereas, Section 3-11-5, NMSA 1978, requires a municipality to in essence re-hire its employees after every election; and

Whereas, at every “organizational meeting” of the municipal governing body, having to confirm all employees is burdensome and impracticable; and

Whereas, municipalities have enacted ordinances that protect the rank and file employees and the requirement of having to re-hire and confirm each employee at every organizational meeting is not an economical use of resources.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to repeal Section 3-11-5, NMSA 1978.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-5

CONCERNING INTERNATIONAL BUILDING CODE ON AIRPORTS

Whereas, municipal airport infrastructure varies greatly with that of other private commercial buildings; and

Whereas, the storage of aircraft is done in two forms, one in banks of individual structures back to back known as T-Hangars, and the second in larger buildings that are able to house a number of aircraft in the same area; and

Whereas, airports are limited in the amount of space available with access to ramp and taxiways and therefore, requires buildings to be in closer proximity; and

Whereas, the 2003 International Building Code (IBC) requires that aircraft hangar exterior walls less than 30 feet from property lines, lot lines or public way shall have a fire-resistant rating of not less than two hours or a sprinkler system; and

Whereas, the 2006 IBC was amended to exempt T-Hangars banks but it did not give any relief to the interpretation by the Construction Industries Division (CID) of "public way" thereby allowing the more restrictive and costly enforcement for hangars over 2000 square feet; and

Whereas, the majority of economic growth on airports consists of hangars of this size and the enforcement has caused a slow down or stoppage of development due to the extreme construction costs and land use requirement; and

Whereas, previously adopted Uniform Building Code was less stringent requiring only 15 feet separation; and

Whereas, this is a national problem and other states have amended the code to exempt or clarify the definition of public ways on airports to continue to attract industrial development on airports.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the State Construction Industries Division to amend the 2009 or subsequent IBC to exempt internal airport properties from the definition of "public way" or to seek other appropriate legislation.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-6

CONCERNING PERSONNEL RECORDS AND THE INSPECTION OF PUBLIC RECORDS ACT

Whereas, the Inspection of Public Records Act, NMSA Section 14-2-1 et seq. (the "Act"), requires government agencies, including municipalities, to generally make their records available to the public for inspection and copying; and

Whereas, the Act also recognizes there are records that for good legal or public policy reasons should be kept confidential and provides exceptions exempting these records from public disclosure; and

Whereas, the Inspection of Public Records Act contains a specific section exempting from disclosure the identities and applications of persons applying for the position of president of a public institution of higher learning but is silent as to information about applicants for other government positions; and

Whereas, the same policy reasons that prompted the legislature to recognize an exception for university presidents also apply to key municipal positions such as city manager; and

Whereas, the Act is also silent on what personal identifying and financial information of employees and customers of municipalities should be considered confidential and which should be considered public and subject to disclosure; and

Whereas, identity theft is a growing epidemic in the United States and the disclosure of personal identifying and financial information of applicants, employees and customers may aid those committing this crime.

Now, Therefore, Be It Resolved that the New Mexico Municipal League should seek the introduction of legislation that would exempt from disclosure, the names of individuals applying for high-ranking appointive positions with municipal governments until those individuals become finalists in the recruitment process; and

Be It Further Resolved that the legislation should also address what personal information of employees and customers of municipalities should be confidential and not subject to disclosure under the Act and which information should be released.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-7

CONCERNING THE RETURN TO WORK PROVISIONS OF THE PUBLIC EMPLOYEES RETIREMENT ACT

Whereas, SB 207 was signed into law and becomes effective July 1, 2010; and

Whereas, SB 207 requires that public retirees, including retirees from all public law enforcement and other first responders, correctional agencies and water and wastewater departments, wait a minimum of 12 months before they can return to work as a public employee or independent contractor; and

Whereas, the legislation forbids such employees from collecting their pensions when they do return to public employment; and

Whereas, law enforcement and other first responders, correctional institution agencies, water and waste-water departments throughout New Mexico have difficulties in finding eligible candidates who are qualified to serve in such vital positions as police officers, detention and court security officers, investigators, senior administrators such as municipal police chiefs and water and waste-water operators; and

Whereas, law enforcement and other first responder agencies and water and waste-water departments throughout New Mexico will lose invaluable knowledge, insight, professionalism and maturity by not being able to employ retired law enforcement personnel and water and waste-water operators from jurisdictions within the state; and

Whereas, cities and smaller communities in New Mexico depend on the ability to employ retired law enforcement and other first responders, correctional personnel and water and waste-water operators from other jurisdictions; and

Whereas, government entities and law enforcement and other first responder agencies invest thousands of dollars in specified training and cultivating personnel whose skills and professionalism are often invaluable to their organization at the time of retirement; and

Whereas, New Mexico's growing and maturing population demands qualified, dedicated and professionally-trained personnel in all fields of law enforcement and emergency response and water and waste-water; and

Whereas, New Mexico has a relatively small pool of applicants who are eligible, qualified and dedicated to serve behind the badge; and

Whereas, there is also a workforce shortage in the water and waste-water field; and

Whereas, there are varied levels of certification each with increasing levels of education that are required by federal and state mandates for water and waste-water operators.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the State of New Mexico to enact legislation that exempts law enforcement and other first responders, water and waste water operators and correctional retirees from the new return to work law.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-8

CONCERNING AMENDMENT TO THE LOCAL ECONOMIC DEVELOPMENT ACT (LEDA)

Whereas, municipalities throughout the state recognize the need to provide community leadership and to participate in economic and community development in order to maintain an acceptable level of services and an acceptable quality of life to the citizens of the municipality; and

Whereas, local government leaders desire to keep tax rates as low as possible while maintaining such services; and

Whereas, the LEDA provides an alternative vehicle with which to fund future activities; and

Whereas, the LEDA recognizes that, "it is in the best interest of the state, municipalities and counties to encourage local or regional solutions to economic development;" and

Whereas, municipalities throughout the state of New Mexico face unique obstacles to economic development and varying degrees of need; and

Whereas, the LEDA allows for the expenditure of LEDA funds by a local or regional government for economic development projects as defined in state statute; and

Whereas, the current restrictions of the LEDA require that only specifically defined "qualifying entities" are eligible for economic development assistance; and

Whereas, business entities from the retail and service sectors are currently not defined as qualifying entities under the LEDA; and

Whereas, business entities from the retail and service sectors are just as vital to the economic development and sustainability of communities in New Mexico.

Now, Therefore, Be It Resolved that the New Mexico Municipal League endorse a change in the New Mexico Economic Development Act to allow municipalities to utilize local economic development funds, for a wider range of qualifying entities than those currently allowed in New Mexico State Statute to include the use of local economic development funds for "economic development projects" for entities in the service and/or retail sectors, provided those economic development needs are identified in an economic development plan or strategy adopted by the municipality's governing body.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-9

CONCERNING AMENDMENT TO THE PROCUREMENT CODE ALLOWING MUNICIPALITIES TO AWARD LONG TERM CONTRACTS FOR MAINTAINING WATER STORAGE TANKS

Whereas, the New Mexico Procurement Code and debt limitation statutes do not presently allow municipalities to procure and enter into multi-year agreements for water tank maintenance; and

Whereas, these contracts allow for a more comprehensive and consistent maintenance system to be used with the responsibility for maintenance squarely on the shoulders of a specific contractor instead of a different contractor for each specific task; and

Whereas, forty-one states now allow municipalities to obtain multi-year professional service agreements for water tank maintenance and service; and

Whereas, certain safeguards can be placed on the procurement of these contracts to protect the municipalities and observe debt limitations on New Mexico local government entities.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the New Mexico Legislature to consider and adopt the necessary legislation to authorize municipalities to procure and enter into multi-year long-term contract for maintenance service on potable water storage tanks; and

Be It Further Resolved that the legislation should include provisions allowing the services to be paid for over several years, requiring that payments be made only out of water utility revenues, requiring that the work to be done be reviewed and approved by a licensed professional engineer.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-10

CONCERNING THE SALE, TRANSFER AND ISSUANCE OF LIQUOR LICENSES IN NEW MEXICO

Whereas, there are approximately 1440 Retailer and Dispenser licenses in New Mexico, and

Whereas, this exceeds the number of licenses allowed by statute, being 1 licenses for every 2000 in population, and keeps the State from issuing new Retailer and Dispenser licenses, and

Whereas, many communities have far more licenses than are allowed by this formula creating inequities and unfair competition among communities for certain types of businesses, including restaurants, drug stores and grocery stores; and

Whereas, these are the only state licenses treated as commodities and sold on the open market; and

Whereas, that has driven the price for existing licenses as high a \$750,000.00; and

Whereas, due to the escalation in price paid for Retailer and Dispenser licenses, licenses in communities outside the metropolitan areas of the state are being transferred to the communities within the metropolitan areas of the state resulting in the loss of jobs and business opportunity for communities outside of the metropolitan areas of the state; and

Whereas, none of the states surrounding New Mexico have such a restrictive form of licensing, resulting in greater economic opportunities in those states, and

Whereas, the sale of these licenses could be a significant form of revenue for the State of New Mexico; and

Whereas, while the existing system benefits existing license holders it is not in the best interest of economic opportunity within the State of New Mexico or in communities outside of the metropolitan areas of the state; and

Whereas, several bills have been introduced during recent legislative sessions, including HB 541 in the 2011 regular session, that have attempted to modify or change this system of licensing and regulation, and

Whereas, due to these efforts, the New Mexico House of Representatives passed House Memorial 54 during the 2011 regular session requiring a house interim committee to discuss and gather information on this issue.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges all communities in the state to participate in this process and move the State of New Mexico to a more fair, affordable and competitive environment in dealing with the sale, transfer and ownership of Retailer and Dispenser licenses in the state.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-11

CONCERNING THE TIME LIMIT FOR MUNICIPALITIES IN A CLASS A COUNTY TO ACT ON ANNEXATION PETITIONS

Whereas, annexations to municipalities are authorized under the provisions of Sections 3-7-1 through 3-7-18, NMSA 1978, and annexation is a method by which municipalities provide areas for future growth, provide for orderly development, protect public health and safety, protect neighborhoods, protect and secure their tax base, create efficiencies in service delivery, and maximize the return on infrastructure investment and business incentives; and

Whereas, annexations are not to be entered into lightly as municipalities must carefully consider the impact of the proposed annexation on provision of services, including police and fire protection, solid waste collection, water and sewer service and other municipal services; and

Whereas, Section 3-7-17.1 NMSA 1978 provides the procedure for a municipality located in a Class A county to respond to a petition for annexation to the municipality, including a requirement that the municipality inform the board of county commissioners of the proposed annexation and give the county thirty (30) days in which to comment on the proposed annexation; and

Whereas, Section 3-7-17.1 NMSA 1978, also provides that the governing body must act by ordinance to approve or deny the petition in not less than thirty (30) days nor more than sixty (60) days after receiving the petition from petitioners; and

Whereas, in a recent opinion, the Court of Appeals ruled that the 60-day deadline to act continues to run during the time the county is reviewing and commenting on the proposed annexation; and

Whereas, the requirement for approval or disapproval of the annexation by the governing body within sixty (60) days after receiving the petition does not allow sufficient time for municipalities to notify the county, consider the county's comments, consider the projected costs of providing municipal services and other fiscal impacts on the municipality related to the proposed annexation, and to prepare, publish notice and adopt an ordinance.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation amending Section 3-7-17.1 NMSA 1978 to extend the time for a municipality in a Class A county to approve or disapprove an annexation petition from sixty (60) to one hundred eighty (180) days after receiving the petition.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-12

CONCERNING CURFEWS FOR JUVENILES

Whereas, juveniles in every community in New Mexico are losing their chance to be success in life; and

Whereas; Truancy, low test scores, dropping out, teen pregnancy rates are all increasing in New Mexico; and

Whereas; the dangers associated with children being unsupervised outside the home late at night are much greater; and

Whereas, serious problems exist relating to crimes committed by juveniles; and

Whereas, jurisdiction over juveniles rests with the Children's Court except for minor traffic offenses; and

Whereas, allowing municipalities to establish a curfew would reduce the amount of unsupervised time away from the home for juveniles; and

Whereas, it is in the interest of municipal governments to promote the safety of all of their citizens.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports amending the Municipal Code and the Children's Code to allow municipalities to establish curfew times for juveniles; and

Be It Further Resolved to allow concurrent jurisdiction in municipal court, magistrate court and children's court over juvenile misdemeanor offenders; and

Be It Further Resolved that the punishment allowed by municipal courts be limited to a fine and/or community service so as not to jeopardize federal funding for juvenile programs; and

Be It Further Resolved that the New Mexico Municipal League work with the Children's Crime and Delinquency Task Force to address this issue.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-13

CONCERNING AMENDING THE MUNICIPAL ELECTION CODE TO CONFORM WITH VOTING CONVENIENCE CENTER PROCEDURES

Whereas, the State Legislature amended the State Election Code in the 2011 Session in Senate Bill 337, Chapter 131 to authorize counties to consolidate precincts in order to allow for voting convenience centers; and

Whereas, the 2011 legislation also authorized municipalities to establish voting centers; and

Whereas, through the consolidation of precincts and districts and the use of ballot-on-demand systems, voting centers make the voting process more efficient, convenient and accessible to voters; and

Whereas, a few municipal clerks instituted voting centers for the 2012 municipal elections and found that some different election procedures were required related to the technology used for voting centers.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to amend the Municipal Election Code to add alternate procedures to be used when voting convenience centers are utilized.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-14

CONCERNING OPPOSING CONSOLIDATION OF MAGISTRATE AND MUNICIPAL COURTS

Whereas, municipal courts in New Mexico have historically been known as “the people’s court”; and

Whereas, municipal courts in conjunction with local law enforcement are a vital function of municipalities, providing a sense of law and order; and

Whereas, the October 1, 2011 Report of the New Mexico Reengineering Commission to the New Mexico Supreme Court includes Initiative Three that would merge municipal courts into magistrate courts on a voluntary basis for what would be anticipated as cost savings and increased efficiency; and

Whereas, municipal courts hear a variety of violations of municipal ordinances, not just traffic violations; and

Whereas, requiring a magistrate judge to become familiar with a multitude of municipal ordinances in order to hear cases would be over-burdensome; and

Whereas, requiring citizens and law enforcement personnel to travel to a magistrate court not located within a particular municipality would also be over-burdensome and costly to all parties involved; and

Whereas, merging many municipal courts’ caseloads into a magistrate court would be costly and require additional staff and require additional state funding for the magistrate court system; and

Whereas, merging the municipal court into magistrate courts would have the effect of diminishing prosecutions by district attorneys and municipal attorneys due to the types of petty misdemeanors currently heard in municipal courts; and

Whereas, all 81 municipal courts have made extraordinary investments in information technology in order to comply with state regulations; and

Whereas, if a municipality is tasked with paying the magistrate court for enforcement of its ordinances, it would not save the municipality anything, but would rather, in effect, be merely shifting funds from one locally-funded entity to a state-funded court system.

Now, Therefore, Be It Resolved that the New Mexico Municipal Judges Association opposes Initiative Three of the Report of the Reengineering Commission that would merge municipal courts into magistrate courts on an voluntary basis; and

Be It Further Resolved that the New Mexico Municipal Judges Association urges the New Mexico Municipal League to oppose any legislation introduced in the New Mexico Legislature that would attempt to effectuate such a merger.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-15

CONCERNING GRANTING LOCAL GOVERNMENTS THE OPTION OF DECRIMINALIZING THEIR ZONING LAWS

Whereas, most zoning codes are enforced through criminal codes that may result in penalties and fines; and

Whereas, zoning codes are regulatory in nature and generally seek compliance rather than punishment like most criminal laws; and

Whereas, this option allows a local government to utilize a civil enforcement option for the resolution of a zoning violation; and

Whereas, most magistrate and municipal criminal courts currently have jurisdiction over infractions related to a zoning code but have limited resources; and

Whereas, most criminal court cases associated with zoning infractions are not considered in the same manner as other criminal charges; and

Whereas, cities and counties waste limited resources in prosecuting violations of zoning codes because the criminal procedure can be complex and strict with many technical pitfalls; and

Whereas, some criminal court cases related to zoning infractions are resolved by a paid fine, failure to remove the violation and causing the enforcement agency to start the process from the beginning; and

Whereas, allowing local governments to decriminalize their zoning laws will allow an independent hearing officer to adjudicate a zoning violation in a fair, impartial and efficient manner; and

Whereas, this option will ensure that a hearing will occur to adjudicate the violation in which both parties appear rather than have the violator to pay the fine and avoid a hearing; and

Whereas, the decriminalization of the zoning code will be available to all local governments, including county governments.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports legislation to grant local governments the option of decriminalizing their zoning laws.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-16

CONCERNING THE ELECTION PROCESS WHERE ALL CANDIDATES ARE UNOPPOSED

Whereas, municipal government is led by officials who are required by the New Mexico Constitution, to be elected by the citizens of their respective communities; and

Whereas, the New Mexico Municipal Election Code provides that municipal officers be elected for four year terms on staggered cycles; and

Whereas, the New Mexico Municipal Election Code provides that in order to maintain the staggered terms of municipal officials, municipal election shall occur every two years; and

Whereas, the New Mexico Municipal Election Code provides that candidates that wish to appear on the ballot must declare their candidacy 56 days prior to the date set for the municipal election; and ; and

Whereas, the New Mexico Municipal election Code provides that a write-in candidate for a municipal office must declare their candidacy 49 days prior to the election; and

Whereas, the New Mexico Municipal Election Code precludes running for office unless a candidate is either a declared candidate or a declared write-in candidate; and

Whereas, the officially recognized candidates for municipal officer are established 47 days prior to the election; and

Whereas, the New Mexico Municipal Election Code provided that no person may be elected as a write-in candidate unless that person has declared their candidacy and has been certified by the municipal clerk; and;

Whereas, many New Mexico municipalities conduct elections where all the candidates for municipal offices are running unopposed; and

Whereas, the expense and procedure of conducting a municipal election must be completed, even if all the candidates for municipal office are running unopposed; and

Whereas, the cost of conducting municipal elections continues to rise.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports a change in the Constitutional and statutory requirements of holding municipal elections when all the candidates for municipal office are running without opposition

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

2012 CEDGOHR Committee Priority: **MEDIUM**

RESOLUTION 2012-17

CONCERNING THE WATER CONSERVATION FEE

Whereas, 74-1-13 of the Environmental Improvement Act imposed a water conservation fee of three cents (\$.03) per thousand gallons of water produced on every public water supply system; and

Whereas, the water conservation fund is created in the state treasury; and

Whereas, money in the water conservation fund is appropriated to the department of environment for administration of a public water supply program to:

- (1) test public water supplies for the contaminants required to be tested pursuant to the provisions of Section 1412 of the federal Safe Drinking Water Act, as finalized through July 1, 1992, and collect chemical compliance samples as required by those provisions of the federal act;
- (2) perform vulnerability assessments which will be used to assess a public water supply's susceptibility to those contaminants; and
- (3) implement new requirements of the Utility Operators Certification Act [Chapter 61, Article 33 NMSA 1978] and provide training for all public water supply operators; and

Whereas, monitoring requirements of Section 1412 of the federal Safe Drinking Water Act have been subsequently modified since July 1, 1992 so that annual and triennial monitoring for synthetic and volatile organic contaminants, inorganic contaminants, and radiological contaminants is no longer required at individual water sources, but rather at Entry Points to the Distribution System at which individual sources are blended to a single supply source to effectively reduce the number of monitoring events required; and

Whereas, the New Mexico Environment Department (NMED) has issued waivers to reduce or eliminate monitoring requirements for many contaminants; and

Whereas, the NMED has completed a source water vulnerability assessment for each public water system as required by U. S. Environment Protection Agency; and

Whereas, implementation of two key provisions of the water conservation fee statute; vulnerability assessments and utility operator certification and training, are no longer funded by the water conservation fee; and

Whereas, there is concern among New Mexico municipalities that while the water conservation fee fund appropriately provides services to the regulated community, demands on the water conservation fee have effectively been reduced since the inception of the fee.

Now, Therefore, Be It Resolved that the NM Municipal League requests that the water conservation fee remain unchanged from the original legislation; and

Be It Further Resolved that should NMED intend to further increase the fee, NMED should first evaluate the impacts of decreased monitoring, lack of full implementation of the current statute and increases in federal funding; and share the enabling legislation with the affected regulated community to reach a consensus prior to the legislation being introduced.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-18

CONCERNING THE ADOPTION OF ENFORCEABLE WATER QUALITY PROTECTION REQUIREMENTS WITHOUT PUBLIC HEARING

Whereas, the New Mexico Environment Department (NMED) Ground Water Quality Bureau has developed a “Policy for Above Ground Use of Reclaimed Domestic Wastewater” (Developed August 7, 2003 and updated in January 2007), including definitions, standards, conditions and monitoring requirements; and

Whereas, the NMED “Policy for Above Ground Use of Reclaimed Domestic Wastewater” has never been presented to the New Mexico Water Quality Control Commission (NMWQCC) for public hearing and formal adoption; and

Whereas, the NMED “Policy for Above Ground Use of Reclaimed Domestic Wastewater” is incorporated by reference into enforceable Ground Water Discharge Permits issued by NMED under the NMWQCC Regulations; and

Whereas, the NMED practice of imposing enforceable requirements through policies that are not subjected to public hearing violates the New Mexico Water Quality Act [74-6-6(A) NMSA 1978] and the New Mexico Environmental Compliance Act [74-7-5(A) NMSA 1978].

Now, Therefore, Be It Resolved that the New Mexico Municipal League objects to the NMED practice of imposing enforceable requirements through policies not subjected to public hearing and urges the NMED Cabinet Secretary, the Governor of New Mexico and the New Mexico Legislature to implement measures to halt the practice and ensure NMED compliance with New Mexico law (New Mexico Water Quality Act [74-6-6(A) NMSA 1978] and New Mexico Environmental Compliance Act [74-7-5(A) NMSA 1978]) and New Mexico regulations (Rulemaking Procedures – Environmental Improvement Board [20.1.1 NMAC] and Surface and Groundwater Protection [20.6.2 NMAC]) when adopting environmental protection requirements.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-19

CONCERNING THE ESTABLISHMENT OF A STATE ENGINEER RULE ON PRECIPITATION CAPTURE AND USE

Whereas, adequate water resources are a prerequisite to the health and economic wellbeing of New Mexico's communities; and

Whereas, water is a fragile and finite resource in New Mexico; and

Whereas, under New Mexico water law, all ground and surface water belongs to the public, but is subject to appropriation; and

Whereas, precipitation can be both a significant water resource and a significant water quality concern when storm water or melting snow runs off into New Mexico streams, rivers and lakes; and

Whereas, the New Mexico Office of the State Engineer encourages water conservation in all water sectors; and

Whereas, in accordance with a Rainwater/Snowmelt Harvesting Policy adopted November 24, 2004 (http://www.ose.state.nm.us/wucp_policy.html), the New Mexico Office of the State Engineer supports the wise and efficient use of the state's water resources and encourages the harvesting, collection and use of rainwater from residential and commercial roof surfaces for on-site landscape irrigation and other on-site domestic uses; and

Whereas, in the same policy, the New Mexico Office of the State Engineer established that water harvested from roof tops may not reduce the amount of runoff that would have occurred from the site in its natural, pre-development state; and

Whereas, the NM Office of the State Engineer has stated that harvested water may not be appropriated for uses other than on-site landscape irrigation and domestic uses; and

Whereas, storm water Best Management Practices include the use of green infrastructure practices and low impact development approaches, which have the goal of reducing pollution from storm water runoff to receiving waters; and

Whereas, the June 2010 draft renewal of the National Pollutant Discharge Elimination System permit for the Phase 1 Municipal Separate Storm Sewer System in Albuquerque requires "assessment of all existing codes, ordinances, planning documents and other applicable regulations, for impediments to the use of green infrastructure practices" and "recommendations and proposed schedules to incorporate policies and standards to relevant documents and procedures to maximize infiltration, recharge, water harvesting, habitat improvement, and hydrological management of storm water runoffs"; and

Whereas, the New Mexico Office of the State Engineer's Rainwater/Snowmelt Harvesting Policy may impede the ability of municipalities to improve surface water quality and to encourage outdoor water conservation by managing storm water using green infrastructure Best Management Practices by restricting the landscape irrigation and domestic uses to individual property sites.

Now, Therefore, Be It Resolved that the New Mexico Municipal League requests that the New Mexico Office of the State Engineer, following appropriate procedures for taking testimony in a public hearing (19.25.2 NMAC), establish a rule regarding precipitation capture and use that allows first flush catchments, porous pavements and promotion of soil capture and local groundwater recharge, including at the subdivision scale, provided such low impact development does not reduce the amount of runoff that would have occurred from its natural, pre-development state to allow for conservation of water resources, protection of water quality, and maintenance of adequate stream flow to meet downstream compact obligations.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-20

CONCERNING ENFORCEMENT OF PCB CRITERIA AND ANALYTICAL METHODS

Whereas, local governments take a leading role in promoting environmental responsibility in New Mexico including protecting New Mexico's most precious resource, clean water; and

Whereas, local governments understand and support the New Mexico Environment Department's (NMED's) vital contributions to preserving New Mexico's natural resources; and

Whereas, the manufacture of polychlorinated biphenyls (PCBs) was stopped in the U.S. in 1977 because of evidence that they accumulate in the environment and can cause harmful health effects; and

Whereas, the extensive use of PCBs prior to 1977 has left a legacy of PCBs, often at trace levels, in every county and municipality throughout New Mexico wherever there has been any amount of industrial activity, the presence of asphalt paving and use of oil sprays for dust control; and

Whereas, no current technology results in complete removal of all PCB contamination from the environment; and

Whereas, the New Mexico water quality criteria for PCBs was adopted by the New Mexico Water Quality Control Commission (NMWQCC) in 2000 and is currently being applied by NMED; and

Whereas, the NM Water Quality Control Commission (NMWQCC) "Standards for Intrastate and Interstate Surface Waters" at 20.6.4.10(C) NMAC states that "It is also recognized that contributions of water contaminants by diffuse nonpoint sources of water pollution may make attainment of certain criteria difficult. Revision of these criteria may be necessary as new information is obtained on nonpoint sources and other problems unique to semi-arid regions"; and

Whereas, PCB nonpoint source background level studies have begun in limited parts of the state and remain incomplete; and

Whereas, a dichotomy of opinion exists among environmental scientists and regulators as to the appropriateness of testing for PCBs by analyzing Aroclors, commercial mixtures of PCB compounds, or by analyzing Congeners, individual PCB compounds; and

Whereas, at 40CFR136.3 Table IC the U.S. Environmental Protection Agency (EPA) has adopted Aroclor testing as the appropriate type of testing for PCB concentration in ambient waters; and

Whereas, EPA withdrew the Congener method of PCB analysis (EPA Test Method 1668C) from rulemaking on April 17, 2012; and

Whereas, NMED has issued enforcement actions against local governments under the New Mexico Water Quality Act and the NMWQCC “Standards for Intrastate and Interstate Surface Waters” based upon the results of Congener testing for PCBs; and

Whereas, local governments, while willing to be good stewards of the environment, are unable to expend vast sums of public money to achieve what may be scientifically unsupportable and technically infeasible storm water quality necessary to ensure compliance with New Mexico water quality criteria for PCBs; and

Whereas, the New Mexico Municipal League (NMML) Policy 2.1.12 requests that state agencies examine the technical validity and fiscal impacts of environmental standards and regulations before implementing them.

Now, therefore, Be It Resolved that the NMML requests that NMWQCC re-examine existing PCB water quality criteria to ensure that the criteria are based on credible scientific data, are technically achievable, and are reasonably cost-effective to allow for the maximum beneficial use of public money directed toward maintenance of a cleaner environment for all New Mexicans.

Be It Further Resolved that NMML requests that NMWQCC re-examine PCB testing methods in the context of current PCB research; and

Be It Further Resolved that enforcement actions pertaining to violations of PCB criteria based on detections using the Congener Method should be held in abeyance until scientifically-based criteria and analytical methods for PCBs are established.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-21

CONCERNING THE LOCAL DWI GRANT PROGRAM FUNDING FOR MUNICIPALITIES

Whereas, the Legislature has created the Local DWI Grant Program for the purpose of funding new, innovative or model programs, services or activities to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse, drug addiction or drug abuse as well as programs, services or activities to prevent or reduce the incidence of domestic abuse related to DWI, alcoholism, alcohol abuse, drug addiction or drug abuse; and

Whereas, the Local DWI Grant Program provides for a fund that is created by distribution of a portion of the liquor excise taxes to be administered by the Local Government Division of the Department of Finance; and

Whereas, the Local Government Division may make DWI program distributions to counties in accordance with the provisions of the Local DWI Grant Program Act; and

Whereas, many of the programs funded by the DWI Grant Program are provided for and administered at the municipal level; and

Whereas, local review, oversight and approval of DWI programs that receive Local DWI Grant Program funds ensures the delivery of quality, relevant and meaningful programming; and

Whereas, municipal governments are capable of conducting the oversight and review necessary to ensure that providers of DWI programs meet the requirements provided for in the Local DWI Grant Program; and

Whereas, the requirement for municipalities or municipally offered programs to obtain funding from the county is a duplication of efforts.

Now Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to amend the Local DWI Grant Program NMSA 1978 §§11-6A-1 to 11-6A-6 to provide for distributions to municipalities; and

Be It Further Resolved that the Legislature allocate funding for these municipalities from the existing liquor excise tax.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-22

CONCERNING USE OF STATE GRANT MONIES TO DEFRAY THE COST OF ADMINISTRATION

Whereas, municipalities can, and do rely, on State of New Mexico grants to fulfill many municipal needs; and

Whereas, local governments may be better able to implement projects within their jurisdictions; and

Whereas, those local governments need set policies and procedures in the delivery and administration of state grants; and

Whereas, the New Mexico Department of Finance and Administrative Services has stated its intention to alter its reimbursement policy after expenditures of state grant monies by local governments.

Now, Therefore, Be it Resolved that the New Mexico Municipal League ask the Department of Finance and Administration Local Government Division to reconsider its determination that grant proceeds may not be used to help defray the cost of administration of grants; and

Be it Further Resolved that the New Mexico Municipal League request the Department of Finance and Administration, Local Government Division seek a legal opinion regarding the propriety of utilizing bond proceeds to defray the cost of grant administration for projects that are funded through the issuance of debt.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-23

CONCERNING CORRECTION FEE INCREASE FOR MUNICIPAL COURTS

Whereas, Section 35-14-11 requires municipalities to enact an ordinance requiring assessment of a corrections fee to be collected upon conviction from persons convicted of violating any ordinance relating to operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment; and

Whereas, all assessments shall be deposited in a local government corrections fund and shall be used solely for the purpose of constructing, operating or maintaining the municipal jail or for the paying for the cost of housing municipal prisoners in the county jail or other detention facilities in the state; and

Whereas, municipalities are subsidizing the cost of housing prisoners from their General Funds to meet the substantial increase of prisoner populations and costs charged by counties; and

Whereas, small municipalities with police departments and municipal courts have been and continue to accumulate corrections fees in a separate fund because so few of their cases involve either transportation or housing of prisoners.

Now, Therefore, Be it Resolved that the New Mexico Municipal League, seek legislation that would allow a municipality to increase correction fees from persons convicted of violating City Traffic and Criminal ordinances from \$20 to \$30.

Be it Further Resolved that the New Mexico Municipal League seek legislation that would expand the allowable uses of corrections fees for municipalities.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-24

CONCERNING IMPOSITION OF THE ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX

Whereas, municipalities are charged with providing a wide variety of environmental services to the citizens of the municipality; and

Whereas, among those services are water/wastewater delivery and treatment, solid waste collection and disposal services and abatement of other environmental hazards; and

Whereas, the laws, rules and regulations regarding standards that must be met by municipalities are complex and require large expenditures of public funds to comply with; and

Whereas, during the 2009 session of the Legislature, the Legislature passed and the Governor signed legislation that allows two municipalities in the state to impose an Environmental Services Gross Receipts Tax in the amount of up to $\frac{1}{2}$ of one percent; and

Whereas, the current authorized rate of the Environmental Services Gross Receipts Tax, at $\frac{1}{16}$ th of one percent, is inadequate to fund the environmental services necessary to provide for the health, safety and welfare of the citizens of a municipality.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seek legislation authorizing all municipalities to impose an Environmental Services Gross Receipts Tax in an amount up to $\frac{1}{2}$ of one percent.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-25

CONCERNING AMENDING THE CONVENTION CENTER FINANCING ACT

Whereas, the Legislature passed and the Governor signed the Convention Center Financing Act in 2003; and

Whereas, the Act allows a municipality with a population between seventy thousand and one hundred thousand to impose a Convention Center Financing fee of \$2.50 for the use of a room within the area in which the fee is imposed; and

Whereas, municipalities of various sizes in the state operate or wish to operate convention centers, public recreation facilities and arenas and may desire to construct new or expand existing centers, public recreation facilities and arenas; and

Whereas, those municipalities do not meet the population requirements of the Convention Center Financing Act.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seek legislation to amend the Convention Center Financing Act to allow any municipality that wishes to construct, expand or operate a convention center, civic center, public recreation facility or arena to impose a fee of up to \$2.50 per room to defray the cost of such construction, expansion or operation.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-26

CONCERNING STATE TAX POLICY AND ITS EFFECT ON LOCAL GOVERNMENTS

Whereas, both the state and local governments continue to be significantly impacted by the current economic downturn and that impact has resulted in significant declines in revenues available for the state and local governments to finance the services the citizens of New Mexico expect and need; and

Whereas, during the 2004 Legislative Session the Legislature passed and the Governor signed legislation to repeal the Gross Receipts Tax on food and certain medical services; and

Whereas, the Legislature recognized that its' tax policy decision to repeal the Gross Receipts Tax on food and certain medical services would negatively impact the budgets of municipalities by causing a reduction in tax receipts to municipalities; and

Whereas, up to 75% of a municipality's general fund revenue is derived from the Gross Receipts Tax; and

Whereas, municipalities derived up to 30% of their Gross Receipts Tax revenues from imposition of the Gross Receipts Tax on food and certain medical services; and

Whereas, New Mexico municipalities continue to be negatively impacted by the current economic situation in the United States; and

Whereas, municipalities continue to take steps to balance their budgets such as implementing hiring freezes, forced furlough days for employees, reduced services to the community, facility closures and expenditure reductions like travel freezes, reduced energy consumption or overall cuts in departmental budgets; and

Whereas, long standing municipal tax policy states that "any shifting of tax sharing between the state and municipalities must guarantee municipalities at least the same revenue levels they derive from current tax policy".

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the legislature and governor to examine tax expenditures such as credits exemptions and deductions for tax purposes that do not affect general purpose local governments; and

Be it Further Resolved that the legislature and the governor examine other budget balancing measures that do not affect general purpose local governments.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-27

CONCERNING MUNICIPAL EMERGENCY REGIONAL COMMUNICATIONS AND EMERGENCY MEDICAL SERVICES GROSS RECEIPTS TAX AUTHORITY

Whereas, within some municipalities the Emergency Medical and Communication Services are provided by the municipalities; and

Whereas, counties do not hold the Certificate of Public Convenience and Necessity to provide the Emergency Medical and Communication Services within those municipalities; and

Whereas, the delivery of Emergency Medical Services and Regional Communication Services are essential for the quality of life for the citizens of the municipality; and

Whereas, the State has provided authority to counties to impose such a Gross Receipts Tax in their respective counties, including the county area in municipalities where they do not provide services; and

Whereas, not allowing cities this same option as the counties are granted to impose this tax and not provide service within the municipality is a form of double taxation.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seek legislation to grant municipal authority for an emergency medical and communication services gross receipts tax in 1/8% increments up to a total of ¼% by positive referendum; and

Be It Further Resolved that the county emergency communications and emergency medical and communication services tax be amended to apply only in the county area where distribution or sharing agreements are not in place.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-28

CONCERNING TELECOMMUNICATIONS FRANCHISE ORDINANCES

Whereas, telecommunications technology has advanced to the point that traditional land line phones are rapidly being replaced by Cellular or Voice over Internet Protocol (VOIP); and

Whereas, traditionally, New Mexico Municipalities have granted franchises to telecommunication companies; and

Whereas, municipalities in the state of New Mexico are receiving revenues under expired franchise ordinances which they have been unable to renegotiate; and

Whereas, in order to allow all forms of telecommunication providers to compete for consumers it is desirable to not disadvantage any single provider through a franchise system; and

Whereas, New Mexico municipalities are dependent on the income generated by current Franchise agreements.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to allow imposition of a statewide "Telecommunications Fee" not to exceed 5% on all telecommunication providers operating within a municipality.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-29

CONCERNING MUNICIPAL CONTRIBUTIONS TO THE PUBLIC EMPLOYEE RETIREMENT ASSOCIATION

Whereas, Section 10-11-5, NMSA 1978 allows a municipality to contribute up to 75% of the employee's share of the total PERA contribution; and

Whereas, if a municipality determines to contribute a portion of the employee's share that determination is by law irrevocable; and

Whereas, some municipalities made a determination to contribute a portion of the employee's share prior to the current economic situation; and

Whereas, continuation of the practice of paying a portion of the employee's share should be the subject of collective bargaining between employees and employers, or in the absence of collective bargaining the governing body should control what if any portion of the employee share the municipality will contribute.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to amend Section 10-11-5, NMSA 1978 to remove the irrevocability of the determination to contribute a portion of the employee's share of the total PERA contribution.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-30

CONCERNING REVISIONS TO THE SALE OR LEASE OF PUBLIC PROPERTY SECTION FOR MONETARY THRESHOLDS

Whereas, Section 3-54-1 NMSA 1978 contains monetary thresholds that are used to determine whether the sale and exchange of any municipal utility facilities or property in excess of the threshold shall be subject to referendum provisions; and

Whereas, reasonable and customary values for virtually all public real property assets have appreciated over the years, and said thresholds have not risen commensurately with appreciation levels; and

Whereas, raising the affected limits would result in a more efficient process.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to increase the monetary thresholds in the Municipal Sale or Lease of Property Section above the current rate of \$25,000.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-31

CONCERNING CITY BROADBAND NETWORKS

Whereas, broadband telecommunications access has become as vital to cities and towns today as railheads, streets, highways and airports continue to be; and

Whereas, broadband access is a vital component of economic development, distance learning, tele-health and other services and positive outcomes; and

Whereas, New Mexico cities and towns can leverage improved broadband infrastructure and services to help New Mexico overcome its chronically low rating in per capita income; and

Whereas, continuing to rely solely on monopoly or near-monopoly incumbent providers for broadband infrastructure is not a valid option due to New Mexico's low priority status in national investment strategies and due also to a shortage of investment capital by the private sector.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the New Mexico Legislature to explore policy mechanisms to support the development of universal municipal telecommunications broadband access.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-32

CONCERNING FUNDING FOR MUNICIPAL STREETS, ROADS, BRIDGES, AIRPORTS, RAIL AND TRANSIT

Whereas, past investment plans have provided for more than one billion dollars for state highways; and

Whereas, other critical infrastructure projects still need to be addressed; and

Whereas, these projects are important for economic development within municipalities; and

Whereas, it is not enough to have an efficient state highway system, but rather it is essential that an effective, efficient transportation system be in place within municipalities in order to provide for the safe and efficient movement of people, goods and services; and

Whereas, transportation should be viewed not just as the state highway system, but as a complete network of state and municipal streets, roads, airports, bridges, rail and transit.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports continued funding for critical local projects where applicable, to follow, be guided by and adhere to current state transportation improvement plans established by Metropolitan Planning Organizations, DOT Aviation Division and Regional Planning Organizations; and

Be It Further Resolved that a comprehensive plan of investment for critical transportation projects be developed with municipal input and that such plan identify alternative funding resources necessary to finance such plan including matching funds and in-kind services in rural areas; and

Be It Further Resolved that municipalities, the Governor and the Legislature collaborate on the development of critical local transportation projects and a comprehensive investment plan.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-33

CONCERNING THE STATE AVIATION FUND DISTRIBUTION AND USES

Whereas, New Mexico's system of 54 public-use, publicly-owned airports serve as an integral connection between New Mexico's businesses and residents and the expanding global economy; and

Whereas, airports are relied upon more and more for health and safety by New Mexico citizens for medical services by air ambulance and staging areas for natural disasters such as wildfires; and

Whereas, airports in New Mexico account for more than 48,000 jobs, have a payroll of \$1.3 billion and have an output of \$3.2 billion; and

Whereas, the New Mexico Department of Transportation Aviation Division uses its funding to fund maintenance, promote safe airports, and create effective air transportation systems throughout the state; and

Whereas, this funding stream is approximately 16 percent of the annual Aviation Division budget; and

Whereas, the Aviation Division not only funds state only grants but also utilizes its funding to leverage Federal Aviation Administration grants for airports which provide 90 percent of project-required funding; and

Whereas, the Aviation Division estimates approximately \$500 million in airport development costs required over the next five years; and

Whereas, a portion of this funding sunset on June 30, 2012, and funding to airports will thereafter decrease for planning, engineering, construction, pavement maintenance, materials and supplies and matches for FAA funding; and

Whereas, Senate Bill 219 introduced in the 2012 legislature would have extended the sunset provision for the distribution that was already in place but died on the House floor upon adjournment.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to reinstate the previous distribution to the New Mexico Department of Transportation Aviation Division in an amount equal to the amount prior to the sunset of the distribution; and

Be It Further Resolved that the uses of the distribution of this fund be expanded in order for the Aviation Division to meet further expenditure requirements for the benefit of airports throughout the State.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-34

CONCERNING OPPOSITION TO PROPOSED FEDERAL LEGISLATION CALLING FOR STATE AND LOCAL POLICE TO ENFORCE FEDERAL CIVIL IMMIGRATION LAWS

Whereas, the New Mexico Municipal League (NMML) strongly denounces terrorism and acknowledges that federal, state and local governments should protect the public from terrorist attacks in a rational and deliberate manner to ensure that security measures enhance public safety without violating the constitutional rights and infringing upon the civil liberties of its residents; and

Whereas, the NMML considers police the real experts in ensuring public safety and recognizes that local and state police in New Mexico have diligently responded to new homeland security mandates; and

Whereas, the Clear Law Enforcement for Criminal Alien Removal Act of 2003 (CLEAR Act) and the Homeland Security Enhancement Act of 2003 (HSEA), if enacted, will require local and state police to add federal civil immigration law enforcement to their already long list of duties or risk the loss of federal funding; and

Whereas, the enforcement of federal civil immigration law will distract local and state law enforcement from their primary mission of ensuring public safety and preventing crime in our community by having them focus on the apprehension of illegal immigrants and by adding burdensome paperwork and reporting requirements; and

Whereas, local law enforcement already has the authority to arrest anyone, regardless of immigration status, who commits a crime and threatens the public safety of our community; and

Whereas, many immigrant victims of crime are unlikely to report the crime to law enforcement if they believe that seeking police protection will result in deportation and ultimately in losing custody of their children; and

Whereas, the CLEAR Act and HSEA set a dangerous precedent of enforcement of federal law by local and state law enforcement; and

Whereas, while the NMML supports the fight against terrorism at home and abroad, this goal cannot be reached by placing the unmanageable burden of enforcing federal civil immigration law on local and state law enforcement.

Now, Therefore, Be It Resolved that the New Mexico Municipal League opposes the enactment of the CLEAR Act and HSEA or compelling local law enforcement to enforce federal civil immigration laws; and

Be It Further Resolved that the New Mexico Municipal League opposes any state or federal legislation that would prohibit local law enforcement from assisting federal agencies in the enforcement of federal immigration laws.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-35

CONCERNING DEVELOPMENT OF A STATE PLAN TO DESIGNATE HAZARDOUS CARGO ROUTES

Whereas, hazardous cargo is frequently transported via motor vehicles; and

Whereas, many highways in New Mexico run directly through our municipalities and communities; and

Whereas, the presence of hazardous cargo on the streets of a community presents a danger to its inhabitants; and

Whereas, emergency responders are better able to assess risks to the community and respond to dangers if they have an idea that hazardous cargo may be involved in an accident; and

Whereas, the United States has developed regulations that allow the states to designate the routes upon which hazardous cargo may travel; and

Whereas, the municipalities and communities in New Mexico are vitally interested in obtaining protections afforded by hazardous cargo routes; and

Whereas, the establishment of hazardous cargo routes would also benefit those who transport hazardous cargo by directing them toward roads most suited for their loads.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the State to enact legislation authorizing the Department of Transportation to establish hazardous cargo routes according to Federal regulations to increase the safety of the State's communities; and

Be It Further Resolved that municipalities and the State work together in the State's development and implementation of a plan to designate hazardous cargo routes.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-36

CONCERNING THE EMS FUND ACT

Whereas, Emergency Medical Services (EMS) is the only health care that is universally available to all of New Mexico's residents and visitors regardless of ability to pay; and

Whereas, pre-hospital treatment and transport by volunteer and paid emergency medical responders are the two most crucial components of emergency medical care; and

Whereas, the citizens demand and deserve an increasing level of care, however funding for the training and necessary equipment is not available; and

Whereas, emergency medical services that provide first response, such as fire departments, are not eligible to charge for response or treatment; and

Whereas, the costs of providing healthcare, whether hospital, clinic, or pre-hospital based, continue to rise, while funding, including reimbursement from fees charged, continue to decline; and

Whereas, future access to this essential care will be dependent on adequate funding to ensure the best pre-hospital care is delivered through the providing of training, equipment, resources, medical direction, technical assistance, and quality improvement; and

Whereas, EMS in New Mexico has continued to progress at a pace comparable to most states, however, future growth and reduction of morbidity and mortality is being greatly impeded by cuts in federal and state funding; and

Whereas, the current level of funding provided by the EMS Fund Act only provides approximately one-third of the amount that is requested from New Mexico EMS services; and

Whereas, the current funding levels and projected future cuts will prevent the future growth of EMS, and the decrease in providers and services will result in an increase in morbidity and mortality; and

Whereas, EMS in New Mexico must have solid financial resources if they are to continue providing critical services in a consistent and reliable manner.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports an increase to the EMS Fund Act for use by EMS in the State of New Mexico; and

Be It Further Resolved, that the existing funding formula will continue to be used, but the funding base amount and maximum allowable fund award be raised to accommodate the increasing costs of providing pre-hospital services.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

2012 PS Committee Priority: **MEDIUM**

RESOLUTION 2012-37

CONCERNING THE LAW ENFORCEMENT PROTECTION FUND

Whereas, the Law Enforcement Protection Fund (LEPF) is a state dedicated fund from which annual distributions are made to municipal, county, tribal and university police departments; and

Whereas, two distributions are made to municipal departments, one on a rating using the population class of the municipality as the basis, and the second based on an amount per full-time certified officer; and

Whereas, the LEPF monies may be used for equipment, advanced training, matching funds for federal grants, and up to 50% of replacement salaries for officers attending basic training; and

Whereas, costs of equipment and training continue to increase and new technologies are necessary to continue to provide quality service and protection; and

Whereas, the number of demands and responsibilities placed on law enforcement continues to increase while most departments are functioning at less than their full quota of officers; and

Whereas, available federal monies and grants to police agencies have all but disappeared; and

Whereas, the current LEPF distributions from the State are \$20,000, \$30,000 and \$40,000 annually based on population and \$600 per officer; and

Whereas, LEPF distributions have not been increased since 2000.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to increase the distributions from the Law Enforcement Protection Fund to a level that is sufficient for law enforcement needs.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-38

CONCERNING THE E911 FUND – A STATE AND LOCAL PARTNERSHIP

Whereas, the Enhanced 911 Act, Section 63-9D NMSA 1978, established the 911 emergency surcharge and the Enhanced 911 Fund to enable the development, installation and operation of an enhanced 911 emergency response system throughout the State of New Mexico; and

Whereas, the purpose of the Enhanced 911 Act, Section 63-9D-2B NMSA 1978, states that enhanced 911 emergency reporting systems are to be operated under shared state and local governmental management and control; and

Whereas, an April 2006 Legislative Finance Committee audit on the status of E911 implementation in the State of New Mexico found that “there is not a coordinated long-range plan that includes local and state government”; and

Whereas, in response to this LFC audit, the Governor issued Executive Orders 2007-5 and 2007-6 to establish, respectively, the Local Level E911 Advisory Committee and the State E911 Coordinating Committee; and

Whereas, these two committees are required to report to the state their collective findings and recommendations under the direction of Senate Joint Memorial 34 from the 2010 Regular Session and will continue to dialogue on creating and maintaining an effective long-range plan for emergency response systems within New Mexico; and

Whereas, the need for better coordination between state and local government, especially in these times of economic strain, is essential to the continued success of E911 implementation and emergency response systems in the State of New Mexico.

Now, Therefore, Be It Resolved that the New Mexico Municipal League work with the New Mexico Association of Counties to ensure that long term local government interests and needs are being met under the intent and purpose of the Enhanced 911 Act, Section 63-9D NMSA 1978, by becoming more actively involved in a partnership with the state regarding usage and disposition of the E911 Fund.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-39

CONCERNING AMENDING THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

Whereas, the New Mexico Sex Offender Registration and Notification Act (SORNA), NMSA §29-11A-1 et seq., requires offenders convicted of certain sexual offenses in New Mexico to register with the sheriff of the county where the offender resides; and

Whereas, the New Mexico SORNA is not fully compliant with federal law (Title I of the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248); and

Whereas, legislation to bring our state into federal compliance has been introduced over the past several years, including House Bill 179 (Rep. Herrell) in 2012, but has failed to pass; and

Whereas, the legislation needed for compliance includes the incorporation of a more comprehensive group of sex offenders and offenses for which registration is required, tighter and more extensive registration requirements, and expansion of the amount of information available to the public; and

Whereas, New Mexico has been losing critical federal funding because of its non-compliance with the federal law; and

Whereas, an additional consequence of our state's non-compliance is that New Mexico has become an attractive relocation destination for sex offenders from other states who wish to avoid registering as sex offenders in their new communities; and

Whereas, SORNA does not currently prevent sex offenders from living near elementary schools, neighborhood parks or other locations frequented by young children; and

Whereas, the continued presence of sex offenders near areas where children are found in large concentration poses an increased risk of harm to children.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports amendment of the Sex Offender Registration and Notification Act to bring New Mexico into full compliance with federal law.

Be It Further Resolved that the amendments to SORNA also address the subject of registered offenders living or meeting in close proximity to schools, parks or other government owned facilities frequented by children.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-40

CONCERNING MUNICIPAL AUTHORITY TO REGULATE FIREWORKS

Whereas, Section 60-2C-1 et seq., NMSA 1978, the “Fireworks Licensing and Safety Act” comprises the State of New Mexico’s regulation of the sale and use of fireworks; and

Whereas, this Act, by requiring the State Fire Marshall to enforce its provisions, recognizes that fireworks and their associated dangers are matters directly relevant to fire control and public safety in general; and

Whereas, the current Act fails to adequately weigh the potential danger to citizens and financial costs of fires that may be caused by fireworks; and

Whereas, the extreme weather conditions experienced by our state have clearly shown that even one spark, no matter the cause, can result in catastrophic fires that have destroyed homes, threatened lives and tainted municipal watersheds; and

Whereas, the smoke generated from fires constitutes a known health threat for citizens, especially children and those with chronic respiratory and heart diseases, and has been linked to increased emergency department visits and hospitalizations; and

Whereas, the Fireworks Licensing and Safety Act grants certain limited powers to municipalities to restrict the sale and use of fireworks during extreme or severe drought conditions upon hearing and subsequent issuance of a proclamation; however, these powers are limited and do not cover all fireworks, and do not permit municipalities to ban the sale and use of all fireworks within their borders in the interest of public safety; and

Whereas, the state legislature has granted municipalities the power to define and abate nuisances, to pass ordinances providing for the health, safety and welfare of its inhabitants, and to take such actions as are necessary and proper to protect persons and property; thus recognizing that local government best knows of current and local conditions affecting public safety; and

Whereas, municipalities must be afforded the greatest latitude in the regulation of the sale and use of all types of fireworks and must be permitted the appropriate authority to take such actions as are necessary to protect the health, safety and welfare of its inhabitants and property.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to grant municipalities the authority to enact ordinances at any time regulating the sale and use of any firework, up to and including a complete ban.

Be It Further Resolved that the legislation also grant municipalities the option to issue an emergency proclamation at any time declaring extreme or severe drought conditions if the governing body determines such conditions exist; the proclamation shall describe the restrictions on the sale and use, up to and including a ban, of any firework deemed by the governing body as necessary for the protection of the health, welfare and safety of persons and property.

Passed Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-41

CONCERNING A REQUEST TO THE GOVERNOR TO ESTABLISH A WATER TASK FORCE

Whereas, water is one of the most critical and far-reaching state issues affecting all of New Mexico's citizens and municipalities; and

Whereas, New Mexico's rich cultural heritage, its urban, rural and tribal ways of life, and its unique natural environment all depend on sound water stewardship; and

Whereas, most of New Mexico's residential water use depends on groundwater supplies that are being rapidly consumed in many areas; and

Whereas, groundwater supplies in some rural and urban areas are also limited due to water quality concerns; and

Whereas, almost all surface water from lakes and streams in New Mexico have already been allocated for specific uses; and

Whereas, the economy of the state is also fundamentally dependent on vulnerable water supplies and on groundwater that is diminishing in supply and quality; and

Whereas, the management of surface water for Interstate Compacts and Treaties requires New Mexico to ensure mandated downstream deliveries; and

Whereas, the Endangered Species Act requires the state to manage surface water in order to protect endangered species.

Now, Therefore, Be It Resolved, that the New Mexico Municipal League requests that Governor Martinez establish a Water Task Force consisting of Municipal, County and State Officials including other water stakeholders, the State Engineer, the Interstate Stream Commission, and the State Environment Department to examine and discuss New Mexico's water issues and challenges and to provide advice and recommendations to the Administration and the New Mexico Legislature.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-42

CONCERNING ISSUANCE OF PERMITS UNDER THE NEW MEXICO SOLID WASTE ACT

Whereas, the New Mexico Solid Waste Act, Sections 74-9-1 et seq., NMSA 1978, as amended (“SWA”) requires that public notice be given and a public hearing be held prior to the issuance of any permit authorized to be issued under the SWA; and

Whereas, public hearings required by the SWA require the commitment of substantial public monies and personnel resources by the New Mexico Environment Department (“NMED”) and applicants for permits many of which are public entities; and

Whereas, those substantial public monies and personnel resources could be saved if public hearings are required under the SWA only if significant public interest exists; and

Whereas, the SWA has been in existence since 1990, a period of over twenty (20) years; and

Whereas, since the SWA has been in existence, the vast majority of public hearings held pursuant to the SWA have generated little, if any, active participation by the public despite extensive public notice requirements in the SWA related to the required public hearings.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports amendment of the SWA to provide that public hearings are required to be held under the SWA only if NMED determines, after public notice of an application for permit, that significant public interest exists with respect to the application that is the subject of the public notice.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-43

CONCERNING OPPOSITION TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) RULE CHANGE 2.110.2.27 AS PART OF THE CDBG GRANT PROGRAM GUIDELINES

Whereas, the State of New Mexico annually receives Community Development Block Grant (CDBG) funding through the Department of Housing and Urban Development which non-entitlement municipalities in New Mexico rely on to complete infrastructure, wastewater and other municipal projects for their communities; and

Whereas, CDBG funding received in recent years has declined due to the national economic climate; and

Whereas, the New Mexico Municipal League community members oppose the proposed CDBG Rule Change 2.110.2.27 Section 108 "Guarantee Loan Program Guidelines"; and

Whereas, if adopted by the Community Development Council, CDBG funds will be pledged against the Section 108 loan guarantee program, therefore putting CDBG funds in jeopardy should there be a default in said loans; and

Whereas, under the proposed Section 108 Loan Guarantee Program should a company or companies default, the State of New Mexico would forfeit all CDBG program funding to repay the loans, placing the CDBG program in jeopardy and leaving no funding for non-entitlement municipalities; and

Whereas, a vote to approve the Section 108 Loan Guarantee Program by the Community Development Council would jeopardize the availability of CDBG funding for communities in their infrastructure projects. Infrastructure projects that have also benefited in creating economic development for their communities, such as improving streets, waste-water projects, industrial parks and many others; and

Whereas, under the proposed Rule 2.110.2.27 (I) Loan Default: last sentence states that HUD does have borrowing authority with the U.S. Treasury if the pledged funds are insufficient however this does not guarantee that those funds will be available.

Now, Therefore, Be It Resolved that the New Mexico Municipal League community members oppose incorporating Rule Change Section 108 Loan Guarantee Program into the State of New Mexico Community Development Block Grant program.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-44

CONCERNING 2012 GO BOND ISSUE FOR LIBRARIES

Whereas, New Mexico public libraries provide books and other materials to meet the informational, educational, cultural and recreational needs of all New Mexicans; and

Whereas, the effectiveness of a library is determined by its ability to deliver current, accurate information in a timely manner through books and materials answering community needs; and

Whereas, advances in technology have made information resources increasingly accessible electronically; and

Whereas, the demand for library resources continues to rise while the cost of providing the resources is beyond local funding capacity; and

Whereas, publicly funded libraries have increased their effectiveness by sharing their resources electronically, enabling public, tribal, school and academic libraries to coordinate the use of scarce library funds within the community and statewide; and

Whereas, the coming November 6, 2012 statewide election, GO Bond "B" will provide \$9.7 million for public, tribal, school and academic libraries; and

Whereas, public libraries have experienced a substantial growth in usage, yet many municipalities lack resources to support adequate funding for library book collections.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports the Library Acquisition GO Bond "B" on the November 6, 2012 ballot.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-45

CONCERNING ALTERNATIVE SOURCES OF WATER SUPPLY

Whereas, drought conditions, contamination, watershed damage due to fire hazards and other potential causes of water supply shortages may endanger the health, safety and welfare of a significant number of New Mexico's citizens; and

Whereas, water supply shortages have created or threaten to create problems greater in scope than municipal governments alone may resolve; and

Whereas, it is important to ensure a dependable water supply during emergencies and to ensure present and future domestic and industrial use; and

Whereas, a lack of dependable water supply impacts on retaining and encouraging the expansion of the state's present businesses, the attraction of new business and the promotion of the desirable economic growth of the entire state; and

Whereas, municipalities recognize the importance of comprehensive water emergency planning and the value of effectively sharing our current water resources through well-considered redundancy and interconnection planning; and

Whereas, there is an interest in promoting the cost-effective conservation and efficient use of natural resources, including existing drinking water supplies and in developing cost-effective and environmentally responsible alternative sources of water supply; and

Whereas, there is an abundance of brackish water available in New Mexico that could be an option to address our water shortage by assessing the cost and environmental impact for consideration of inland desalination demonstration projects in the state; and

Whereas, the U.S. Bureau of Reclamation has established the Brackish Groundwater National Desalination Research Facility to bring together researchers from other federal agencies, universities, the private sector, research organizations, and state and local agencies to work collaboratively in a partnership to pursue research into supply-enhancing technologies for brackish groundwater; and

Whereas, the State of New Mexico should encourage the development of wastewater reclamation for a variety of beneficial uses by providing for the funding of various projects; and

Whereas, the use of reclaimed wastewater as a substitute for potable water in some industrial, sanitation and irrigation applications could increase regional water supply system reliability while helping to preserve and protect our high-quality drinking water supplies.

Now, Therefore, Be It Resolved, that the New Mexico Municipal League requests that the office of the State Engineer convene a Task Force to develop an appropriate funding mechanism that results in developing a statewide or other viable alternative to mitigate the risk of emergency water shortages by considering alternative sources of water supply including the expeditious development of clear guidance for demonstration projects that promote inland desalination and by further development of reclaimed wastewater as a substitute for potable water; and

Be It Further Resolved, that the Task Force include representation from the Governor's Office, The Department of Environment, the New Mexico Municipal League and the Association of Counties; and

Be It Further Resolved, that the Task Force present its findings to the appropriate Legislative Interim Committees.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2012-46

CONCERNING AMTRAK AND BNSF RAILWAY CO.

Whereas, Amtrak's Southwest Chief passenger rail service is a vital link for communities via Western Kansas, Southeastern Colorado and Northern New Mexico; and

Whereas, the Southwest Chief serves over 34,000 passengers per year at stops in the New Mexico Communities of Lamy, Las Vegas and Raton; and

Whereas, the passenger rail service on the current alignment now faces a significant financial challenge, because Burlington Northern Santa Fe has shifted its freight operations from the current route; and

Whereas, BNSF will no longer have a business reason for maintaining the line to a condition suitable for passenger and freight rail operations; and

Whereas, the New Mexico Municipal League recognizes the importance of preserving this transportation service on the current alignment; and

Whereas, the New Mexico Municipal League recognizes the need to find solutions that will maintain the capital improvements to continue these rail services.

Now, Therefore, Be It Resolved that the New Mexico Municipal League requests the members of the Legislature of the State of New Mexico to support continuation of Amtrak Southwest Chief passenger service and Burlington Northern freight service Santa Fe routes.

Be It Further Resolved, that New Mexico Municipal League calls upon the New Mexico Congressional Delegation to support funding for the continuation of the Amtrak's Southwest Chief passenger service and Burlington Northern freight service Santa Fe routes.

Passed, Approved and Adopted this 30th day of August at the City of Las Cruces, New Mexico.