

THE ALABAMA MUNICIPAL **JOURNAL**

June 2005

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2005 Convention Review



ALM's Executive Director, Perry C. Roquemore, Jr., presents retiring Mayor Al DuPont with a special resolution on Tuesday night of the League convention.

Mayor Alvin DuPont, who will retire as mayor of Tuscaloosa in October, was honored on Tuesday night of the convention by the League with a special resolution commending him for more than 50 years of service to the city of Tuscaloosa.

See page 6.

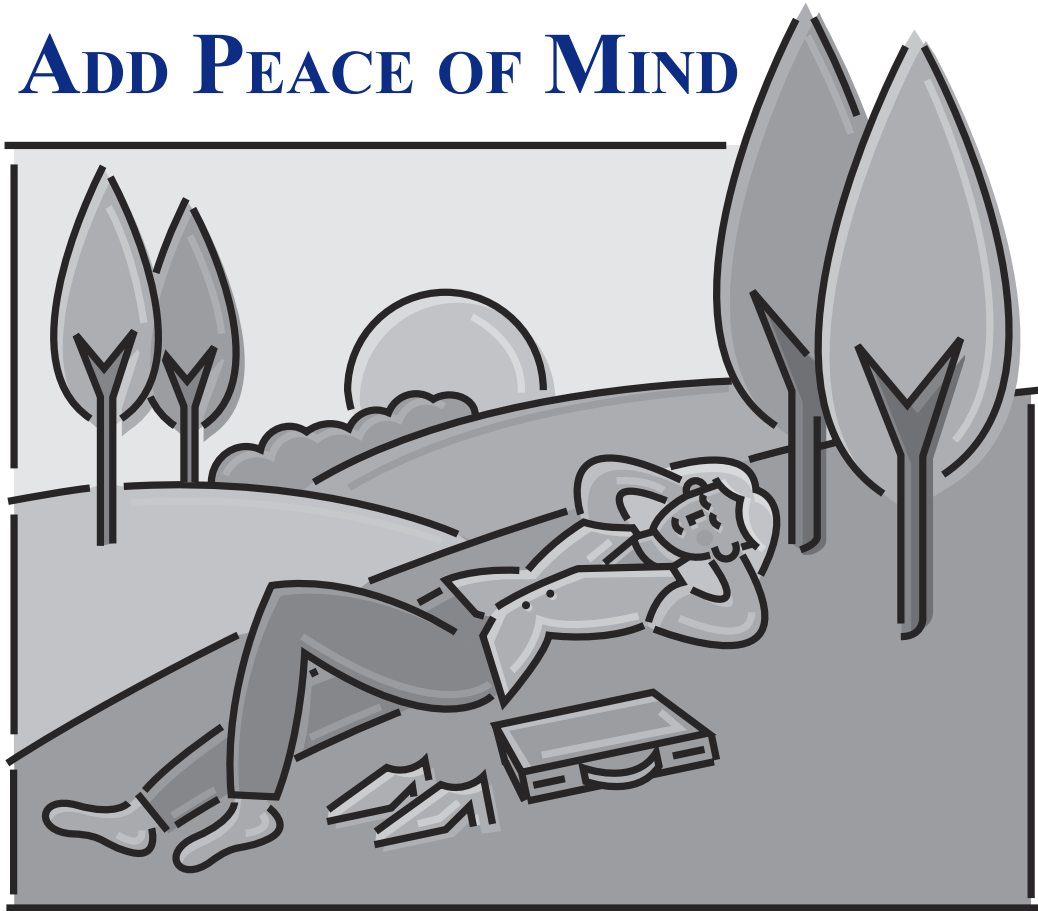
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2004 ELECTIONS RESULTED IN 42 PERCENT TURNOVER IN MAYORS AND COUNCILMEMBERS

By Jim Byard, Jr., Mayor, Prattville
Immediate Past President

Mayor Hayes, Mayor Spencer, Councilmember Hunt, Ladies and Gentlemen, I am indeed honored to stand before you this morning as we formally open our 2005 annual convention. It has been a privilege to have served as your president during this past year. I appreciate the opportunities you have given me. I thank you for your confidence. But most of all I thank you for your friendship.

Mayor Spencer, as usual the hospitality of the Rocket City has been outstanding. I want to personally thank you, the Huntsville City Council, and all of your staff, for making us feel so welcome this weekend. It is obvious with all of the construction, that your city is flourishing.

I also want to thank Mayor Bobby Hayes of Pelham, who has served so ably as our League vice president this year. Bobby is a long-serving, dedicated mayor. I have enjoyed getting to know both he and his wife, Judy, better this year. The citizens of Pelham are fortunate to have such a great leader.

Thank you also to Councilmember Hunt. We are happy to have you back in Alabama. Shortly, we will hear from Jim as he discusses the National League of Cities and several key challenges our cities will be facing at the national level. It is good to know that someone from a small town in West Virginia is in line to lead the NLC next year. I will always remember the first time I met Jim Hunt. I introduced myself to him and told him that I was from Prattville. Immediately he said, "I know right where Prattville is, I buy my political signs there!" Well, as you can imagine, that endeared him to me right then and there. Anyone that spends money in my town is definitely a fast friend!

Since our meeting in Birmingham last year, the vast majority of our member cities and towns have held elections, resulting in a 42 percent turnover among mayors and council-

members. If you are a newly-elected official, please raise your hand. Please join me in welcoming these new officials to our League. Now, how many are officials that changed

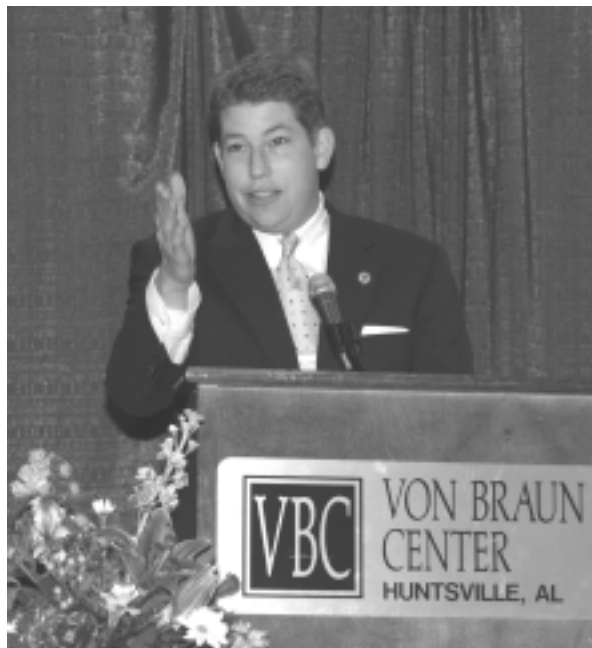
positions? Maybe you were a councilmember and are now a mayor. Or maybe you had previously served, and have now returned. We sometimes refer to this group as "recycled officials". Please raise your hand if you fall in this category. Welcome back to our League!

This has truly been a rewarding year. I can hardly believe that my tenure is coming to an end. With your help, our League has continued to move forward – gaining momentum daily. You and I stand on the shoulders of those who came before us. Folks like Eddie Frost, mayor of Florence, or Mayor Leon

Smith of Oxford, Ted Jennings, mayor of Brewton, or Al Dupont of Tuscaloosa. Mayor Dupont, recently turned 80 years old, and announced that he is retiring at the end of this term in August. He served the citizens of Tuscaloosa for 30 years as the City Engineer, and 24 years as Mayor, for a combined total of over 50 years of service. Mayor, please stand- let's give this gentleman a hand. In fact, would all the past presidents of the League please stand. We salute you and thank you for your service to our League.

This past October, as we do every quadrennium, the League held orientation sessions for newly-elected officials. However, instead of holding one large orientation session in Montgomery, four regional meetings were held throughout the state. These very successful regional sessions were held in Montgomery, Dothan, Birmingham and Florence. It was a real treat for me to travel around our State, and visit with many of you in your own backyards.

As a League, we are enjoying impressive attendance at NLC meetings. In fact, this year Alabama attendance is





up to where it was prior to the tragic events of September 11, 2001. Your participation in the NLC resulted in our state once again having the highest number of attendees at the conference in Indianapolis last December and the Washington meeting this past March. And speaking of the NLC, it was gratifying to watch one of our own, Councilmember Cynthia McCollum of Madison, vie to become second vice president of the NLC. Although she did not make it last year, I am looking forward to helping her succeed in Charlotte this December.

I believe I am most proud of the creation of the League's newest venture on behalf of our municipalities – the Alabama Municipal Funding Authority, or AMFund. This new League program will give our member cities and towns another option regarding funding and financing almost any worthwhile municipal project. I believe AMFund will be most beneficial to our smaller communities, and will soon become a mainstay program, just as AMIC and our Municipal Workers Compensation Fund are today. AMFund is governed by a diverse board of directors, led by its chair, Mayor Steve Means of Gadsden, and Mayor Roy Dobbs of Berry, its vice chair. I encourage you to stop at the AMFund display in the convention hall and find out how this program can work for your community.

Just one week ago, our State Legislature ended its regular session – without a general fund budget. Where would you and I be if we were running our cities like that? You and I are privileged to serve in the part of government that is closest to the people. I cannot image governing our towns and cities in a constant state of confusion. Our Immediate Past President, Mayor Dan Williams of Athens, said it best last year, when he said, "Our state needs a good dose of municipal leadership." As mayors and councilmembers, we must balance, and for that matter, pass our budgets. We must live within our means while making the tough choices. We must prioritize public safety, public infrastructure and quality-of-life spending – all at home, right where our constituents can reach out and touch us. Our state leaders, as well as our national leaders might be well advised to look

to the cities and towns, and get a lesson on how to govern. We – mayors and councilmembers – cannot get caught up in partisan battles. We have to make decisions constantly that affect the everyday lives of the citizens we represent, whether Democrat, Republican, independent, African-American, white, Asian, Hispanic, influential or average Joe – all the citizens of our cities and towns. Certainly we do not always make the right decisions, but the vast majority of the time we do. And the cities and towns of Alabama are growing and prospering to prove it!

As I have said, this has been a tremendous year, not just for our League, but for me personally as well. When I spoke to you last year, I was single and, like many of you, facing an election. Now I stand before you, re-elected, which is important. But more importantly, I am married to a wonderful lady that brought a beautiful 3-year-old daughter into our marriage. And as I stand here today, Beverly and I are expecting a son in late October. You can imagine that my house went from zero to 110 in a short, happy time!

I must thank Perry Roquemore, and especially Edye Gertz, and the entire League staff for the wonderful job they do everyday in representing all of our member towns and cities. Join me in thanking all of these folks who work behind the scenes to make our League an exemplary, progressive and helpful organization. All the members of our Executive Committee and Standing Committees are also due a debt of gratitude for helping lead our organization this year.

I would be remiss if I did not thank the members of the Prattville City Council and all of the City staff. They have let me serve you this year, and have always been behind me and our League. And last, but certainly not least, I want to thank each of you here today. I am honored to have served you and made so many lifelong friendships. God bless you and your families. And God bless Alabama! ■



James Hunt, Councilmember from Clarksburg, West Virginia, and First Vice President of the National League of Cities, was a keynote speaker during the Opening Session.

THE LEAGUE HONORS MAYOR AL DUPONT



WHEREAS, Mayor Alvin P. DuPont is retiring after more than 50 years of exemplary service to the City of Tuscaloosa, serving first as a land surveyor then in the positions of assistant city engineer, public works director, planning development director and grant writer followed by service as mayor for the past 24 years; and

WHEREAS, Mayor DuPont has provided invaluable guidance to his city and its employees throughout his tenure and is Tuscaloosa's longest-employed public servant; and

WHEREAS, Mayor DuPont was instrumental in the growth of Tuscaloosa by attracting new industries such as Corus Steel, JVC and Mercedes-Benz since he was first elected to office; and

WHEREAS, Mayor DuPont has worked closely with the Alabama League of Municipalities serving on numerous key committees as well as serving many years on the League's executive committee; and

WHEREAS, Mayor DuPont was elected to serve

as vice president of the Alabama League of Municipalities from 1990 to 1991 and then as president from 1991 to 1992 and was then selected to fill an unexpired term as president from 2000 to 2001; and

WHEREAS, Mayor DuPont has been active on the national level, representing his community and the State of Alabama by serving on various committees for the National League of Cities; and

WHEREAS, the League wishes to acknowledge Mayor DuPont for his friendship, assistance and invaluable contributions over the years as well as his leadership and wisdom as an elected official;

NOW THEREFORE, BE IT RESOLVED, by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that the Alabama League of Municipalities Executive Committee does hereby congratulate and commend Mayor DuPont on his retirement and wish him God speed in his future endeavors.

Minutes of the General Business Session

Alabama League of Municipalities, Huntsville, Alabama
May 24, 2005

The General Business Session of the Convention of the Alabama League of Municipalities was called to order promptly at 2:00 p.m., May 24, 2005, by President Jim Byard, Jr. of Prattville, at the Holiday Inn Select Hotel in Huntsville, Alabama. President Byard thanked everyone for their attendance at the annual business session and for their efforts on behalf of the League during the past year. He also thanked the membership for giving him the opportunity of serving as President during the past year.

The President then called upon Perry C. Roquemore, Jr., Executive Director of the Alabama League of Municipalities, for his annual report. Mr. Roquemore expressed his appreciation for the support of the officers, staff and membership during the past year. He stated that the League membership was now at 444 cities and towns and that the League finances would be adequate for fiscal year 2004-2005. Mr. Roquemore also discussed the recently completed 2005 Legislative session. A copy of his report is attached to these minutes.

President Byard then called on Mayor Leon Smith of Oxford, President of the Municipal Workers' Compensation Fund, Inc., for an annual report. Mayor Bobby Payne of Tallassee, Chair of the Alabama Municipal Insurance Corporation (AMIC), was then called on to make AMIC's annual report. Copies of these reports are attached to these minutes.

The President then called upon Mayor Lew Watson of Lincoln, Chairman of the Resolutions Committee, for the committee's report. Mayor Watson reported that the Resolutions Committee had met on Sunday, May 22, and had recommended that the League's *Policies and Goals for 2005* be adopted with the following amendments:

1. Policy Position **F-5.6** should be deleted and subsequent sections renumbered due to the passage of the new open meetings legislation
2. Policy Position **H-7.5** should be amended to read as follows: "**H-7.5. That the League urges municipalities to encourage local civic groups and citizens to support persons with mental illness, mental retardation, substance abuse problems, and those that are handicapped as they live in local communities. Further, that the League encourages municipalities to assist in the elimination of barriers that people with mental illness, mental retardation, physical disabilities, and substance abuse problems face in their need for affordable and adequate housing.**"

Mayor Watson moved adoption of the *Policies and Goals for 2005*, as amended, which motion was seconded by Council Member Don Moore of Uniontown. The motion carried.

Mayor Watson then presented the resolutions for adoption. He pointed out that members were given summaries of 51 resolutions recommended by the Resolutions Committee. Several typographical errors were discovered and administratively corrected in Resolutions 43, 44, and 47. He then read Resolutions 47, 48, and 51.

Resolution No. 47 thanked Mayor Al DuPont of Tuscaloosa for over 50 years of service to the League and his city.

Resolution No. 48 memorialized those active and former municipal officials that passed away since the last convention. Additional names were added from the floor.

Resolution No. 51 commended Mayor Jim Byard, Jr. for his service as President of the League.

Mayor Watson moved adoption of Resolutions 1-51 and Mayor Melvin Duran of Priceville seconded the motion. The motion passed unanimously.

Mayor Watson then asked if there were any resolutions from the floor. Mayor Sandy Kirkindall of Madison presented a resolution encouraging Congress to fully fund NASA'S Vision for Space Exploration program. Mayor Kirkindall moved adoption of the resolution, which was seconded by Mayor Dan Deason of Scottsboro. The motion carried.

President Byard then called upon Mayor Steve Means of Gadsden to present the report of the Nominating Committee. Mayor Means stated that the Nominating Committee had a tough assignment to choose officers for the next years from an abundance of very qualified candidates. He reported that the Nominating Committee had met and had recommended the following persons:

- President** – Mayor Bobby Hayes, Pelham
Vice President – Mayor Carroll L. Watson, Lincoln
Executive Director – Perry C. Roquemore, Jr., Montgomery

For Chair and Vice Chair of the Standing Committees of the League

Committee on State and Federal Legislation
Chair – Mayor Bob Bunting, Ozark

continued next page

Vice Chair – Council Member Charles Woods, Childersburg

Committee on Finance, Administration and Intergovernmental Relations

Chair – Mayor Jay Jaxon, Eufaula

Vice Chair – Council Member Debbie Quinn, Fairhope

Committee on Energy, Environment and Natural Resources

Chair – Council Member Bill Stewart, Gadsden

Vice Chair – Mayor Ron Davis, Prichard

Committee on Community and Economic Development

Chair – Council Member Lee Garrison, Tuscaloosa

Vice Chair – Council Member Thomas O. Moore, Demopolis

Committee on Transportation, Public Safety and Communications

Chair – Mayor Tim Kant, Fairhope

Vice Chair – Council Member Bobby Phillips, Calera

Committee on Human Development

Chair – Mayor Randall Shedd, Fairview

Vice Chair – Council Member Isabell Boyd, Brundidge

Executive Committee

First Congressional District:

Mayor Richard Long, Jackson

Mayor Tim Russell, Foley

Council Member Mike Ford, Fairhope

Mayor Howard Shell, Atmore

Mayor Jim Trout, Chickasaw

Second Congressional District:

Mayor Curtis Jackson, Autaugaville

Mayor Frank Houston, Coosada

Mayor Fred McNab, Pinckard

Council Member Dean Argo, Prattville

Mayor Jo Glenn, Wetumpka

Third Congressional District:

Mayor Charles Fagan, Piedmont

Mayor Joseph K. Roberson, Ohatchee

Mayor Bobby Bright, Montgomery

Council Member Ray Edwards, Valley

Council Member Mack Arthur Bell, Roanoke

Fourth Congressional District:

Council Member Robert Earnest, Winfield

Mayor Charles O'Rear, Attalla

Mayor Roy Dobbs, Berry

Mayor Wally Burns, Southside

Mayor Don Green, Cullman

Fifth Congressional District:

Mayor Loretta Spencer, Huntsville

Council Member Cynthia McCollum, Madison

Mayor Melvin Duran, Priceville

Mayor Kenneth Copeland, Littleville

Council Member Jo Ann S. Thomas, Florence

Sixth Congressional District:

Mayor Bernard Kincaid, Birmingham

Mayor Harvey Fretwell, Northport

Mayor Charles Penhale, Helena

Mayor Tom Henderson, Center Point

Council Member Ed Scott, Adamsville

Seventh Congressional District:

Mayor John Lammers, Carrollton

Council Member Roberta Jordan, Pine Hill

Council President George Evans, Selma

Council Member Jesse Matthews, Bessemer

Council Member Don Moore, Uniontown

Ex Officio Members (Active Past Presidents)

Mayor Steve Means, Gadsden

Mayor Johnny Ford, Tuskegee

Mayor Henry V. Bonner, Roanoke

Mayor Alvin P. Dupont, Tuscaloosa

Mayor Bobby Payne, Tallassee

Mayor Leon Smith, Oxford

Mayor Ted Jennings, Brewton

Mayor Billy Joe Driver, Clanton

Mayor George Roy, Calera

Mayor Dan Williams, Athens

Mayor Jim Byard, Prattville

Mayor Means moved adoption of the Nominating Committee report. The motion was seconded by Mayor Sandy Kirkindall of Madison. Following a request for nominations from the floor and having none, the motion to approve the report of the Nominating Committee and to elect all officers therein carried unanimously and all officers were declared elected. A copy of the full report is attached to these minutes.

Mayor Loretta Spencer of Huntsville was called upon to present the report of the Site Selection Committee. She stated that the League convention would be held in future years as follows: May 6-9, 2006, Mobile; April 21-24, 2007,

Huntsville; May 17-20, 2008, Birmingham, and May 2-5, 2009, Montgomery. Mayor Spencer moved adoption of the report, which was seconded by Mayor Bobby Payne of Tallassee. The Site Selection report was approved and a copy is attached to these minutes.

There being no further business, the meeting was adjourned.

Perry C. Roquemore, Jr.
Acting Secretary

RESOLUTION NO. 1

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their deep appreciation to Mayor Loretta Spencer and members of the Huntsville City Council and their spouses, and their respective staffs for their hospitality and assistance in planning and promoting this convention, and for their help in the daily operation of a very successful convention. Their work and dedication has made this year's convention one of the most successful and enjoyable in recent years.

RESOLUTION NO. 2

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their deep appreciation to Governor Bob Riley for his excellent address at the Luncheon on Monday during our convention.

RESOLUTION NO. 3

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their deep appreciation to James Hunt, Councilmember, Clarksburg, West Virginia, First Vice President, National League of Cities, for his outstanding address during the Opening Session on Monday morning of our convention. We wish the best for him and our national organization as they continue, at the federal level, to oversee the interests of municipal government throughout the country.

RESOLUTION NO. 4

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank Perry Roquemore, Jr. the League's executive director and Ken Smith, the League's Deputy Director for their presentation: Act 2005-40 – The New "Sunshine" Law on Monday morning of this convention.

RESOLUTION NO. 5

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they sincerely thank the Alabama Congressional Delegation, namely Congressman Jo Bonner, Congressman Terry Everett, Congressman Michael Rogers, Congressman Robert Aderholt, Congressman Bud Cramer, Congressman Spencer Bachus, Congressman Artur Davis, Senator Richard Shelby and Senator Jeff Sessions for their interest in promoting the affairs of Alabama municipalities in the Congress of the United States. We urge them to continue the spirit of unity which prevails in our Congressional Delegation.

RESOLUTION NO. 6

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they thank the leadership of the Alabama House of Representatives for supporting League legislation and assisting the League when possible during the legislative process, namely: Seth Hammett, Speaker of the House; Demetrius Newton, Speaker Pro Tempore; Representative Jack Venable, Chairman of the House Rules Committee; and Representative Bill Dukes, Chairman, House County and Municipal Government Committee.

RESOLUTION NO. 7

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do wish to thank the leadership of the Alabama Senate for supporting League legislation and for assisting the League when possible during the legislative process, namely: Lucy Baxley, Lieutenant Governor; Lowell Barron, President Pro Tempore of the Senate; Senator Jim Preuitt, Chairman of the Senate Rules Committee; and Senator Phil Poole, Chairman of the State Governmental Affairs Committee. We also want to thank the Senators who chaired committees vital to local government legislation.

RESOLUTION NO. 8

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank William Sanderson of Lanier Ford Shaver & Payne, P.C. for his presentation during the Annual Meeting of the Alabama Municipal Insurance Corporation on Saturday afternoon of this convention.

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RESOLUTION NO. 9

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank the following persons for their presentations during the first set of concurrent sessions held on Monday afternoon of this convention: Jessica Dent, Manager of Energy Service, ADECA; Allen Tartt, Director of AOWA Training Center, University of West Alabama; Jim Porter, Porter & Hassinger P.C.; Mary C. Cates, Assistant City Attorney, Huntsville; and Randy Van Vleck, General Counsel, New Mexico Municipal League.

RESOLUTION NO. 10

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank the following persons for their presentations during the second set of concurrent sessions held on Monday afternoon of this convention: Chief Robert Evans, Muscle Shoals; Chief Louis Zook, Sylacauga; Stanley Fant, SkidCar Coordinator, AMIC/MWCF; Trisston Wright, Ms. Wheelchair America/Alabama 2005, Prattville; Max McMullen, Benefits for America; Major P. May, Bureau Chief, Alabama Emergency Management Agency; Jay Jaxon, Mayor, Eufaula; Elizabeth Brown, Alabama Historical Commission; Bo Grisham, Brookmont Realty Group, Birmingham; Darrelyn Bender, President, Eastern Shore Chamber of Commerce; and Ann Sparks, Eufaula Main Street Director.

RESOLUTION NO. 11

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their appreciation to the Honorable Brenda Flowers Smith, Assistant Attorney General, for her considerable help during the past year and for her continued assistance in answering the requests of Alabama municipalities. We also thank Brenda Smith for participating in the program of this convention.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Honorable Troy King, Attorney General, State of Alabama.

RESOLUTION NO. 12

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their sincere appreciation to the participants at the Municipal Law Conference and in particular do they thank Tom Dwyer, Rhode Island Interlocal Risk Management

Trust; Perry Roquemore, Executive Director, Alabama League of Municipalities; Bob Ennis, City Attorney, Tuscaloosa; Harwell G. Davis, III, United States Magistrate Judge, United States District Court, Northern District of Alabama; Mike Melton, Assistant City Attorney, Birmingham; Randy Van Vleck, General Counsel, New Mexico Municipal League; Tim Nunnally, Senior Associate City Attorney, Tuscaloosa; Walter Byers, City Attorney, Montgomery; J. Scott Pierce, Kaufman & Rothfeder, P.C.; and Brenda Smith, Assistant Attorney General.

RESOLUTION NO. 13

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their thanks to the participants on the Municipal Clerks Program and particularly do they thank Leslie Easter, Procurement Supervisor, City of Huntsville; Teresa Harrison, Consultant, Tuscaloosa; Perry Roquemore, Executive Director, ALM; Lori Lein, Staff Attorney, ALM; Mary Ellen Harrison, Staff Attorney, ALM; Brenda Smith, Assistant Attorney General, Alabama Office of Attorney General; and Ken Smith, Deputy Director/Chief Counsel, ALM.

RESOLUTION NO. 14

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank Mayor Bobby Hayes of Pelham for his service during the past year as Vice President of the League. His attention to duty was most commendable.

RESOLUTION NO. 15

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank the Chairs, Vice Chairs and members of the League's standing committees for their excellent work during the past year. We thank them for their work on the League's Statement of Policies and Goals.

RESOLUTION NO. 16

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do express their sincere appreciation to the mayors, councilmembers, clerks and administrators who presided over the programs during this convention and to those who made presentations during the sessions of this convention.

RESOLUTION NO. 17

BE IT RESOLVED by the Delegates of the Alabama

League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their thanks to Jason Humphries and Mary Ellen Wyatt Harrison for arranging the Municipal Masters Golf Tournament and for their work during the tournament.

RESOLUTION NO. 18

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank Mayor Steve Means of Gadsden for serving as master of ceremonies at the Spouses Breakfast.

RESOLUTION NO. 19

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they thank Mayor Leon Smith of Oxford, Councilmember Cynthia McCollum of Madison, Mayor Ted Jennings of Brewton, Mayor George Roy of Calera and Mayor Dan Williams of Athens for their excellent work as directors of the Municipal Workers Compensation Fund, Inc. We also wish to thank Steve Martin and Faith Ann Gunn for their dedicated attention to duties in the management of the workers compensation program. This company has been an outstanding success and we urge other cities to participate in its program and utilize its services.

RESOLUTION NO. 20

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they thank Mayor Bobby Payne of Tallassee, Mayor Billy Joe Driver of Clanton, Mayor Melvin Duran of Priceville, Mayor David Bradford of Muscle Shoals and Mayor Charles Murphy of Robertsedale for serving on the Board of Directors of the Alabama Municipal Insurance Corporation. We also wish to commend the work of Steve Wells, AMIC's President. Because of the work of these officials, AMIC has proven to be extremely successful and of tremendous benefit to the cities and towns of Alabama. We urge other municipalities to participate in this service offered through the League.

RESOLUTION NO. 21

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they thank Mayor Steve Means, Gadsden, Chair; Mayor Roy Dobbs, Berry, Vice Chair; Mayor Wally Burns, Southside; Mayor Jim Byard, Prattville; and Councilmember Charles Woods, Childersburg for serving on the Board of

Directors of the Alabama Municipal Funding Authority, Inc. (AMFund). AMFund is the League's newest venture and we urge our municipalities to participate in this new program.

RESOLUTION NO. 22

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their appreciation to the clerks of the cities and towns of this state for the outstanding work they do on our behalf. We also commend them for their excellent and timely program at this convention.

RESOLUTION NO. 23

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank the city managers and city administrators for the work they perform for the cities and towns of Alabama. We also thank them for their participation in the programs of this convention and especially for serving as moderators during some of the roundtable discussions held on Tuesday morning of this convention.

RESOLUTION NO. 24

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they thank the various departments and agencies of the state and federal government that have been most helpful to the cities and towns of this state during the past year. We commend them for their cooperation and thank them for their assistance.

RESOLUTION NO. 25

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they thank the Huntsville Police Department for their participation in the Opening Session of this convention.

RESOLUTION NO. 26

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they thank Chelsea Felder, student at the Academy for Academics and Art for singing the National Anthem during the Opening Session of this convention.

RESOLUTION NO. 27

BE IT RESOLVED by the Delegates of the Alabama

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League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they commend Perry Roquemore and the members of the League staff for their deep devotion to the interests of the municipalities of this state and that we thank them for their unselfish labors in fulfilling the responsibilities of their assignments.

RESOLUTION NO. 28

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do express their appreciation to Merchant Capital for co-sponsoring the League's Welcome Reception held at the Joe Davis Stadium on Saturday night of this convention.

RESOLUTION NO. 29

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they thank the Alabama Municipal Insurance Corporation, Municipal Workers Compensation Fund and Millennium Risk Managers for sponsoring the coffee breaks for delegates during the convention.

RESOLUTION NO. 30

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank Burgess & Hale and Fees & Burgess, P.C. for sponsoring the coffee breaks during the Municipal Law Conference and the Alabama Association of Municipal Attorneys for sponsoring lunch.

RESOLUTION NO. 31

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, Alabama Municipal Electric Authority; Alabama Electric Cooperative, Inc.; Tennessee Valley Authority; and Electric Cities of Alabama for sponsoring the luncheon on Monday afternoon of this convention.

RESOLUTION NO. 32

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do sincerely thank Alabama Gas Corporation for sponsoring the reception on Monday night of our convention.

RESOLUTION NO. 33

BE IT RESOLVED by the Delegates of the Alabama

League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank the City of Huntsville for sponsoring the banquet on Monday night of this convention. Their sponsorship is another example of the excellent hospitality shown by the city during our convention this year.

RESOLUTION NO. 34

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank the STJazz Show Choir for their performance at the Spouses Breakfast on Monday morning of this convention.

RESOLUTION NO. 35

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their sincere appreciation to the companies and businesses which sponsored parties for delegates on Sunday night of the convention.

RESOLUTION NO. 36

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they express their deep appreciation to the Alabama Telecommunications Association for their sponsorship of the Spouses Breakfast.

RESOLUTION NO. 37

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do express their appreciation to Wachovia Bank for sponsoring the reception preceding the Presidents Banquet on Tuesday night of the convention.

RESOLUTION NO. 38

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do express their appreciation to Alabama Power for co-sponsoring the entertainment on Monday night of the convention.

RESOLUTION NO. 39

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do hereby express their appreciation to the exhibitors

at this convention for their participation and note that their contributions have meant much to the success of this convention. Specifically, we thank the following exhibitors: 4site, Incorporated; ADECA; ADECA Science, Technology and Energy Division; AIG Valic; Alabama Advantage; Alabama Association of Municipal Clerks; Alabama Association of Regional Councils; Alabama Attorney General Consumer Affairs Office; Alabama Bankers Bank; Alabama Cable Telecommunications Association; Alabama Cooperative Extension Systems; Alabama Correctional Industries; Alabama Department of Agriculture and Industry; Alabama Department of Environmental Management; Alabama Department of Industrial Relations; Alabama Department of Rehabilitation Services; Alabama Department of Revenue; Alabama Department of Transportation; Alabama Manufactured Housing Institute; Alabama Municipal Electric Authority; Alabama Municipal Funding Authority; Alabama Municipal Insurance Corp; Alabama Municipal Revenue Officers Association; Alabama One Call; Alabama Recreation and Parks Association; ALATAX; All Kids, Alabama Department of Public Health; ARCADIS; Arrow Disposal Service; Asphalt Zipper; Aviation Council of Alabama, Inc.; Badger Meter, Inc.; Barge, Waggoner, Sumner & Cannon, Inc.; Benefits for America; Brick Southeast; BFI; Bridge and Slaughter, LLC; Bush Whacker Cutters; Capital Management and Asset Group; CDG Engineers and Associates; Center for Economic Development; Center for Government Services, AUM; CGI Communications; CityTech; Civil Solutions; Columbia Southern University; Computer Technology Solutions; Conquest Trucks; Design Alabama; Dixie Decorations, Inc.; Durham Auctions Inc.; Empire Pipe and Supply Co., Inc.; F.W. Dougherty; First Continental Leasing; Forensic Toxicology Lab at East Alabama Medical Center; Garver Inc; GEMS Government e-Management Solutions; Geological Survey of Alabama / State Oil and Gas Board; Goodwyn, Mills and Cawood, Inc.; GOVAUCTIONS.US / JM Wood Auction Co.; GovDeals; Governors Office of Faith Based and Community Initiatives; HADCO; Hammill and Associates; Hendon Engineering Associates; Holiday Designs; Holophane; Ingenuity, Inc.; International Code Council; J.A. Dawson and Co. Inc.; Jared Environmental, Inc.; Johnson & Associates; Johnson Controls, Inc.; Judicial Correction Services; Junior Davis and Associates; KeytoCity.com; KHAFRA Engineers, Architects and Construction Mgrs; Life Insurance Company of Alabama; Local Government Data Processing; Local Government Services; Long Lewis Sterling; Municipal Code Corp / MCCi; Municipal Revenue Services; Municipal Workers Compensation Fund; Musco Sport Lighting; NAFECO; National Cable & Telecommunications Consulting; National League of Cities; National Safety Council, Alabama

Chapter; Neptune Technology Group, Inc.; Onyx Waste Services; Organizing Associates / GCRM; Pac-Mac / Hol-Mac; Paul Krebs and Associates, Inc.; Polyengineering, Inc.; Professional Probation Services, Inc.; Pyro Productions, Inc.; Retirement Systems of Alabama; Robert Huff Designs; Rudy Greer; Sain Associates; Samson Equipment Co., Inc.; Schwarze Industries, Inc.; Sentell Engineering, Inc.; Sharp Communication, Inc.; Sherlock, Smith and Adams, Inc.; Smith Data Processing; Southeastern Equipment Company; Southern Playgrounds; State Employee Insurance Board; Sunbelt Fire, Inc.; Syscon, Inc.; Tank Pro, Inc.; Tetra Tech, Inc.; The Bank of New York Trust Company, N.A.; The McPherson Companies, Inc.; The Silver Trunk; The Tennant Company; Thompson Tractor Co., Inc.; Tudor Custom Recreation Equipment, Inc.; Tyler Technologies / INCODE; U.S.D.A. Rural Development; Universal Concepts; Utility Service Company; Verizon Wireless; Waste Management; and Wilson Price Barranco Blankenship and Billingsley.

RESOLUTION NO. 40

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they sincerely thank Carr, Riggs and Ingram, LLP for providing the Hole-In-One prize for the Municipal Masters Golf Tournament. Also, we are most appreciative to Municipal Revenue Service for providing the golf prizes for tournament winners; North Alabama Mayor's Association for sponsoring the breakfast; and AIG/VALIC; Porter, Porter & Hassinger, P.C.; Neel-Schafer, Inc.; and Hill, Hill, Carter, Franco, Cole and Black, P.C. for co-sponsoring lunch.

BE IT FURTHER RESOLVED that they do thank the following for their sponsorships: GOLD sponsor – Municipal Revenue Service. SILVER sponsors – C. Robert Gottlieb; Browning Ferris Industries; Porter, Porter and Hassinger, P.C.; Carr, Riggs and Ingram; Hill, Hill, Carter, Franco, Cole and Black; Neel-Schaffer; North Alabama Mayors Association and AIG/VALIC; Tetra Tech, Inc.. BRONZE sponsors – Fuller and Willingham; Lusk and Lusk; Turnbach, Warren, Roberts and Lloyd; Wooten, Thornton, Carpenter, O'Brien, Lazenby and Lawrence; Ball, Ball, Matthews and Novak; Black and Hughston; Lanier, Ford.; Shaver and Payne; Stanley A. Martin; Automobile Dealers Association of Alabama; Fann and Rea; Morgan Keegan and Company; Rives and Peterson; Alabama Municipal Insurance Corporation; Alabama Municipal Funding Authority Inc.; Alabama Association of Municipal Attorneys; and Municipal Worker's Compensation Fund.

RESOLUTION NO. 41

BE IT RESOLVED by the Delegates of the Alabama
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League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do express their thanks to the following sponsors of League legislation during the 2005 Regular Session, namely: Senators Hap Myers, Zeb Little, Harri Ann Smith, Pat Lindsey, Jabo Waggoner, Tommy Ed Roberts, E. B. McClain, and Larry Means, and Representatives Bill Dukes, Steve McMillan, Marcel Black, Warren Beck, Ron Johnson, Mike Hill, Jack Williams, Randy Wood, Mike Ball, and Joe Carothers.

RESOLUTION NO. 42

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do thank the members of the 2004-2005 Executive Committee for their expertise, advice and assistance regarding League operations.

RESOLUTION NO. 43

WHEREAS, Congress established the Community Development Block Grant (CDBG) program more than 30 years ago; and

WHEREAS, the CDBG program has already proven itself to be a valuable and effective tool for Alabama's municipalities; and

WHEREAS, the CDBG program has been the foundation for Alabama's cities and towns, large and small, for the creation of jobs, providing affordable housing, eliminating blight and generating new economic investment; and

WHEREAS, President George W. Bush has proposed a new "Strengthening America's Communities Initiative" that combines 18 direct grant programs, including CDBG, into one within the Economic Development Administration (EDA); and

WHEREAS, the President's recommendation would make substantial cuts in funding from previous years,

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they urge the Congress to fully fund the Community Development Block Grant Program this year and for all future years.

RESOLUTION NO. 44

WHEREAS, the Alabama Legislature convenes in Montgomery for 30 legislative days within a 105 calendar days; and

WHEREAS, the Alabama Legislature typically introduces over 1200 bills each session; and

WHEREAS, the Alabama Legislature is inundated by more than 660 registered special interest advocates requesting their issues be considered priority; and

WHEREAS, there have been added pressures in recent years meeting the demands of the Education and General Fund Budgets; and

WHEREAS, the legislative agenda of the Alabama League of Municipalities and our member towns and cities never receives adequate attention,

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do hereby request the Alabama House and Senate to each provide a day during the Regular Session of the Legislature to consider the League's legislative agenda to meet the needs of municipal governments.

RESOLUTION NO. 45

WHEREAS, the Honorable Howell Thomas Heflin of Tuscumbia, Alabama, was born on June 19, 1921, to the Rev. Marvin Rutledge Heflin and the Louise Strudwick Heflin of Poulan, Georgia, and passed away on March 29, 2005; and

WHEREAS, Senator Heflin graduated from Colbert County High School in Leighton, Alabama, in 1938; graduated from Birmingham Southern College in 1942; and attended the University of Alabama School of Law and was admitted to the Alabama State Bar in 1948; and

WHEREAS, he was an Attorney-at-Law in Tuscumbia from 1948 until 1971 and was then elected Chief Justice of the Alabama Supreme Court and was privileged to serve three terms in the United States Senate; and

WHEREAS he retired from public service in 1997 and returned home to Tuscumbia, Alabama; and

WHEREAS, Senator Heflin was a U.S. Marine having served in the South Pacific during World War II, where he was twice wounded and where he received the Silver Star; and

WHEREAS, Senator Heflin was a tremendous supporter of the League and its programs,

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that we wish to recognize the outstanding public service of the late Honorable Howell Heflin for his loyal service to the citizens of Alabama and the United States of America.

RESOLUTION NO. 46

WHEREAS, Tom Donald Fike Bevill born in the Walker County, Alabama, community of Townley and passed away on March 28, 2005; and

WHEREAS, Tom Bevill graduated from Walker County High School at Jasper, Alabama, and continued the pursuit of his educational career at the University of Alabama in Tuscaloosa. From this institution he received both a B.S. degree in Commerce and Business Administration and an L.L.B. degree from the School of Law and practiced law in Jasper for 18 years and during this time participated in the civic, educational and religious affairs of his city and area; and

WHEREAS, Mr. Bevill was later awarded an Honorary Doctor of Laws degree from his Alma Mater, the University of Alabama; and

WHEREAS Mr. Bevill served in the Armed Forces of the United States during World War II for 18 months in the European Theater of Operations, and later served in the Army Reserve; and

WHEREAS, Mr. Bevill was elected to membership in the United States House of Representatives on November 8, 1966, and during his reelection in 1968 he was the first candidate for Congress in Alabama history to receive more than 100,000 votes; and

WHEREAS, Congressman Bevill was a senior member of the House Appropriations Committee and chair of its Energy and Water Development Subcommittee and was an outstanding advocate of the Social Security System; and

WHEREAS, Congressman Bevill retired after 30 years of service in 1998,

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, we wish to recognize the outstanding public service of the late Honorable Tom Bevill for his loyal service to the citizens of Alabama, the Alabama League of Municipalities and the United States of America.

RESOLUTION NO. 47

WHEREAS, Mayor Alvin P. DuPont is retiring after more than 50 years of exemplary service to the City of Tuscaloosa, serving first as a land surveyor then in the positions of assistant city engineer, public works director, planning development director and grant writer followed by service as mayor for the past 24 years; and

WHEREAS, Mayor DuPont has provided invaluable guidance to his city and its employees throughout his tenure and is Tuscaloosa's longest-employed public servant; and

WHEREAS, Mayor DuPont was instrumental in the growth of Tuscaloosa by attracting new industries such as

Corus Steel, JVC and Mercedes-Benz since he was first elected to office; and

WHEREAS, Mayor DuPont has worked closely with the Alabama League of Municipalities serving on numerous key committees as well as serving many years on the League's executive committee; and

WHEREAS, Mayor DuPont was elected to serve as vice president of the Alabama League of Municipalities from 1990 to 1991 and then as president from 1991 to 1992 and was then selected to fill an unexpired term as president from 2000 to 2001; and

WHEREAS, Mayor DuPont has been active on the national level, representing his community and the State of Alabama by serving on various committees for the National League of Cities; and

WHEREAS, the League wishes to acknowledge Mayor DuPont for his friendship, assistance and invaluable contributions over the years as well as his leadership and wisdom as an elected official;

NOW THEREFORE, BE IT RESOLVED, by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that the Alabama League of Municipalities Executive Committee does hereby congratulate and commend Mayor DuPont on his retirement and wish him God speed in his future endeavors.

RESOLUTION NO. 48

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they memorialize the following persons who have died in office since our last convention, namely: Rev. Terry Basset, councilmember, Uniontown; Huey Johnson, councilmember, East Brewton; Jonnie Pearl Moses, councilmember, Clayton; Oscar "Sonny" G. Sorrell, acting chief of police, Parrish; W.J. "Boots" Alexander, councilmember, Fultondale; Timothy A. Massey, city attorney, Fultondale; Henry Pass, mayor, Cleveland (December 21, 2003); Mike Boyd, mayor, Lynn; and Mark Carden, councilmember, Phil Campbell.

BE IT FURTHER RESOLVED that the following former officials be memorialized: Dorothy James Mancil, mayor, Riverview; Horace Edward Johnson, councilmember, Brewton; Joseph W. "Jodie" Taylor, councilmember, Lincoln; Robert "Bobby" L. McKinney, councilmember, Tuscumbia; Chester Hilton Roberts, mayor, Silas; Clarence Edward "Ebb" Dawkins, mayor, Cordova; Robert Limbaugh, Sr., mayor, Childersburg; Jane Gullatt, mayor, Phenix City; Thomas A. Black, Jr., mayor, Beatrice; Donald Norris, mayor, Brilliant; Joseph A. Lee, Sr., city attorney, Stevenson; Joe Langan, mayor, Mobile; Ernest "Rainy" Collins, mayor,

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Tuscaloosa; Millard H. "Billy" Ready, mayor, Cowarts; Bobby Higgins, Mayor, Athens; Basil Clark, mayor, Clanton; John T Ennis, Sr. city attorney, Irondale, Hueytown and Mulga; William Randolph "Randy" Hall, Jr., councilmember, Union Springs; Larry Hardin, council president, Albertville; Bobby Wood, mayor, Athens; Jim Isaac, mayor, Forkland; Ed Porter, mayor, Bessemer; John Blackwell, mayor, Russellville; Eric Wideman, councilmember, Lipscomb; James "Satch" McGilvary, councilmember, Eufaula; Everett E. Jones, councilmember, Trussville; John Lee Garrison, councilmember, Trussville, Neal Evans, councilmember, Graysville; Ronnie Lister, councilmember, Satsuma; and Curtis Harris, councilmember, Atmore.

RESOLUTION NO. 49

WHEREAS, Joseph N. Langan, former mayor of Mobile, Alabama, faithfully served his community and its citizens from 1953 to 1969 at a time when the city had a three-member commission from of government; and

WHEREAS, Mayor Langan was elected by his municipal colleagues from the State of Alabama to serve as President of the Alabama League of Municipalities from 1961 to 1962; and

WHEREAS, after his tenure as President of the League, Mayor Langan continued to faithfully support the League through active involvement on League standing committees; and

WHEREAS, Mayor Langan's belief in hard work and caring service to his community and its citizens were his guiding principles,

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do they do memorialize Mayor Joseph N. Langan and pay tribute to the many years of dedicated service he gave to the Alabama League of Municipalities and to the City of Mobile. His devotion to municipal government and his friendship will be missed by his colleagues throughout the state.

RESOLUTION NO. 50

WHEREAS, Ed Porter, former mayor of Bessemer, Alabama, faithfully served his community and its citizens from 1966 until 1990; and

WHEREAS, Mayor Porter was elected by his municipal colleagues from the State of Alabama to serve as President of the Alabama League of Municipalities from 1988 to 1989; and

WHEREAS, after his tenure as President of the League, Mayor Porter continued to faithfully support the League through active involvement on League standing committees; and

WHEREAS, Mayor Porter's belief in hard work and caring service to his community and its citizens were his guiding principles,

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do they do memorialize Mayor Ed Porter and pay tribute to the many years of dedicated service he gave to the Alabama League of Municipalities and to the City of Bessemer. His devotion to municipal government and his friendship will be missed by his colleagues throughout the state.

RESOLUTION NO. 51

WHEREAS, Jim Byard, Jr., Mayor of Prattville, Alabama, has served as President of the Alabama League of Municipalities for the past year; and

WHEREAS, Mayor Byard's diligent attention to duty and outstanding leadership on behalf of the League and its members has led to the growth and well-being of the League especially during the past year; and

WHEREAS, the members of the League shall always be most grateful for Mayor Byard's years of unselfish service and untiring efforts to promote the programs, projects and philosophy of the League;

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do recognize and commend Mayor Byard for his service as a municipal official in the State of Alabama and as a leader of our state organization and that they do wish him well in all of his future endeavors.

RESOLUTION NO. 52

WHEREAS, The United States is a nation of explorers; and

WHEREAS, The desire to explore is part of our character, and history has shown that space exploration benefits all humankind through new technologies for everyday application, new jobs across the entire economic enterprise, economic contributions through new markets and commercial products, education and inspiration, United States leadership, increased security, and a legacy for future generations; and

WHEREAS, Exploration and discovery have been especially important to the American experience, providing vision, hope, and economic stimulus, from new world explorers and American pioneers to the Apollo program; and

WHEREAS, Just as Lewis and Clark could not have predicted the settlement of the American West within a

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The President's Report

Bobby Hayes
Mayor of Pelham

Address – President's Banquet 2005 League Convention

I am honored tonight to accept the Presidency of the Alabama League of Municipalities for the coming year. Thank you for your vote of confidence. It has been a pleasure to serve as Jim Byard's Vice President. An old football coach once said, "When the going gets tough, the tough get going," so when Jim and I saw a problem, I left and let him work it out.

Jim is an amazing fellow. Many of you may not realize how time consuming this position can be. While I've only had a sample so far, I can tell you the League keeps you very busy. Jim could probably write a book on effective time management. Think about it. This past year, he worked full-time, served as Mayor of Prattville, served as League President, served on various other committees and boards, and still found time to get married. He is an outstanding Mayor for Prattville, he has done an outstanding job as President of the League, and he is an outstanding individual.



Immediate Past President of the League, Mayor Jim Byard of Prattville, passes the gavel to newly elected League President, Mayor Bobby Hayes of Pelham.



Mayor Bobby Hayes delivers his acceptance speech during the President's Banquet on Tuesday night of the convention.

Please join me again as we recognize him for his dedication and service to the Alabama League of Municipalities.

I congratulate Mayor Lew Watson on his election as Vice President of the League and look forward to working with him in the coming year.

Tonight as I take office, there are several people that I would like to recognize and thank. Without the support of my family, city council and staff, I would not be here. Each has played a role in my success, and I thank them for their support through the years. I've come a long way from being a SWAT cop in Birmingham, and every step of the way my wife Judy has been by my side. Thank you Sweetheart for putting up with me. I know you will have a crown of jewels when you get to Heaven. Of course, Donna may get to Heaven before you for writing all this mushy stuff in my speech, but she just wanted me to have some input by striking it all out, but I fooled her and left it in!

The Alabama League of Municipalities has had many excellent Presidents that have come before me. I have had the pleasure of working with many on various committees in the League. Mayor Al Dupont of Tuscaloosa, who will be retiring at the end of this term, showed me how to overcome adversity by staying positive. Ed Porter, who passed away two weeks ago, taught me many years ago to choose the right path and stay with it, no matter what. Spec Bonner of Roanoke, didn't teach me anything at all about being a good mayor, but is a true friend. And finally, George Roy of Calera who proved to me that if you set a goal and continue to work toward it and never give up, you will achieve that goal.

This head table is full of men and women who have come through this office I am entering who can teach and have taught us all how to better serve our cities and towns, and we must continue to look to them for advice.

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Municipal Overview

By
PERRY C. ROQUEMORE, JR.
Executive Director

Director's Report League Convention, May 24, 2005

Good afternoon! In the next few minutes I want to bring you up-to-date on the operations of your League for the past year. Since we met in Birmingham last May, your League officers and staff have been busy implementing new programs and trying to protect the interests of Alabama municipalities at both the national and state levels. The 2004 municipal elections resulted in a 42 percent turnover in mayors and councilmembers. During the three-month election process, our League legal staff fielded thousands of inquiries. In the fall, we conducted an orientation session for municipal officials in four locations – Montgomery, Birmingham, Dothan and Florence.

How many of you in attendance today were not in office last year at this time? Congratulations again and welcome.

League Committees

The Executive Committee, presided over by our able President and Vice President, met three times during the past year and dealt with numerous issues on each occasion. On August 9th we held a very successful Committee Day at the Montgomery Civic Center. Members from all five League standing committees met with federal and state resource advisors and considered the revision of the League's Policy Statement in detail, and that statement is ready for your final consideration today. Our *Policies and Goals* document is very important as it is used to guide your League staff throughout the year and to assist the Committee on State and Federal Legislation when it meets each year to develop our package of League bills for introduction in the State Legislature. I want to personally thank our Committee chairs and vice chairs for their leadership and hard work. I also thank all other officials who served on our committees this year for their valuable input.

We welcome municipal officials who desire to serve on a League committee to contact the League and make your request known.

NLC Activities

As always, the Alabama League of Municipalities was well represented at NLC meetings and activities during the past year. Your League had the largest state delegation at the National League of Cities Congress of Cities in Indianapolis, Indiana, in December. We also had the largest state delegation at the NLC Congressional-City Conference in Washington, D.C. in March.

The Alabama League of Municipalities is very well represented on many NLC bodies. Many of our officials serve on various NLC Policy Committees and Steering Committees. Mayor Ted Jennings of Brewton is currently serving his second year on the NLC Board of Directors. Council Member Cynthia McCollum of Madison completed her two-year term on the NLC Board in December, and was appointed to the NLC Advisory Committee. She currently serves as Co-Chair of that important committee. Mayor Leon Smith of Oxford and Mayor Al DuPont of Tuscaloosa also serve on the NLC Advisory Committee. NLC continues to bring groups to our state. In June, the NLC EENR Steering Committee held its summer meeting at the Grand Hotel at Point Clear. Councilmember Debbie Quinn of Fairhope, a member of the committee, acted as hostess for the group.

Membership

The League's membership now stands at 444 municipalities representing over 99 percent of Alabama's urban population. Although the number of participating municipalities is very high, we believe there are other small communities in our state that could benefit from League membership. We encourage officials in League member cities and towns to urge their neighbors who are non-members to join the League.

Finances, Property and Equipment

The League's finances for the current 2004-2005 budget year are expected to be adequate to meet the Executive Committee's budget that was adopted last July. Let me encourage all municipal officials to drop by your League Headquarters building anytime you are in Montgomery.

Legislative Report

The League Committee on State and Federal Legislation met in November and adopted the League's 2005 Legislative Package.

The Alabama Legislature completed its 2005 Regular Session at midnight on Monday, May 16. This was one of the most unproductive sessions in state history. The Legislature passed an education budget and education employee pay raise over the veto of Governor Riley. The

continued next page

State general fund budget, state employee pay raise and many other appropriation bills failed to pass. The budget deficit situation was not resolved. As a consequence, a special session will have to be called later this year to deal with these matters.

There were **1237** bills introduced in the session. Many of the bills introduced affected our members. When the session ended, only **139** bills had received final passage. By comparison, in 2004, a total of 1397 bills were introduced and 317 bills received final passage.

The failure of the 2005 Regular Session can be illustrated even better by breaking down the 139 bills that passed. Of the 139 bills that passed, **80** were local bills, **11** were annexation bills, which are local in nature, **9** were proposed constitutional amendments, all but one of which were local in nature, **10** were appropriation bills or pay raises, and **20** were state agency sunset bills, which are required by law to be enacted. This leaves only **9** general purpose pieces of legislation that were enacted this year.

Eight bills covering seven issues in the League's 2005 Legislative Package were in position to pass during the final days of the session. As with most other bills, these died at midnight on May 16. All of these measures will be reintroduced in the special session, assuming that bills outside of the call will be considered. The League bills that were in a position to pass were:

SB80 by Sen. Myers – Would give municipalities the authority to pre-zone property in the process of being annexed.

SB103 by Sen. Roberts – Would allow municipalities to purchase certain goods through the reverse auction bid process.

HB105 by Rep. Johnson – Would make it clear that an employee of a separately incorporated municipal board is not a municipal employee.

HB109 by Rep. Beck – Would provide that the vote of the mayor in a municipality of less than 12,000 inhabitants shall be counted when a council votes to dismiss employees.

HB110 by Rep. Black (M) – Would authorize a mayor to appoint two alternates to serve on the planning commission on those occasions where regular members could not make the meeting.

HB118 by Rep. McMillan – Would give municipalities the authority to pre-zone property in the process of being annexed.

HB279 by Rep. Ball – Would provide that the maximum fine for persons convicted of DUI and reckless driving would be the same in municipal court as in state courts.

HB399 by Rep. Dukes – Would allow additional uses for corrections fund money.

The League wishes to thank the following persons for

sponsoring League issues this session: Representatives Steve McMillan, Bill Dukes, Ron Johnson, Warren Beck, Marcel Black, Mike Hill, David Grimes, Randy Wood, Jack Williams, Mike Ball, Joe Carothers, John Knight, and Senators Tommy Ed Roberts, Pat Lindsey, Zeb Little, Hari Ann Smith, Jabo Waggoner, E.B. McClain, Steve French, Larry Means, and Hap Myers. I want to commend our League lobbying team and all of our sponsors for all of their hard work this session. We certainly share your frustrations with the process.

League Services

Your League is a service organization. In addition to our lobbying efforts and our efforts to assist municipal officials by providing information, advice and training, the League also has several programs in place to save money for our member municipalities. In the area of insurance, we offer two fine programs for our cities and towns – the Municipal Workers Compensation Fund, Inc. and the Alabama Municipal Insurance Corporation. The League, through our oldest program, the Municipal Revenue Service, has collected delinquent insurance license taxes on behalf of its members for over 6 decades. We also offer two excellent computer software programs – the *ALM Library* and *MunicipalLaw On Disc*. Our latest program, the Alabama Municipal Funding Authority or AMFund is just getting started and should be providing financing assistance in the near future.

We continue to endorse several programs that offer outstanding products for our members. These are AIG-VALIC's deferred compensation program, the Gov Deals online auction service, the Cable Franchise Management Program to assist our members with issues relating to cable television, and services offered by Benefits for America, which offers flexible spending accounts, dependent care accounts, and the mbi Flex Convenience Debit Card. Flexible Spending and Dependent Care Accounts help employees increase their take home pay by setting aside pre-tax dollars to pay medical and dependent care expenses.

If you need any of these services, I recommend you contact the League or the endorsed providers. Most of them have had displays in our trade show. Your League officers and staff continue to look at new and innovative programs to assist our member municipalities.

CMO Program

Our Education Program for the Elected Municipal Official, which gives every elected municipal official in Alabama the opportunity to obtain the designation of Certified Municipal Officer (CMO), turned ten years old in 2005. Since the program began, we have had 2681 officials participate in the program. As of last week, 641 officials

have obtained the required 40 credit hours of training for Basic CMO certification and 246 officials have earned their Advanced CMO designation. At this Convention, additional officials will earn their Basic and Advanced CMOs. The names of this year's graduates will be announced at dinner tonight. A ceremony will be held in Montgomery in August for this year's graduates.

The League's Web Page has been significantly improved this year to give members another method of obtaining needed assistance. If you haven't had the opportunity, please check out our web site at www.alalm.org. It has quite a few features to assist League members.

Officers and Staff

Our League is recognized as one of the most successful in the country. The reason is simple – the untiring efforts of our membership. Your President and Vice President have done a super job on your behalf. Your past presidents continue to offer needed advice as we move forward. Finally, I thank your great League staff. I'll match them with any staff anywhere. These people are very professional and provide excellent service for our members. Join me in thanking all of our League employees for the great job they do for us.

Looking Ahead

The next year will be full of challenges for municipalities. I want to take a moment to recognize one of our past presidents who has chosen not to seek reelection. Mayor Al DuPont of Tuscaloosa has been with the City of Tuscaloosa for more than 50 years as an employee and as mayor. He has represented his city, the state and this League in an exemplary manner for many years. Let's thank Al for his efforts and his friendship. He will be missed.

In closing, I want to thank all of our municipal officials who have participated in League activities during the past year. Individuals from large cities and small towns from all parts of Alabama have worked together for the common good of municipal government in Alabama. Alabama municipalities are truly blessed with dedicated officials. Remember, this is your League. Our ability to produce positive results for our members depends upon the involvement and teamwork of our municipal officials. If you know of municipal officials in your area that do not get actively involved in League activities, encourage them to do so. This League is only as strong as its members.

It's great to be a part of this League. Thank you! ■

Management Conference Pre-Registration Deadline Extended

Come join the more than 100 city and county managers/administrators, clerks, and elected officials as they attend the Alabama City/County Management Association's (ACCMA) Summer Conference, scheduled for June 29-July 1, 2005, at the Perdido Beach Resort in Orange Beach, Alabama.

The conference will feature speakers from Washington, DC, California, North Carolina, and Alabama, who will present sessions on managing the public checkbook, monitoring investments and balancing budgets; understanding the changing needs of your workforce and your citizens; learning about local government retirement programs; planning for economic growth and offering commercial incentives; making internships work for you; and a special session on implementing the new open meetings law and other laws affecting local governments by Attorney General Troy King.

In addition to the educational sessions, attendees will be treated to the Opening Reception on Wednesday evening with entertainment by *The Sweet Young'Uns*, and the President's Luncheon on Thursday afternoon with Governor Bob Riley as the invited keynote speaker.

The deadline for pre-registration has been extended to June 10, 2005. For a registration form and details about accommodations go to the ACCMA website at www.accma-online.org or call Marcia Collier at 334-263-7594.

The Alabama City/County Management Association was formed to provide an avenue for city and county officials and management to come together to discuss issues of mutual concern and to provide educational programs to address those issues. The ACCMA is not intended to take the place of the excellent certification programs provided for city and county officials through the ACCA, ACAA, ALM or the AAMCA but to enhance those programs while providing the only forum in Alabama where city and county elected officials, managers/administrators, and clerks can come together to address mutual concerns.



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about the future is that
it only comes one day at a time.*

— Abraham Lincoln

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ENVIRONMENTAL OUTLOOK



By Gregory D. Cochran
Director, Intergovernmental Relations

Alabama Power Plans \$2 Billion in Pollution Control Upgrades

Alabama Power announced in April that it will be making \$2 billion in improvements to its coal-fired power plants to help lower ozone, smog and mercury pollution in the Birmingham and Mobile areas. According to the Birmingham News some of the planned reductions include:

- Plant Gaston in Shelby County (five units) – Reduce nitrogen oxide by 80 percent at one of the plant’s units by this summer. Nitrogen oxide also will be reduced at the other four units by 25 percent beginning in 2007.

- Plant Gorgas in Walker County (five units) – A scrubber should be completed in 2008 to reduce sulfur dioxide on three units by 98 percent. In 2002, equipment was installed on one of the same units to reduce nitrogen oxide pollution by 80 percent during ozone season. Combined, those three changes should reduce mercury from the three units by 60 to 80 percent.

Plant Barry in Mobile County (7 units) – Nitrogen oxide pollution should be reduced on four units by 25 percent beginning in 2006. A fifth unit will have a 98 percent reduction in sulfur dioxide by 2011. Mercury is expected to be reduced by 60 to 80 percent on one unit.

For more information about these programs, visit Alabama Power’s website.

Alabama Counties Taken Off EPA Soot List

This past April, the Environmental Protection Agency (EPA) added 21 counties in 12 areas across nine states to the list of counties that now meet the nation’s new, more protective air quality standards for fine particle pollution (PM2.5). After reviewing the 2003-2004 air quality monitoring data provided by the states, EPA found one area in Alabama previously identified as not meeting the national air quality standards that should be designated as “in attainment.” That area is Russell County. In addition, based on updated data, EPA is also designating as in attainment

four areas identified in December 2004 as “unclassifiable.” These single counties in Alabama include Dekalb County and Etowah County in Gadsden. For more information on fine particle pollution, visit: www.epa.gov/pmdesignations/.

Two Southeastern Retailers Receive “America’s Marketplace Recycles!” Award

Two Southeastern retail organizations received the “America’s Marketplace Recycles!” Award this past April by the International Council of Shopping Centers (ICSC) and the Environmental Protection Agency (EPA) for outstanding efforts and achievements to conserve resources, recycle and purchase recycled content products at their retail locations. The two retail organizations in the Southeast that were recognized are Office Depot in Delray Beach, Florida. and the Quintard Mall in Oxford, Alabama.

Office Depot in Delray Beach, Florida was recognized as Outstanding National Retailer for their company-wide electronics recycling effort including more than 850 stores. In seven weeks, this program collected over 10 million pounds of electronics gear, and approximately 5,000 employees helped process all of the incoming gear. The Quintard Mall in Oxford, Alabama was recognized for Best Public Awareness Program. The Mall sponsored a curbside recycling program and helped raise awareness of the importance of recycling. Public awareness was heightened through a fashion show featuring clothing made from recycled materials.

The “America’s Marketplace Recycles!” Awards Program was designed to increase public awareness of the benefits of recycling and featured seven categories in order to fully encompass the diverse nature of the shopping center

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hundred years of the start of their famous 19th century expedition, the total benefits of a single exploratory undertaking or discovery cannot be predicted in advance; and

WHEREAS, Since its inception in 1958, the National Aeronautics and Space Administration has accomplished many great scientific and technological feats, in addition to many great scientific and technological feats, in addition to advancing humankind's knowledge of the Earth and the universe; and

WHEREAS, The United States has a venerable history of space exploration, which has led to a superior understanding of the heavens, from our moon to Mars and outward to the universe; and

WHEREAS, NASA's Vision or Space Exploration goals include completing construction of the International Space Station, furthering human research on the surface of our moon and extending human existence throughout the solar system; and

WHEREAS, The work of the United States space program figures dramatically in the technological accomplishments of our region and in our exciting growth over the last four decades.

WHEREAS, Alabama plays an integral role in NASA's mission. Over the years, successful partnership between NASA and Alabama industry and academia has benefited the state, the U. S. Space Program, and America's continuing quest to explore our universe and better our lives here on Earth.

WHEREAS, Alabama is home to NASA's Marshall Space Flight Center, one of the agency's largest centers with an economic impact of nearly \$1 billion and over 10,000 jobs in the State annually.

WHEREAS, The state of Alabama is home to NASA Explorer schools in Albertville and Phenix City, along with an Educator Resource Center in Huntsville and several other programs across the state are sponsored by NASA, through which educators and students at all grades levels are enlightened about NASA's exploration of the universe; and

WHEREAS, Through these efforts our country is inspiring today's youth to become the scientists, engineers, technicians and space explorers of the future; and

WHEREAS, The Space Exploration Vision has the potential to drive innovation, development, and advancement in the aerospace and other high-technology industries across the nation and in the state of Alabama; and

WHEREAS, In order to guarantee the continuation of education and enlightenment through space discovery, as well as the development of the NASA space program, it is

vital that the Congress of the United States enact and fully fund the proposed Vision for Space Exploration program as submitted to Congress in the fiscal year 2006 budget; therefore be it

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 24th day of May, 2005, that they do recognize the importance of and encourage Congress to enact and fund in its entirety the National Aeronautics and Space Administration's Vision for Space Exploration program.

BE IT FUTHER RESOLVED that the Alabama League of Municipalities wholeheartedly supports NASA's Vision for Space Exploration to pioneer the next frontier and maintaining America's leadership in space.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the presiding officers of the United States Senate and House of Representatives and to each member of the Alabama congressional delegation. ■

Mayor Carroll L. Watson of Lincoln Elected League Vice President

On Tuesday, May 24, Mayor Carroll L. Watson of Lincoln was elected League Vice President during the League's General Business Session.

Watson has been an active participant with the League and is the immediate past chair of the Committee on State and Federal Legislation. He has also served on the League's Executive Committee and attended numerous meetings held by the National League of Cities. In addition, he has completed both the Basic and Advanced CMO program through the League. ■

Final Report on the 2005 Regular Session

The Alabama Legislature completed its 2005 Regular Session shortly before midnight on Monday, May 16. This was a very difficult session for all involved due to the large shortfall in the state's general fund budget. The Legislature passed an education budget and education employee pay raise over the veto of Governor Riley. The State general fund budget, state employee pay raise and many other appropriation bills failed to pass. The budget deficit situation was not resolved. A special session will have to be called to deal with these matters.

There were **1237** bills introduced in the session. Many of the bills introduced affected our cities and towns. When the session ended, only **139** bills had received final passage. By comparison, in 2004, a total of 1397 bills were introduced and 317 bills received final passage. In 2003, a total of 1322 bills were introduced of which 268 received final passage.

The failure of the 2005 Regular Session can be illustrated by breaking down the 139 bills that passed. Of the 139 bills that passed, **80** were local bills, **11** were annexation bills, **10** were appropriation bills, **20** were state agency sunset bills, and **9** proposed constitutional amendments, all but one of which were local in nature. This leaves only **9** general purpose pieces of legislation that were enacted this year.

Final Status of the League Legislative Package

Eight bills covering seven issues in the League's 2005 Legislative Package were in position to pass during the final days of the session. As with most other bills, these died at midnight on May 16. All of these measures will be reintroduced in the special session. The League bills that were in a position to pass on the last day were:

SB80 by Sen. Myers – Would give municipalities the authority to pre-zone property in the process of being annexed.

SB103 by Sen. Roberts – Would allow municipalities to purchase certain goods through the reverse auction bid process.

HB105 by Rep. Johnson – Would make it clear that an employee of a separately incorporated municipal board is not a municipal employee.

HB109 by Rep. Beck – Would provide that the vote of the mayor in a municipality of less than 12,000 inhabitants shall be counted when a council votes to dismiss employees.

HB110 by Rep. Black (M) – Would authorize a mayor to appoint two alternates to serve on the planning commission on those occasions where regular members could not make the meeting.

HB118 by Rep. McMillan – Would give municipalities the authority to pre-zone property in the process of being

annexed.

HB279 by Rep. Ball – Would provide that the maximum fine for persons convicted of DUI and reckless driving would be the same in municipal court as in state courts.

HB399 by Rep. Dukes – Would allow additional uses for corrections fund money.

The League wishes to thank the following persons for sponsoring League issues this session: Representatives Steve McMillan, Bill Dukes, Ron Johnson, Warren Beck, Marcel Black, Mike Hill, David Grimes, Randy Wood, Jack Williams, Mike Ball, Joe Carothers, John Knight, and Senators Tommy Ed Roberts, Pat Lindsey, Zeb Little, Hari Ann Smith, Jabo Waggoner, E.B. McClain, Steve French, Larry Means, and Hap Myers. The League wishes to commend our League lobbying team and all of our sponsors for all of their hard work this session. We certainly share your frustrations with the process.

Status of Dangerous Legislation

We are happy to report that no statewide legislation deemed dangerous to the interests of our municipalities was enacted this session.

General Bills of Interest to Municipalities That Passed

State Docks Funding – HB134, Act 2005-180 by Rep. Kennedy: To make a supplemental appropriation from the Alabama Capital Improvement Trust Fund in the State Treasury to the Alabama State Port Authority, in the amount of \$80,000,000 for the fiscal year ending September 30, 2005; and to safeguard the interest income to the State General Fund until such times as invoices are received by the Alabama State Port Authority from contractors and vendors.

Drug Regulations – HB152, Act 2005-181 by Rep. McDaniel: To amend Section 20-2-190, Code of Alabama 1975, as amended by Act 2004-564, to further regulate sales of certain products containing ephedrine or pseudoephedrine; and to provide further for penalties for violations.

Education Budget – HB248, Act 2005-173 by Rep. Lindsey: To make appropriations for the support, maintenance and development of public education in Alabama, for debt service, and for capital outlay for the fiscal year ending September 30, 2006.

Eminent Domain – Filing Time – SB18, Act 2005-168 by Sen. Lee: To amend Section 18-1A-276 of the Code of Alabama 1975, relating to eminent domain proceedings in the probate court, to increase the time within which the

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THE LEGAL VIEWPOINT

Lorelei A. Lein
Staff Attorney

Public Employees and the First Amendment

Prior to the late 1960's, there was little if any question that the courts simply rejected public employees' claims of freedom of speech. In fact, the opinion of most courts can be summed up in a quote from Justice Oliver Wendell Holmes in a case he penned prior to taking his seat on the United States Supreme Court. Holmes, in a Massachusetts' case, wrote that "[t]here may be a constitutional right to talk politics, but there is not constitutional right to be a policeman." *McAuliffe v. New Bedford*, 29 N.E. 517 (Mass. 1892).

However, in the century since that opinion was written, the pendulum has swung from one extreme to the other and many now believe that the courts have gone so far in protecting the free speech rights of public employees that government agencies have a very difficult time dismissing public employees without fear of being sued for violating the First Amendment. Simply put, even though public employees generally do not have a constitutional right to their jobs, a public employer cannot condition public employment on a basis that infringes an employee's constitutionally protected interest in free speech.

Pickering and its Progeny

The seminal case from the United State Supreme Court on issues involving the First Amendment and public employees is *Pickering v. Bd. Of Education*, 391 U.S. 563 (1968). In *Pickering*, the Supreme Court was called upon to decide whether a public school teacher could be discharged after having sent a letter to the editor of the local newspaper openly criticizing the school board for fiscal mismanagement in general and specifically the board's handling of bond and tax issues with regard to the construction of two new schools. The letter was written and published in the midst of a bond election and contained such comments as "[t]hat's the kind of totalitarianism teachers live in at the high school, and your children go to school in," and "I must sign this letter as a citizen, taxpayer,

and voter, not as a teacher, since that freedom has been taken from the teachers by the administration." Saying that Pickering's letter was detrimental to the efficient operation and administration of the schools of the district, the board of education fired Pickering.

The United States Supreme Court, in an 8-1 decision ruled in favor of Pickering. In reaching a decision, the Court came up with a method of analyzing public employee free-speech cases " ... to arrive at a balance between the interests of the ... citizen in commenting on matters of public concern and the interest of the ... [public] employer in promoting the efficiency of the public services it performs through its employees." *Pickering*, 391 U.S. at 568. The court's reasoning was that public employees should not be required to give up their constitutional rights upon taking public employment. However, when the government acts as employer, it has greater latitude in limiting speech where such speech is limited to employment concerns. Thus, even when an employee's speech is on a matter of public concern, such speech may be limited where the government employer's concerns for operational efficiency are paramount (now known as the "*Pickering* balancing test."). The *Pickering* balancing test provides the following:

1. A public employee has a protected right under the First Amendment to comment on "matters of public concern,";
2. If the employee's comments aren't on a "matter of public concern," those comments are not protected by the First Amendment;
3. If the employee's comments are on a matter of public concern, then the employer must demonstrate that the speech would "potentially interfere with or disrupt the government's activities, and can persuade the court that the potential disruptiveness" outweighs the employee's First Amendment Rights.

continued next page

Many viewed *Pickering* to be an “easy case” because it involved a letter to the editor and did not involve any personal attacks on immediate superiors or fellow workers. However, as with any balancing test established by the Supreme Court, the decision left open many issues that would be the focus of hundreds of later cases.

The cases following *Pickering* resulted in further safeguarding speech on matters of public concern by public employees. In *Perry v. Sindermann*, 408 U.S. 593 (1972), the Court ruled that junior college officials could not terminate a professor for publicly criticizing the university system during his testimony before a legislative body. In *Mt. Healthy City Board of Ed. v. Doyle*, 429 U.S. 274 (1977), a public school teacher was not rehired because, allegedly, he had relayed to a radio station the substance of a memorandum relating to teacher dress and appearance that the school principal had circulated to various teachers. The memorandum was apparently prompted by the view of some in the administration that there was a relationship between teacher appearance and public support for bond issues, and indeed, the radio station promptly announced the adoption of the dress code as a news item. The Court ruled in favor of Doyle finding that his speech was protected by the First Amendment. The Court, however, also determined that the District Court should have gone on to make a finding as to whether the board had shown by a preponderance of the evidence that it would have reached the same decision as to reemployment even in the absence of the protected speech. In *Givhan v. Western Line Consolidated School District*, 439 U.S. 410 (1979), the Court held that First Amendment protection applies when a public employee arranges to communicate privately with his employer rather than to express his views publicly. Although the subject-matter of Mrs. Givhan’s statements were not the issue before the Court, it was clear that her statements concerning the school district’s allegedly racially discriminatory policies involved a matter of public concern.

After almost 15 years of applying the *Pickering* test, the Court clarified the test substantially in 1983. In *Connick v. Myers*, 461 U.S. 138 (1983), the Court endeavored to come up with an analytical method of determining whether an employee’s speech, although touching on a “matter of public concern”, would outweigh the government’s interest in efficiency where the speech clearly would cause disruption in the office.

In *Connick*, Myers was employed as an Assistant District Attorney in New Orleans. District Attorney Connick, at whose pleasure Myers served, proposed to transfer her to a different section of the criminal court, which she opposed, expressing her view to several of her supervisors, including Connick. Shortly thereafter, she prepared a questionnaire that she distributed to other Assistant District

Attorneys in the office concerning office transfer policy, office morale, the need for a grievance committee, the level of confidence in supervisors, and whether employees felt pressured to work in political campaigns. Connick then informed Myers that she was being terminated for refusal to accept the transfer, and also told her that her distribution of the questionnaire was considered an act of insubordination.

Myers filed suit alleging that she was wrongfully discharged because she had exercised her constitutionally protected right of free speech. The District Court agreed, finding that: the questionnaire, not the refusal to accept the transfer, was the real reason for termination; the questionnaire involved matters of public concern; and the State had not clearly demonstrated that the questionnaire interfered with the operation of the District Attorney’s office. The Court of Appeals affirmed.

The Supreme Court overruled the Court of Appeals and in doing so refined its *Pickering* rule, by stating:

In *Pickering v. Board of Education*, we stated that a public employee does not relinquish First Amendment rights to comment on matters of public interest by virtue of government employment. We also recognized that the State’s interests as an employer in regulating the speech of its employees differ significantly from those it possesses in connection with regulation of the speech of the citizenry in general. The problem, we thought, was arriving “at a balance between the interests of the [employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the public services it performs through its employees.” *Connick*, 103 U.S. at 140 (citations omitted).

[But,] when a public employee speaks not as a citizen upon matters of public concern, but instead as an employee upon matters only of personal interest, absent the most unusual circumstances, a federal court is not the appropriate forum in which to review the wisdom of a personnel decision taken by a public agency allegedly in reaction to the employee’s behavior. *Id.* at 147.

The Court noted that in this case, except for the question in respondent’s questionnaire regarding pressure upon employees to work in political campaigns, the questions posed did not fall under the umbrella of matters of “public concern” because they were simply matters dealing with the “personal grievances” of an employee. The Court wrote

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As local elected officials, we work together to improve our communities and impact the lives of our residents in a positive way. We accomplish much more when we work as a team rather than as individuals. The Alabama League of Municipalities works similarly. This organization creates educational programs and provides members with various networking and learning opportunities, which help us develop our professional and personal relationships, thereby benefiting our local communities.

We have joined the Alabama League of Municipalities to affect positive change and impact our communities and state. We are stronger because we are organized. Perry and his staff do an excellent job looking out for the interest of every municipality in Alabama, and they are quick to mobilize us when we need to affect action in the legislature. In the coming year, I encourage you to be more engaged in the business of our league. If you are asked to take on

additional responsibility, or called to action on a matter before the legislature that affects our cities, please make it a priority to answer the call.

You’ve already answered the leadership call by being an elected official. Now, let’s continue to work together to accomplish much as a league.

I am humbled to serve as President of the League and look forward to working with Vice President Lew Watson, the League staff and each of you as we strive to make our cities and the entire State of Alabama a better place in which to live and work.

God bless each of you, the communities you represent, our state, our country and especially the men and women who are in harm’s way tonight so that we can attend a meeting such as this. It’s getting tough to read this so I shall do what the old coach said and get going. Thank you and have a safe trip home. ■

The Power To Save A Life Defibrillators to the Rescue

Each year Sudden Cardiac Arrest (SCA) strikes more than 250,000 persons ... less than 5% survive!!

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Our friends at the Alabama Municipal Electric Authority have agreed to make Philips HeartStart FR2+ AEDs available to the League’s member cities and towns at a significant discount.

For more information, call **Tom Bartels** at **AMEA 1-800-239-AMEA(2632)** to discuss your situation or arrange a demonstration.

Alabama Municipal Electric Authority

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 Website: www.amea.com
Contact: Tom Bartels

Alabama Municipal Electric Authority is the joint action agency for 11 Alabama cities who distribute electricity as a city service. AMEA is also the Alabama sales affiliate for Hometown Connections products and services, including Philips Defibrillators which are available to **all** municipalities at discounted prices. This affiliation allows all Alabama municipal electric systems access to a wide array of products and services at discounted prices. AMEA members are: Alexander City, Dothan, Fairhope, Foley, LaFayette, Lanett, Luverne, Opelika, Piedmont, Sylacauga and Tuskegee.

Vendor Profiles are included in the League's Gold and Platinum advertising packages. For more information on how your company can purchase a package, contact Greg Cochran at 334-262-2566 or gregc@alalm.org.

Environmental Outlook

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industry. The featured categories included: Best New Recycling Program; Best Expansion of an Existing Recycling Program; Outstanding Retailer; Outstanding Mall Owner/Developer; Best Public Awareness Campaign/Promotional Event; Best Community Partnership/Beneficial Use of Funds; and Most Innovative Recycling Program. In addition, from among the overall nominations, a single outstanding program was selected as the "Recycler of the Year." Ten ICSC members located throughout the country received the awards.

EPA Honors Climate and Stratospheric Ozone Protection

Coca-Cola, McDonalds, 3M, American Electric Power, Cinergy and the cities of Boulder, Colorado and Syracuse, N.Y., are among the 25 individuals, teams, organizations and companies from around the world that EPA will recognize for outstanding efforts to protect the Earth's climate and stratospheric ozone layer. The award recipients have demonstrated ingenuity, leadership and public purpose by achieving reductions of ozone depleting and heat-trapping gas emissions.

Millions of tons of greenhouse gas emissions and ozone-depleting substances have been avoided due to the efforts of the award winners, EPA estimates. The winners have introduced new and improved technologies that reduce harmful emissions in refrigeration, liquid crystal displays (LCDs), and car air conditioning, improving the environmental performance of these industries well into the future.

For further information and to learn what winners did to earn the EPA's Climate Protection or Stratospheric Ozone Protection Award, visit: www.epa.gov/cppd/awards/climproawards.htm or www.epa.gov/docs/ozone/awards. ■



Governor Bob Riley addressed convention delegates during the Monday luncheon.

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Legal Notes

Lorelei A. Lein
Staff Attorney

COURT DECISIONS

Employees: Section 11-43-230 et seq. Code of Alabama 1975, governing due process for municipal law enforcement officers does not implicitly repeal a local act establishing a municipality’s civil-service system and any accompanying due process procedures, and, thus, the local act, rather than the later enacted general law, would govern the procedures pertaining to a municipality’s suspension of a police officer. The general law establishes disciplinary hearing procedures only for municipalities that did not already have disciplinary procedures in place. *Weathers v. City of Oxford*, 895 So.2d 305 (Ala. Civ. App. 2004).

Taxation: The Alabama Taxpayers’ Bill of Rights and Uniform Revenue Procedures Act (TBOR) applies to local taxing jurisdictions. City and County Governments are required to exhaust administrative remedies under TBOR before filing a complaint against an automobile financing company to collect sales and/or rental taxes on vehicle leases. *GM Acceptance Corp. v. City of Red Bay*, 894 So.2d 650 (Ala. 2004).

Gambling: Statute exempting bona fide coin operated amusement machines from the criminal gambling statutes cannot be construed so as to legalize games or activities where skill does not predominate over chance in determining the outcome. *Ex parte Ted’s Game Enter.*, 893 So.2d 376 (Ala. 2004).

ATTORNEY GENERAL OPINIONS

Hospitals: If claims against a health care authority created under Section 22-21-310, et seq. of the Code of Alabama 1975 are subject to the statutory caps for governmental entities, the authority must pay or settle liability claims within the maximum amounts set by statute; however, for claims

not covered by the statutory caps, an authority may pay or settle amounts in excess of the caps. 2005-094.

Ad Valorem Taxes: Intentional misrepresentations by a taxpayer do not constitute “other error” under Section 40-10-160 of the Code of Alabama 1975 so as to allow a refund of taxes. 2005-096.

Boards: A person convicted of an offense specified under Section 36-2-1(a)(3) of the Code of Alabama 1975 may be ineligible or disqualified from serving as a utility board member for a board created under the provisions of Section 11-50-313 of the Code of Alabama 1975. 2005-097.

Courts: Pursuant to Section 12-14-50 of the Code of Alabama 1975, a municipal judge has the authority to supervise all court employees generally and pursuant to Rule 18 of the Alabama Rules of Judicial Administration, the municipal court clerk, not the city clerk, has the authority to supervise all court magistrates and other court personnel regarding administrative matters. 2005-098.

Fire Protection: If the director of a Water and Fire Protection Authority created under Sections 11-88-1 et seq. of the Code of Alabama 1975, moves outside the service area of the Authority or the director’s residence becomes part of the service area of an expanding municipal authority, the director is ineligible to serve on the Authority’s board, and the director’s position becomes vacant. 2005-099.

Planning Commission: A member of the city council may not, under Section 11-52-3(a) of the Code of Alabama 1975, serve as the administrative official on the Planning and Zoning Commission. Further, the mayor may appoint a city employee to serve on the planning commission (in addition to the mayor, administrative official, and council member)

continued next page

as one of the 6 general appointments provided for in Section 1-52-3(a). 2005-101.

Coal Severance Tax: For purposes of administering the state coal severance tax, severance occurs when coal is parted from the earth in which it has been imbedded, rather than when the coal is ultimately removed from the earth out of the mouth of the mine. 2005-103.

Elections: The affidavits of challenged voters in municipal elections must be sent to the district attorney rather than to the board of registrars. 2005-105.

Subdivisions: A county commission may exercise jurisdiction over subdivisions within the five mile planning jurisdiction of a municipality only in areas in which the municipal governing body has agreed with the county to reduce the extraterritorial jurisdiction of the municipal planning commission and the agreement has been published as required by Section 11-24-6 of the Code of Alabama 1975. 2005-111.

Industrial Development: Under the Tax Incentive Reform Act of 1992, Section 40-9B-1, et seq. of the Code

of Alabama 1975, neither a municipality nor its industrial development board can enter into an agreement to abate noneducational county ad valorem taxes or county construction related transaction taxes if there is no corresponding municipal ad valorem tax or construction related transaction tax to be abated. A municipality or its industrial development board can abate all or part of the state's noneducational ad valorem taxes, the state's construction related transaction taxes, and the mortgage and recording taxes related to private use industrial property and security documents and other recordable documents associated therewith. 2005-112.

Ordinances: A municipality is not prohibited by state law from enacting an ordinance with provisions stronger than the Alabama Clean Indoor Air Act, as long as the ordinance is not inconsistent with state law. 2005-114.

Competitive Bid Law: Under Section 11-43-12.1 of the Code of Alabama 1975, a class 8 municipality may do business with a company owned by a municipal officer when that company is the only domiciled vendor of that personal property or service within the municipality and the cost of the personal property or service does not exceed \$3000 annually. 2005-118.

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Federal Legislative and Regulatory Issues

Mary Ellen Wyatt Harrison
Staff Attorney

Transportation Bill

At press time, the Senate was expected to pass a six-year, \$295 billion surface transportation bill just two weeks before the current extension of the Transportation Equity Act for the 21st Century (TEA-21) expires on May 31. House-Senate conferees must now negotiate a final compromise bill, vote to pass it and send it to President Bush for signature before the deadline.

This is an aggressive schedule and it faces many difficult hurdles, including a likely presidential veto. If Congress doesn't pass a bill by the Memorial Day recess, a seventh extension could become necessary to ensure that federal transportation money continues to flow to state and local governments. The House passed a \$284 billion surface transportation bill last month. In an important preliminary vote on May 11, the Senate voted 76 to 22 to waive a budget rule that would have limited the bill's overall funding level to \$284 billion, an amount championed by both the White House and the Congressional Republican leadership. Several Amendments have been introduced as well.

CDBG

The fate of community development funds which President Bush wants to do away with next year may have taken a turn for the better. Congress recently passed a budget resolution that not only restores but increases funding for the Community Development Block Grant program and other neighborhood revitalization programs on which state and local governments have come to rely heavily.

The budget resolution provides an additional \$1.5 billion for economic and community development programs such as CDBG over the level recommended by the president

for the upcoming fiscal year. In his FY 06 budget request, Bush has proposed killing CDBG and consolidating the nation's 18 community and economic development programs into a single \$3.71 billion grantmaking initiative that would be administered by the Department of Commerce. Now the future of the program is in the hands of House and Senate appropriators, and legislators from both chambers – and across party lines – are pushing for “at least \$4.732 billion for CDBG and related programs.”

In a letter to the chairmen and ranking members of the Senate Appropriations Committee and the Appropriations Subcommittee on Transportation, Treasury, the Judiciary, and Housing and Urban Development – the panels with jurisdiction over the program's budget – 55 senators wrote that “CDBG is one of the most effective federal domestic programs in helping to revitalize neighborhoods.” In FY 04, they continued, 168,938 families benefited from CDBG housing projects. Another 13.3 million individuals received public services funded by CDBG. And more than 90,000 jobs were created through economic development programs funded by CDBG.

Risk Management Research Partnerships Grant

State and local governments, tribal organizations, nonprofit and for-profit organizations, and institutions of higher education must apply by July 5, 2005, if they wish to seek a grant to develop non-insurance risk management tools that will be utilized by agricultural producers to assist them in mitigating the risks inherent in agricultural production. For more information, local governments can contact the Risk Management Agency at (816) 926-6343 or RMARED.Application@rma.usda.gov.



Alabama Municipal Funding Authority Pooled Debt Program

To assist municipalities throughout the State of Alabama, the Alabama League of Municipalities (ALM) has created the Alabama Municipal Funding Authority, Inc. (AMFund) to provide low-cost financing to its members. Tax-exempt bonds will be issued and the bond proceeds will fund the financing program, from which individual members can then borrow to fund loans or leases, any-time within one year after the bond issue date (expected to be sometime during 2005).

AMFund will make municipal financing more affordable and easy and have a number of attractive features, including:

- Flexible amounts from \$200,000 (perhaps less) to \$10 million or more
- Terms up to 30 years
- Flexible repayment
- No prepayment penalty (No call protection)
- Fixed or variable rates
- Simple application
- Low cost of issuance
- Insulation of borrowers from risk
- Loans or leases

AMFund takes advantage of the economies of scale offered through pooled financing, which allows municipalities to:

- Share issuance costs that reduce individual borrower's costs.
- Participate in bond issues of sufficient size to enable the borrowers to achieve attractive pricing

Funds will be available for municipal purposes, including:

- New construction
- Equipment
- Refinancing of existing debt

For additional information on AMFund, contact:

Ken Smith, AMFund President, (334) 262-2566, or
Leo Lawrenson, Program Advisor, (678) 714-4933

P.O. Box 1270 • Montgomery, AL 36102

Annual Golf Tournament Held Sunday, May 22nd

The 37th Annual Municipal Officials Golf Tournament was held on Sunday, May 22, 2005, at the Robert Trent Jones, Hampton Cove golf course in Huntsville, Alabama. The Tournament was a huge success with over 80 players. Municipal officials and sponsors from all over the State of Alabama joined together for a beautiful day of golfing followed by an awards luncheon. The League is looking forward to next year's tournament, which will be held on May 7, 2006. The following individuals and teams were recipients of the various prizes awarded at this year's tournament.



1st Place

First Prize \$100.00 gift certificate to Edwin Watts and golf hat for each team member: Griff Waters, Tuscaloosa; Jim Chamblee, AMIC; Rick Wheeler, Scottsboro; and Jay Powell, AMIC.



2nd Place

Second Prize \$75.00 gift certificate to Edwin Watts and golf hat for each team member: Willard Payne, Pelham; Thomas Christie, Talladega; Bill Smith, AIG/VALIC; and Robert Sullivan, Pelham.



3rd Place

Third Prize \$50.00 gift certificate to Edwin Watts and golf hat for each team member: Steve Cawood, Goodwyn, Mills and Cawood; Dean Argo, Prattville; Ernie Smith, Gulf Shores; and Gary Fuller, Opelika.

Longest Drive: Dean Argo, Prattville and Tony Rivera, Gulf Shores

Closest to the Pin: Dean Argo, Prattville and Sam Heflin, Priceville

The League Would Like to Thank All of the Tournament Sponsors

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Final Report on the Regular Session — continued from page 25

probate court is required to conduct a hearing after a complaint has been filed.

Ad Valorem Taxation – Current Use Notice – SB42, Act 2005-193 by Sen. Poole: To amend Section 40-7-25.2, Code of Alabama 1975, to provide further for qualification procedure for current use value of certain taxable property.

Open Meetings Law – SB101, Act 2005-40 by Sen. Little (Z): Relating to meetings of governmental bodies; to require all meetings held by a governmental body to be open to the public with certain exceptions; to provide for civil penalties; and to repeal Section 13A-14-2, Code of Alabama 1975, prohibiting certain agencies and other governmental bodies from meeting in executive or secret sessions.

Telecommunications Service – Certain Services Removed from PSC Jurisdiction – SB114, Act 2005-110 by Sen. Myers: To add Chapter 2A to Title 37 of the Code of Alabama 1975, to limit the jurisdiction of the Public Service Commission over certain telecommunications services offered by local exchange carriers and intrastate inter-exchange carriers; to specify that certain telecommunications services would not be subject to the jurisdiction of the Public Service Commission; to specify the amount of expenditures required by a local exchange carrier to deliver basic telephone service to a new business or residence and to further regulate the retail price of basic telephone service; to specify that this act would not affect the taxes paid by telecommunications providers; to provide an application fee for any new entrant applying for a certificate of convenience; to provide further for the supervision and inspection fees payable to the commission; and to provide for the Public Service Commission to retain jurisdiction over certain complaints by subscribers.

Limited Home Rule for Counties – SB129, Act 2005-200 by Sen. Barron: Relating to counties; to authorize the several counties to exercise additional powers under certain conditions; to provide for the approval of licenses to sell alcoholic beverages of certain counties; and to provide that this act would be effective in a county only upon approval at a referendum in the county.

Emergency Telephone Service Charges – SB355, Act 2005-111 by Sen. Tanner: To add Section 11-98-5.1 to the Code of Alabama 1975, to provide for the maximum tariff for the purpose of determining emergency telephone service charges in the event that House Bill 211 or Senate Bill 114 becomes law.

Proposed Constitutional Amendments

HB208, Act 2005-105 – Prichard Foreign Trade Investment Zone

HB310, Act 2005-106 – Mobile County Sheriff's Office

HB412, Act 2005-86 – Elmore County fire and emergency medical Care

HB568, Act 2005-87 – Crenshaw County Probate Judge compensation

HB677, Act 2005-109 – Blount County Sheriff's Office employees

HB690, Act 2005-108 – Colbert County repeal of local law relating to change of form of county or municipal government or increasing salary of officers

HB780, Act 2005-107 – Tuscaloosa County fire protection and garbage disposal districts

SB6, Act 2005-171 – Geneva County Sheriff in Employees Retirement System

SB109, Act 2005-35 – Prohibits same-sex marriages

Local Bills

HB147, Act 2005-37 – Albertville ad valorem tax for schools

HB205, Act 2005-182 – Jefferson County Retirement System

HB236, Act 2005-38 – Sunday sales of alcoholic beverages in Florence

HB241, Act 2005-119 – Calhoun County Economic Development Council

HB323, Act 2005-92 – Merger of Revenue Commissioner and Office Budget Operation

HB324, Act 2005-93 – Chambers County Commission districts

HB409, Act 2005-95 – Mobile County constables

HB420, Act 2005-94 – Elmore County roads and bridges

HB421, Act 2005-96 – Elmore County animal control program

HB422, Act 2005-97 – Elmore County junkyards

HB464, Act 2005-98 – Covington County poll workers

HB502, Act 2005-122 – Leeds Waterworks Board – school donations

HB535, Act 2005-100 – Pickens County Board of Registrars

HB537, Act 2005-123 – Houston County civil service personnel board

HB540, Act 2005-112 – Tax Increment Districts in Class 3 municipalities

HB551, Act 2005-101 – Birmingham Fireman's and Policeman's Supplemental Pension System

HB561, Act 2005-124 – Baldwin County Commission – Rotation of Chair

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that a matter of public concern is speech “relating to any matter of political, social, or other concern of the community.” *Id.* at 146.

Because the Court determined that one of the issues raised in the questionnaire did involve a matter of public concern, the Court went on to apply the second part of the *Pickering* test. The Court noted that the State’s burden in justifying a particular discharge will vary depending upon the nature of the employee’s expression and, here, the Court found that the District Court erred in imposing an unduly onerous burden on the State to justify the discharge by requiring it to “clearly demonstrate” that the speech “substantially interfered” with the operation of the office.

The Court found that the limited First Amendment interest involved did not require the employer to tolerate action that he reasonably believed would disrupt the office, undermine his authority, and destroy the close working relationships within the office. The question on the questionnaire regarding the level of confidence in supervisors was a statement that carried the clear potential for undermining office relations. Also, the fact that respondent exercised her rights to speech at the office supports fears that the function of his office was endangered. The fact that the questionnaire emerged immediately after a dispute between respondent and petitioner and his deputies requires that additional weight be given to petitioner’s view that respondent threatened his authority to run the office.

Public Concern v. Employer’s Interests Post *Connik*

In the aftermath of *Connick v. Meyers*, lower courts have struggled in their application of the *Pickering* test which has resulted in different applications of the test and often vastly different results. The determinative legal issue in most cases is the “public concern” requirement. Employers argue that the employee is speaking as an employee rather than a citizen and contend that the employee’s speech is better characterized as an expression of a “personal grievance” rather than as a matter of public concern.

Some courts take the narrow view of the type of employee speech that can be said to touch on matters of public concern. One federal appeals court explained that “[w]hen a public employee’s speech is purely job-related, that speech will not be deemed a matter of public concern. Unless the employee is speaking as a concerned citizen, and not just as an employee, the speech does not fall under the protection of the First Amendment.” *Buazard v. Meredith*, 172 F.3d 546, 548 (8th Cir. 1999). Other courts have taken the broader view, based on the Supreme Court’s

decision in *Givhan*, that speech about any matter involving discrimination is *always* a matter of public concern irrespective of whether the person is speaking as a citizen or as an employee. The public concern test is inherently elastic and arguably an employee can manipulate the requirement by stating virtually any criticism of a public employer in terms that will satisfy the test. As the courts themselves have noted “[a]nalysis of public concern is not an exact science.” *Weeks v. Bayer*, 246 F.3d 1231 (9th Cir. 2001).

While the lower courts have vastly different views of public concern, there appears to be a bit more consensus on the second prong of the test: the interest of the employer in an efficient, disruption-free workplace. Often, courts will defer to the employer’s judgment about the potential disruptiveness of employee speech.

The Case of the Porno Cop

In *San Diego v. John Roe*, 125 S.Ct. 521 (2004), a San Diego policeman, known only as John Roe, was selling videos of himself on an adults only section of eBay with a description of himself stating that he was a law enforcement officer. Eventually, his supervisors discovered and investigated his off-hours activity and concluded that Roe had violated several police department policies, including those forbidding obtaining outside employment, engaging in conduct unbecoming an officer, and immoral conduct. Roe was instructed to cease dealing in “sexually explicit materials.” In response, he removed some of his items from eBay, but retained the description of his raunchy videos, along with their prices. As a result, he was terminated.

The 9th Circuit held that his tapes and conduct could be categorized as citizen commentary on matters of public concern. Overturning the 9th Circuit, the Supreme Court, in a *per curiam* decision, made it clear that while government employees retain First Amendment rights, they are limited. To the Supreme Court, Roe’s “speech” did not relate to a matter of public concern. “Although Roe’s activities took place outside the workplace and purported to be about subjects not related to his employment” the Court wrote, “the [San Diego Police Department] demonstrated legitimate and substantial interests of its own that were compromised by [Roe’s] speech. Far from confining his activities to speech unrelated to his employment, Roe took deliberate steps to link his videos and other wares to his police work, all in a way injurious to his employer.”

The Court then went on to apply the *Pickering* test. In applying the test, the Court stated that “public concern is

continued next page

something that is a subject of *legitimate news interest*; that is, a subject of general interest and of value and concern to the public at the time of publication.” *Id.* at 525-526 (emphasis added). In looking at the threshold inquiry, whether the speech involves a matter of public concern, the Court held that “there is no difficulty in concluding that Roe’s expression does not qualify as a matter of public concern under any view of the public concern test.” *Id.* at 526. The Court concluded that the speech at issue was “detrimental to the mission and functions of the employer. There is no basis for finding that it was of concern to the community as the Court’s cases have understood the term in the context of restrictions by governmental entities on the speech of their employees.” *Id.*

What’s on the Horizon?

As a result of the Court’s decision in *San Diego v. John Roe* and the fact that it was a *per curiam* decision, it can be argued that the pendulum is indeed swinging back in the direction of favoring public employers. In late April of this year, the United States Supreme Court agreed to review a California case that could take that pendulum all the way in the direction of public employers.

In *Garcetti v. Ceballos*, 361 F.3d 1168 (9th Cir. 2004), *cert. granted* 125 S.Ct 1395 (Feb. 28, 2005), the city of Los Angeles is seeking to overturn the opinion of the 9th Circuit Court of Appeals which they claim gives First Amendment protection to virtually any speech by government employees touching on matters of public concern.

The facts in *Garcetti* involve a deputy Los Angeles district attorney with supervisory duties who was told by a defense attorney that a deputy sheriff had lied to obtain a search warrant from a judge. Ceballos investigated the charge and determined that the deputy sheriff had misrepresented facts to obtain the warrant. Ceballos prepared a memo on the issue but his supervisors decided to proceed anyway with the prosecution. When Ceballos informed the defense attorney of his investigation, he was called to testify during a motion to dismiss the case. The case was allowed to continue and as a result of his testimony, Ceballos claims he was shunned, demoted, and reassigned to a remote office. He sued in federal court claiming he was being punished for exercising his rights under the First Amendment.

Ultimately, the 9th Circuit Court of Appeals ruled in favor of Ceballos. Invoking the two leading Supreme Court cases on First Amendment speech and government employees, *Pickering v. Bd. Of Education* and *Connick v. Meyers*, the 9th Circuit determined that Ceballos’ speech, which amounted to “whistle-blowing” met the *Pickering* test and warranted First Amendment protection. “The right of public

employees to speak freely on matters of public concern is important to the orderly functioning of the democratic process” he wrote, “because public employees, by virtue of their access to information and experience regarding the operations, conduct, and policies of government agencies and officials, are positioned uniquely to contribute to the debate on matters of public concern.” 361 F.3d. at 1175 (citations omitted).

Attorneys for then-district attorney Gil Garcetti argue that the 9th Circuit incorrectly applied the *Pickering* balancing test by omitting a key factor: whether the employee was speaking as a citizen on public issues or as an employee discussing matters of personal interest. They argue that First Amendment protection should only be given only to citizen speech, not employment-related speech as a government worker. The federal circuit courts are split on the issue of whether “citizen speech” is a key factor in the *Pickering* balancing test.

The *Garcetti* case will be argued before the United States Supreme Court in the fall of 2005.

Politics in the Public Workplace

For cases involving political patronage, the *Pickering* test usually doesn’t apply.

As a general rule, public employees cannot be fired or punished as a result of their political affiliation. In such cases, employers often assert that rewarding politically loyal employees with jobs ensures efficient and effective government. Others counter that to deny someone a job because of their political associations violates the First Amendment. Through a series of cases, the United States Supreme Court has established the conditions under which a public employee may be discharged as a result of political affiliation.

In *Elrod v. Burns*, 427 U.S. 347 (1976), the Court held that the political patronage system, in dismissing public employees based upon political affiliation or support, violates employees’ First Amendment speech and associational rights, except where limited to policy-making and confidential positions. The Court found that the need to insure that policies sanctioned by the electorate are effectively implemented in new administrations can be fully satisfied by limiting “political” dismissals to policy-makers and their confidential or personal staff.

In *Branti v. Finkel*, 445 U.S. 507 (1980), the Court held that assistant public defenders cannot be fired for partisan political reasons, since their position and function have nothing to do with partisan politics. They do not serve as policy-makers and their sole function is to serve the interests of their individual clients.

The holdings in *Elrod* and *Branti* were broadened beyond just dismissals of employees by the ruling in *Rutan*

v. Republican Party of Illinois, 497 U.S. 62 (1990). In *Rutan*, the Court held that political affiliation or support cannot be used as a criterion for hiring, transfer or promotional decisions, just as *Elrod* and *Branti* prohibited it for dismissal of public employment. The only exception to the rule is for policy-making or confidential employees.

The holding in *Rutan* has been expanded to apply to independent contractors in *O'Hare Truck Service, Inc., v. City of Northlake*, 518 U.S. 712 (1996). *O'Hare* involved an alleged retaliation against an independent contractor due to non-partisan political local election activity. Analyzing the facts under the *Elrod* and *Branti* political affiliation test rather than *Pickering* free speech balancing test, the Court ruled that city officials could not remove an independent tow truck operator from the rotation list because of his company's refusal to politically support the new mayor.

As with the application of the *Pickering* test, lower courts have varied in their application of these decisions on political patronage. Many public employers win patronage cases because the court finds that the employee is in a "policy making" position. The lower courts remain divided, however, on what constitutes a "policy-making" position. To complicate things further, many lower courts do not agree on how to apply the *Elrod* line of cases in concert with the *Pickering* line of cases. Often, the facts will present in

such a manner that either test could apply. For example, if a non-policy making employee is discharged for what the employer deems to be disruptive speech, the employee has a strong argument that he cannot be fired under the *Elrod* standard because he is a non-policy making employee but he would have a much more difficult time with his argument under the *Pickering* balancing test which weighs heavily in favor of an employer determining what is disruptive to the workplace.

Conclusion

A public employer is entitled, under some circumstances, to limit the speech of its employees on certain subjects. However, First Amendment issues involving public employees can be extraordinarily complex. When an employee is speaking as a citizen on a matter of public concern may not always be clear. Further, it is not always possible to predict which side of the *Pickering* balancing test will be weighted more favorably by the courts. Certainly, the pendulum would appear to be swinging in favor of public employers. Hopefully, the Supreme Court's decision in the *Garcetti* case will help clear up matters for public employers and public employees. ■

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Distinguished Service Awards Presented May 24th

Each year, the League presents Distinguished Service Awards to municipal officials who have completed at least 20 years of service in municipal government. A total of 23 awards were announced this year during the closing night ceremonies at the League Convention in Birmingham. Pictured below are the recipients of the 2005 Distinguished Service Awards.



George R. Sides, Sr., Mayor, Dora



Ann Baker, Councilmember, Clanton



Arthur Lee Taylor, Sr., Councilmember, Dora



Michael A. Ford, Councilmember, Fairhope

continued next page

Service Awards Continued



John A. McGee, Councilmember, Killen



Rita Franklin, Council President Pro-Tempore, Selma



Ray Edwards, Councilmember, Valley



Kimberly Wright, Clerk, Russellville

Service Awards Continued



Brenda C. Roberts, Clerk, Springville

The following Distinguished Service Award recipients were unable to attend the closing ceremonies:

- Jimmy C. Lundsford, Mayor, Troy
- Marion Combs, Councilmember, Dora
- Tommy Loden, Councilmember, Fultondale
- Clinton L. Johnson, Councilmember, Mobile
- Reggie Copeland, Councilmember, Mobile
- John H. Witherington, Councilmember, Troy
- Wesley Lavendar, Municipal Judge, Falkville
- Wayne Wolfe, Municipal Judge, Madison
- Larry Madison, Municipal Attorney, Falkville
- Robert H. Brogden, Municipal Attorney, Midland City
- Rod Roberts, Municipal Clerk, Dora
- Glenda Morgan, Municipal Clerk, Mobile
- JoAnn Grimsley, Assistant Municipal Clerk, Midland City



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Golf Tournament Sponsors — continued from page 35

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Congratulations, Jim!



Mayor Bobby Hayes of Pelham (left), incoming President of the League, presents Mayor Jim Byard of Prattville (right), immediate past President of the League, with a plaque of appreciation. Jim is joined on stage by his wife, Beverly.

Visit the League On-line



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Speaking of Retirement

Avoid Phishing Scams

Phishing, as opposed to fishing, is not fun and enjoyable. Phishing is a method that criminals use to defraud consumers and devastate their finances and credit ratings.

How Phishing Scams Work

Scammers send a mass email to every address they can find. Most of the time, the email appears to come from a bank, financial institution, Internet service provider or e-commerce company. Examples of companies that have been falsely used by scammers include SouthTrust, Regions, eBay, PayPal, Bank of America and Amazon.com. The phony email asks you to update your financial information for some reason and provides a link that you can click on to complete the information. What makes it look so real is the criminals are sophisticated enough to design the email with the institution's logo and make it look like it came directly from them. The design often resembles the institution's Web site. The result is that unsuspecting consumers are actually sending their private financial information to the criminals Web site.

Results of Phishing Scams

Once the criminals obtain your financial information, they can create an ATM card and drain your bank account or order goods over the internet and charge them to your credit card. The Federal Trade Commission (FTC) states the average identity theft victim can expect to lose roughly \$500 per incident. The consumer can also set themselves up for more fraudulent activity in the future. According to the Ponemon Institute in Tucson, these scams are not only targeting the elderly and the technophobes but 18-25-year-olds are nearly three times as likely to get hooked as any other age group. One way scammers lure teenagers is through one of their favorite mediums – **Instant Messaging**. These emails look like they come from one of their friends online and they click on the bogus Web address and enter their personal information. Sometimes they offer free products, such as iPods, to entice unwitting users to provide the information.

What You Can Do to Avoid Phishing Scams

Along with government officials, the technology industry and consumer groups have recognized this growing problem and are taking action to fight them. The FTC, Microsoft, and the National Consumer's League have come together to educate consumers about phishing scams. Companies like eBay, PayPal, Microsoft and Visa have created a Phishing Reporting Network (www.phishreport.net) to help consumers report phishing scams.

Tips

Banks and other financial institutions do not ask for financial information by email. If you get one from your bank, contact them immediately.

Visit the Anti-Phishing Working Group Website at www.antiphishing.org. They have more information on reporting phishing scams as well as examples of what they look like.

If you get scammed, contact your financial institution and report it to the FTC at www.ftc.gov. You should also forward the email to spam@uce.gov.

Do not reveal personal identifiers unless you know how they will be shared and used.

Do not give your personal data over the phone, through the mail or on the internet unless you have initiated the contact.

Give your Social Security number only when absolutely necessary.

Prepared by the Communications staff of the Retirement Systems of Alabama. To have your questions answered in "Speaking of Retirement", please address them to:

Mike Pegues, Communications
Retirement Systems of Alabama
135 South Union St.
P. O. Box 302150
Montgomery, Alabama 36130-2150

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HB572, Act 2005-103 – Walker County Utility Board – donations for volunteer fire department

HB577, Act 2005-90 – Millbrook ad valorem tax for schools

HB584, Act 2005-125 – Calhoun County court costs

HB585, Act 2005-126 – Calhoun County election official's compensation

HB590, Act 2005-127 – Lauderdale County gasoline tax

HB595, Act 2005-114 – Dothan-Houston County Communications District Board

HB613, Act 2005-128 – Baldwin County Board of Registrars

HB645, Act 2005-131 – Russell County Board of Registrars

HB652, Act 2005-132 – Cleburne County court costs

HB657, Act 2005-188 – Hoover Municipal Court Magistrates Warrant Recall Fee

HB667, Act 2005-189 – Hoover prisoner transfer fee

HB675, Act 2005-133 – Clarke County motor vehicles tag fee

HB680, Act 2005-134 – Chambers County sales and use tax

HB684, Act 2005-135 – Baldwin County Community Corrections Center and Pretrial Release and Community Corrections Board

HB687, Act 2005-136 – Colbert County gasoline tax

HB688, Act 2005-137 – Mobile County court costs

HB689, Act 2005-108 – Colbert County Sunday sales of alcoholic beverages

HB691, Act 2005-138 – Colbert County Commission – single-member districts

HB692, Act 2005-139 – Talladega County court costs

HB709, Act 2005-176 – Marshall County transfer of water from Tennessee River Basin under certain conditions prohibited

HB710, Act 2005-141 – Albertville Municipal Utilities Board

HB712, Act 2005-143 – Madison County License Director

HB713, Act 2005-144 – Madison County ad valorem tax

HB721, Act 2005-146 – Marion County poll workers compensation

HB741, Act 2005-149 – Russell County alcoholic beverage sales prohibited within certain distance of church

HB742, Act 2005-150 – Russell County nuisance regulations

HB755, Act 2005-151 – Anniston police and firefighters retirement fund

HB767, Act 2005-175 – Wilcox County Sunday sales authorized

HB773, Act 2005-156 – Baldwin County tobacco taxes

HB788, Act 2005-159 – Baldwin County personnel system

HB789, Act 2005-160 – Lauderdale County Industrial Development

HB794, Act 2005-161 – Washington County tobacco tax

HB795, Act 2005-162 – Washington County Tobacco Tax distribution altered

HB796, Act 2005-163 – Chambers County tobacco tax

HB797, Act 2005-164 – Randolph County tobacco tax

HB798, Act 2005-165 – Clay County tobacco tax

HB810, Act 2005-199 – Etowah County lodging surcharge

SB236, Act 2005-60 – Rainsville sales & use tax

SB279, Act 2005-195 – Jefferson County Retirement System

SB311, Act 2005-74 – Class 2 municipalities sales & use tax exemption – Mobile County Fowl River Planning and Land Use Control District

SB405, Act 2005-67 – DeKalb County court costs

SB388, Act 2005-104 – Madison County noise ordinance

Annexation Bills

HB204, Act 2005-88 – Millbrook

HB622, Act 2005-__ – Wetumpka

HB664, Act 2005-117 – Bay Minette

HB696, Act 2005-113 – Daphne

HB770, Act 2005-153 – Foley

HB771, Act 2005-154 – Foley

HB772, Act 2005-155 – Foley

HB776, Act 2005-157 – Trussville

HB787, Act 2005-158 – Daphne & Spanish Fort

HB804, Act 2005-166 – Odenville

HB807, Act 2005-167 – Springville

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