

THE ALABAMA MUNICIPAL JOURNAL

July 2006

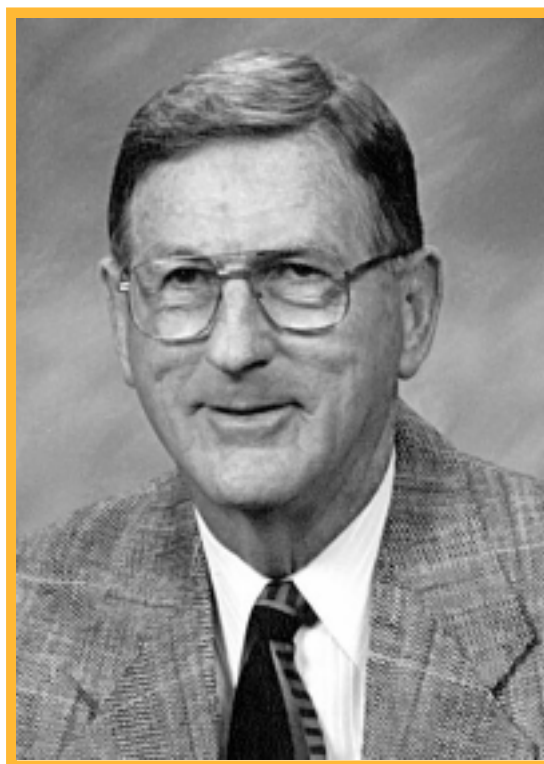
Volume 64, Number 1

Profiles of the League President and Vice President

See story, page 21



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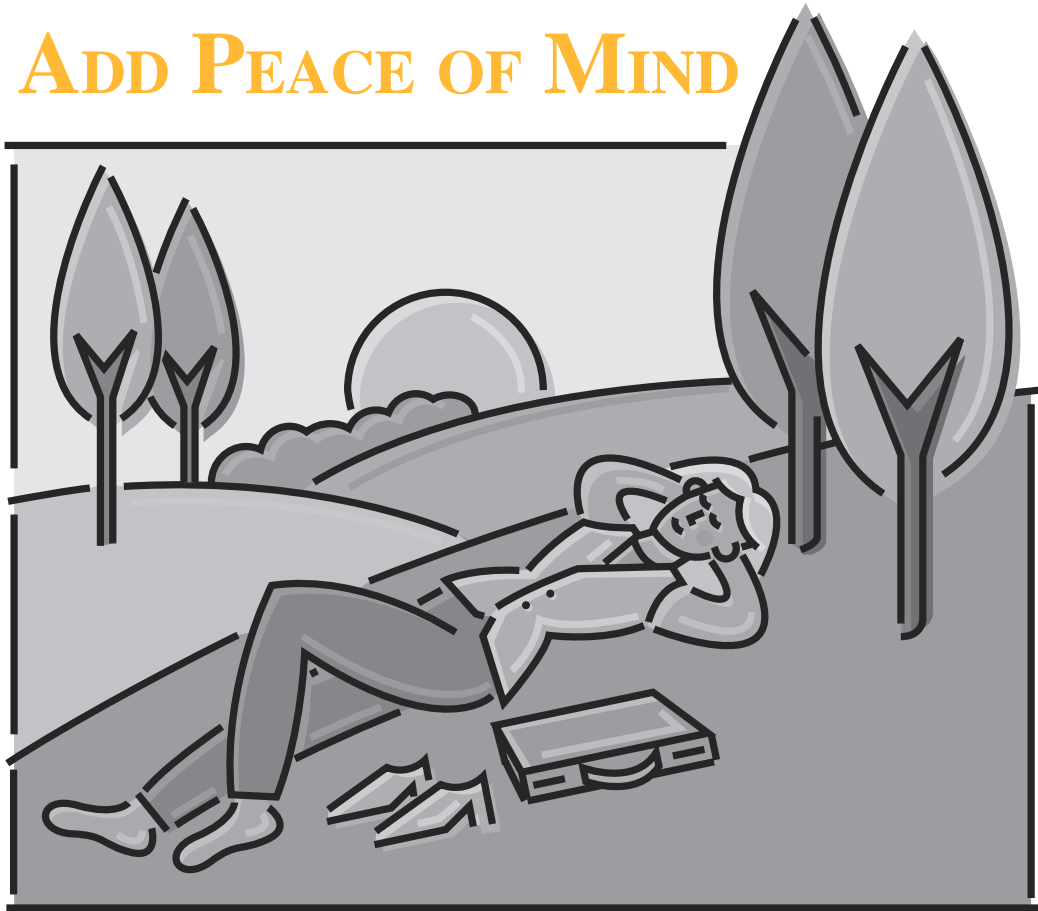
Inside:

- **Vestavia Hills Prepares for Pandemic Flu
Is Your City Ready?**
- **Recent Land Use Decisions of the United States
Supreme Court (Part I)**
- **Alabama Mayors' Design Summit 2007 Application**

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THE ALABAMA MUNICIPAL JOURNAL

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Contents

<i>Vestavia Hills Prepares for Pandemic Flu</i>	4
<i>President's Report</i>	5
Revenue and Your Community	
<i>League Welcomes Tracy Roberts to Legal Staff</i>	6
<i>Municipal Overview</i>	7
The League's Policy Committees	
<i>Future State Leaders Visit League Headquarters</i>	11
<i>The Legal Viewpoint</i>	13
A Look at Recent Land Use Decisions by the United States Supreme Court (Part I)	
<i>Legal Clearinghouse</i>	18
<i>Profiles of the League President and Vice President</i>	21
<i>Obituaries</i>	24
<i>Alabama Mayors' Design Summit 2007 Application</i>	25

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Vestavia Hills Prepares for Pandemic Flu

Is Your City Ready?

By Niko Corley, Communications Coordinator

It's not a question of if but when. A pandemic influenza, easily transmitted from person to person and infecting and killing large numbers of people worldwide, is likely to occur in the near future, though it is impossible to say when for certain. Different strains of influenza are constantly hopping around the globe, and State Health Officer Dr. Donald Williamson says it is a waiting game to see which strain of flu will mutate to the point that humans can contract and transmit it to others easily.

"No one can tell you if it will be avian or some other type of flu that will be the next pandemic," Williamson said.

According to the U.S. Department of Health and Human Services, the H5N1 flu strand sweeping across Europe and Asia could pose a considerable threat to human health for several reasons: it is an especially powerful strain; it is being spread by migratory birds (which cover great distances in their migrations making spreading the virus easier); it can be spread from birds to mammals and in some case to humans; and, like other flu viruses, it continues to mutate, meaning whether the H5N1 strand kicks off a pandemic or not, some genetic variation of the virus will most likely do so soon.

That aside, Williamson is quick to point out H5N1 has not mutated to the point that it is easily transmittable from person to person.

"Unless you are a bird, H5N1 is not a health threat right now," Williamson said.

In the 20th century there were three influenza pandemics, one each in 1918, 1957 and 1968. Between them, an estimated 52 million people died worldwide, 780,000 of which were in the U.S. Williamson says that were a pandemic flu to hit the country today, mild projections predict 200,000 Americans and 4,000 Alabamians would die while severe estimates put the death toll at 1.9 million Americans and 29,000 Alabamians.

Anticipating the devastation pandemic flu would have on the population, the city of Vestavia Hills has been preparing for an outbreak for more than six months now. At the request of Vestavia Hills mayor Charles A. "Scotty" McCallum, the city formed a Health and Emergency Response Committee to develop a plan to prepare the city and make it more self-sufficient should a flu pandemic hit the community.

"We want to try to make individuals understand that there will not be help coming from outside and that we will have to stand alone," McCallum said.

The committee, which provides the most up-to-date flu information available to citizens, is comprised of physicians, nurses, police officers, firemen, paramedics, city residents and an attorney. But why an attorney?

"We need a lawyer to tell us what we can do legally as far as quarantine and isolation," McCallum said.

That statement alone should demonstrate how seriously Vestavia Hills is taking the threat of an influenza pandemic and should motivate other municipalities which have not begun preparing for such a potential disaster to do so. McCallum says the committee found the best way to prepare for a flu pandemic in Vestavia Hills was to try to get neighborhoods to band together.

The city's Health and Emergency Response Committee has provided citizens with information on individual preparedness, including recommended supplies people should stockpile. The city has also begun training neighborhood associations in dealing with large numbers of sick people and quarantining procedures, as well as training police in emergency medicine. McCallum says city flu pandemic preparations are not meant to scare citizens but instead to encourage them to organize their home and neighborhood plans.

"You try not to get people upset about this, just [to get them to] be prepared," McCallum said.

Dr. Thomas Terndrup, who is head of the UAB Department of Emergency Medicine and chairman of the Vestavia Hills Health and Emergency Response Committee, says in formulating its recommendations for Vestavia Hills' pandemic flu preparations, the committee studied the national plan for pandemic flu preparedness. When asked the most important things individuals and families can do to plan for a flu pandemic, Terndrup read bullet points from a list that said to "be prepared, be ready, know what to do, don't pass it on, keep your distance and help your community."

He also expressed concern over how some people's preparations for a flu pandemic would probably be misguided and inadequate. For example, during a flu pandemic,

continued page 22



The President's Report

Lew Watson
Mayor of Lincoln

Revenue and Your Community

I want to thank all of our mayors and councilmembers for the opportunity to serve as your president for the coming year. To the councilmembers of my community, thank you for supporting me and allowing me to serve the League and its members in this capacity. Our past presidents worked diligently with League Executive Director Perry Roquemore and his staff to further the League's services to its member communities, and I will strive to continue that tradition.

Over the next year, I will use this column to bring items of interest to our members. We all know running our towns and cities is a difficult task. The two most valuable ingredients in making our communities successful are our employees and our revenues. My focus this year will be on the revenues that fund our municipalities. I have met with Perry and members of the League staff, and with their assistance, hope to increase your understanding of revenue sources and how to improve on them.

Hopefully, all of you have adequate revenue to finance the vital services you want to provide to your community. We are very fortunate in our state that our municipalities have broad powers to impose taxes and licenses. However, implementing and maintaining those revenue sources requires constant attention and every municipality needs someone reviewing the revenue it receives.

As budget time approaches, the finances of your municipality should be reviewed. For most municipalities in our state, the primary sources of revenue are sales taxes, business licenses, motor fuel taxes, property taxes and tobacco taxes. It is our responsibility as elected officials to monitor and review the activities associated with those revenues. Most municipalities receive their tobacco and motor fuel taxes each month. Someone needs to review the reports each month to ensure the taxes are correctly paid by all of the filers of the reports. In regard to motor fuel taxes, pumps should be read each month and checked against the tax return for proper payment.

Each month, your municipality should receive a sales tax report from either the state or a self collection or private

collection agency. A review of those sales should be conducted to determine if the reported amounts seem consistent with similar business activities within the community. The sales tax report is a useful tool to compare with the business licenses to determine if the tax payer has a business license or if there is a business license on file and sales taxes are being paid by that business.

In Lincoln, we have a one-person revenue office. Our revenue officer, Juanita Curvin, reviews the sales tax reports and compares them with the business licenses. This year she found one business that was not reporting sales taxes. Upon further investigation, it was determined that the seven other locations the company had in Alabama were not paying sales taxes either. In another instance, one local business was paying its sales taxes but the money was being combined with other locations of the business elsewhere and the tax money was being deposited into the account of another municipality.

Typically, we do not expect any problems with distribution of taxes from other governmental agencies. However, I would like to share one more local example that might enhance the revenue of your municipality: property taxes. Whenever annexing takes place, a copy of the annexation should be recorded with the probate office of your county and also with the tax assessor or similar office. You may want to conduct an audit of the property tax records to determine if the land in your municipality is being assessed for city taxes. The audit we made last year found some \$10 million of property not listed as located within the city, when some of the property had been in the city for over 20 years! While the exact amount of lost revenue could not be exactly calculated due to homestead and other exemptions, the loss was estimated at approximately \$50,000.

During the last legislative session, the Legislature passed the Municipal Business License Reform Act of 2006. The provisions of this act will become effective on January 1, 2008. However, your community may adopt the provisions of this act to become effective on January 1, 2007. I would recommend becoming acquainted with the provisions of this act. A copy can be downloaded from the secretary of state's website, www.sos.state.al.us/. Although the act is 91 pages long, do not let this overwhelm you, as many of the pages are lists of the NAICS Titles (North American Industrial Classification System). We will have more on this act in later reports.

During the coming months I look forward to working with the League's staff and our vice president, Mayor Sonny Penhale, to further our service to you. If you have a suggestion for this column or a revenue item of interest you believe will be of help to our members, please contact Perry or me. If I may be of service to you, you may reach me at (205) 966-6607. Thank you. ■

League Welcomes Tracy Roberts to Legal Staff



Tracy Roberts recently joined the League's Legal Department as Assistant General Counsel where he is responsible for advising municipal officials and employees from more than 400 Alabama cities and towns on all aspects of municipal law. He began his service with the League on May 1, 2006. Prior to his employment with the League, he served from January 2005 to April 2006 as assistant district attorney for the Fourth Judicial Circuit of Alabama, which includes Bibb, Dallas, Hale, Perry and Wilcox counties. He also served as deputy district attorney for Montgomery County, the Fifteenth Judicial Circuit from 2001 to 2005.

Tracy was born in Birmingham, AL, and was educated in Jefferson County's public school system, graduating from Hueytown High School. He received a B.S. degree in social and behavioral science from the University of Alabama at Birmingham in 1991 and a J.D. (law) degree from the Birmingham School of Law in 1995. He served in the United States Marine Corps Reserve in Bessemer from 1983 to 1989 and was employed as a police officer for the City of Birmingham from 1986 to 1996. Before leaving the Birmingham Police Department, he began his legal career in 1995 by establishing a private practice in Bessemer where he practiced law until 2001.

Tracy has three children, Cody, Delaney and Mary Theda, and is engaged to Sharon Carr who also works for the League.

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Municipal Overview

By
PERRY C. ROQUEMORE, JR.
Executive Director

The League's Policy Committees

The League has five standing policy committees comprised of mayors and councilmembers from each congressional district in the state. The committee chairs will soon be making appointments to these important League committees. The committees will convene in September at League headquarters to hear from state and federal resource advisors and to update their policy statements for the League's *Policies and Goals* document. This important document will be used by the Committee on State and Federal Legislation when it meets on November 9th to develop the League's Legislative Package for the 2007 Regular Session.

Any municipal official who desires to serve on one of the policy committees should contact the League by August 1st and give us your first and second choice of a committee. We will do all we can to see that you are appointed to a committee.

A number of officials have asked the League to list the possible issues that come within the jurisdiction of each committee. In order to assist you in making a committee decision, we are providing the following summary of the issues studied by each of our five policy committees.

Committee on Finance, Administration and Intergovernmental Relations

These subjects fall within the jurisdiction of the FAIR committee:

- Effect of area served on cost of providing services
- Extraterritorial services
- Coordinating activities with separately incorporated boards
- Annexation – power to tax newly annexed areas
- Municipal employees – recruitment, selection, advancement, fringe benefits
- Retirement systems
- Personnel systems
- Employment discrimination
- Unemployment compensation
- Workmen's compensation
- In-service training programs

- Federal and state assistance with public service education
- Labor problems
- Social Security for municipal employees
- Fair Labor Standards Act
- Municipal liability
- Contracts
- Personnel policies—pay periods—sick leave—jury duty—
- National Guard pay—
- Vacations—holidays—overtime—moonlighting—working hours—dues checkoff—
- Retirement—Social Security—political activity
- Training programs for municipal officers and employees
- Destruction of public records
- Records retention
- Amusement taxes
- Audits
- Budgets
- Automobile tag tax
- Bank stock taxes
- Revenue, general obligation, surety bonds and warrants
- Debt limits
- Improvement assessments
- Insurance
- ABC revenues
- Financial institution taxes
- Licenses
- Occupational taxes
- Sales taxes
- Gasoline taxes
- Tobacco taxes
- Soft drink taxes
- Bid law
- Oil and gas severance taxes
- Coal taxes
- Purchasing procedures
- Depositories—FDIC—security for municipal deposits
- Garbage collection fees
- Itinerants
- Loans
- Sales of municipal property
- Utility taxes
- State aid
- Tax exemptions
- Parking meters
- Projection of future municipal costs
- State administrative aid to municipalities
- Federal assistance to municipalities through state agencies
- Home rule
- Intergovernmental cooperation
- Regional councils of government
- Taxation of federal property

continued next page

Taxation of private property located on federal domains
Surplus, state and federal property – local priority to purchase
Federal, state and county cooperation with municipal zoning and planning
Coordination of county planning with municipal planning in fringe areas
Public housing authorities
Interjurisdictional utility services
Electric territorial laws
Merger and consolidation laws
2.2% utility tax
General revenue sharing

Committee on Energy, Environment and Natural Resources

These subjects fall within the jurisdiction of the EENR committee:

Planning for future control and disposal practices
Research needed
Air pollution – regional programs – state legislation
Federal assistance for air pollution control
Regional air pollution control measures
National standard on air pollution – state standards
Regional air quality commissions
Air pollution control – municipal control
Model legislation on air pollution control

Soil conservation

Solid waste disposal (garbage and trash)
Hazardous waste disposal
Coordinating solid waste disposal programs
Strip mining
Water resources
Water resources preservation – federal grants
Water pollution control legislation – appropriations
State responsibilities in water pollution control
Water resource planning and development
Water supplies and sewage disposal

Nuclear energy

Local effects
Information program
Model codes on nuclear energy use
Technical assistance for municipalities
State regulations program
Training in radiological safety
Federal air in hazardous areas

Energy

Conservation
Alternative sources
Priority for essential services

Committee on Transportation, Communication and Public Safety

These subjects fall within the jurisdiction of the TPSC committee:

Comprehensive state and local transportation planning to meet requirements of federal law
Establishment of overall national policy for integration of federal programs involved
With transportation – urban mass transportation, airlines, railroads, waterways and highways
Cooperation of all levels of government in arriving at coordinated solution of transportation problems
Establishment of continuous comprehensive transportation planning and processes within state, region and municipality
Planning highway and street improvements at least five years in advance
Coordination of urban transportation with development of community
Development of municipal arterial and collector streets for maximum capacity
Reserving rights-of-way for implementation of future plans
Distribution of federal highway revenues
Need for increased aid for urban street purposes
Inventory of municipal street needs
90-10 federal assistance within municipalities
Urban connectors with federal highways
Municipal participation in acquisition of state and federal rights-of-way
Regulation of truck weights
Parking – planning and municipal authority
Highway safety legislation and programs
Street improvements for safety
Uniform traffic ordinances and regulations
State traffic safety legislation
Highway railway crossing safety
Federal aid to urban mass transportation
Median strips for mass transportation on public rights-of-way
State, federal, local airport development and regulations
Federal assistance for airport development
Expansion of federal aid to airports
Federal-local relations in air programs
Airport operating practices
Airport rates
Federal responsibility for safety devices
Adequate air service to cities and towns
Regional airport designations
International airports
Surplus military airports
Aircraft noise abatement
Land damage – aviation easements

continued page 12

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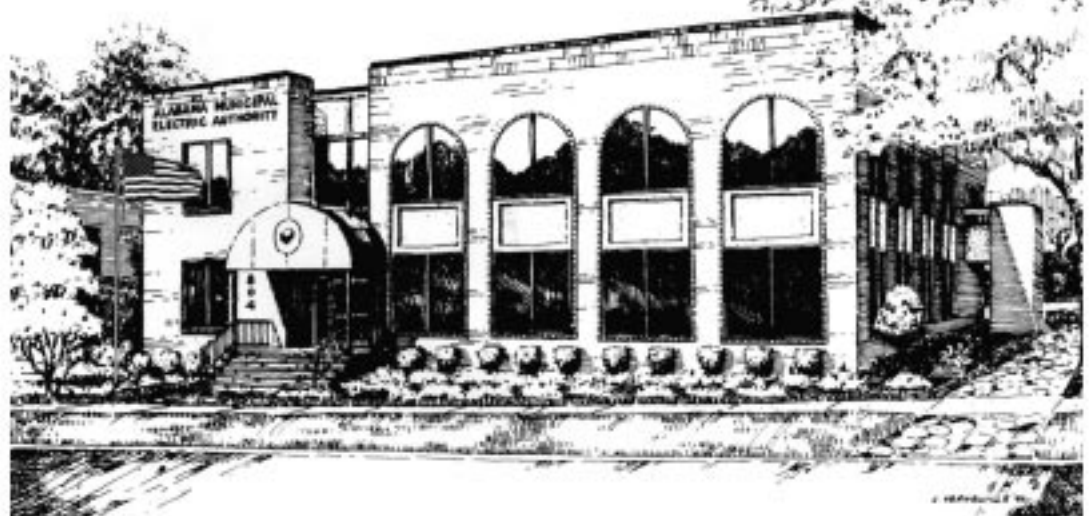
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Future State Leaders Visit League Headquarters

By Niko Corley, Communications Coordinator

Call it a learning experience. Call it a weeklong summer camp. Call it an excuse to get out of the house. However you refer to the Alabama Boys' State program, be sure you understand the young men participating in the program aren't there because it's required of them – they want to be there. And, chances are, you'll one day see many of their names on the ballot.

The Alabama branch of the American Legion hosts its Boys' State program in an effort to "train our young people in the ideals and objectives of American government." For six days, 600 upcoming senior boys from nearly every high school in Alabama participated in activities designed to broaden their understanding of how local, county and state government work.

Participants in the program campaign for, nominate and elect their peers to positions at the local, county and state levels. Some will become councilmembers and mayors of fictitious cities while others are elected as county officials, representatives and senators of Boys' State. One will be elected governor.

On June 2, for the eleventh consecutive year, participants who were elected to Boys' State municipal offices visited League headquarters and made presentations to a panel made up of League Executive Director Perry Roquemore, Deputy Director/General Counsel Ken Smith, Deputy General Counsel Lori Lein, Assistant General Counsel Tracy Roberts and summer law clerk Matt Griffith.



The mayor and councilmembers from the fictitious city of Cooper, AL, go over their presentation for growing their city. Photo by Niko Corley.



Boys' State municipal elected officials were given common municipal problems and had to research the issues and present their solutions to a panel. Photo by Niko Corley.

The panel listened as the "mayors and councilmen" gathered before them presented solutions to a list of problems they were given that are common to municipalities, including taxation, funding and growth issues. Justin Grant of Birmingham was elected as a Boys' State councilmember, and, along with the mayor and four other councilmen from his fictitious city, researched the particular problem they were given, came up with a solution and presented their findings to the panel, which then discussed the presentations and some strategies for resolving city problems with program participants in an effort to help them better understand how municipalities operate.

League Executive Director Perry Roquemore said he and other panel members were impressed with the thoroughness of the research and how professional the presentations had been.

"Each and every year, the presentations made by these outstanding high school students give us an insight as to the quality of our future state leaders," Roquemore said.

Grant said doing the project taught him about building a city and writing ordinances to accomplish the city leadership's goals. The week-long program also taught him how government works and instilled in him the importance of voting, he said.

"It gave me great insight and gave me a sense about knowledge of the whole process about nominating, campaigning and being elected," Grant said. ■

A succinct statement of the goals of municipal law enforcement

Law enforcement research – needs

Law enforcement information – federal responsibility

The state's role in law enforcement – state and local coordination

Metropolitan area police service agencies

Law enforcement personnel training services

Police and firemen's salaries

Personnel employment practices

Citizen complaints against police

Community cooperation for law enforcement

Preparation for demonstrations

Auto theft prevention

Fire defense goals

State regulation of fire insurance industry

Fire defense coordination

Fire defense equipment standardization

Insurance association fire defense studies

Smoke inhalation protection

Emergency management – the federal role – continuity of government – emergency planning – emergency operations centers and disaster warning systems – surplus equipment – disaster training

Juvenile justice

Committee on Community and Economic Development

These subjects fall within the jurisdiction of the CED committee:

Review programs of HUD, Department of Commerce, EDA, USDA Rural Development, Department of Interior, Heritage Conservation and Recreation Service, Delta Regional Authority

Annexation problems

Police jurisdiction problems

Industrial and economic development

Industrial park legislation

Relations with regional planning commissions

Housing assistance legislation

Planning and zoning laws

Suburban development—effect on urban development

Code enforcement program

Recreation programs and training

County subdivision control

Minimum public improvement standards for subdivisions

Appalachian program

Municipal relations with housing authorities

Federal criteria for grant programs—sources of data for compliance with criteria

Coordination of public utilities with urban planning

Federal and state policies relating to balanced economic growth

Tourist promotion

Small Business Administration

Impact of export activities on local economic growth

Enterprise zone legislation

Small city CDBG

Jobs program

Industrial development regions

Prepared City program

Committee on Human Development

These subjects fall within the jurisdiction of the HD committee:

Establishment of League Goals on human development

Healthcare for underprivileged children

Headstart programs

Primary and secondary education facilities available

Federal assistance to education

State education program – financing – the local responsibility

Municipal committees on youth problems

Social disease education programs

School drop-outs

Youth opportunity programs – summer employment

Federal training and manpower programs

Cooperation with State Employment Agency

Kindergartens and day care facilities

Vocational education programs

Mental health care

Hospitals and clinics – hospital planning (state programs)

Library services (state and federal assistance)

Regional medical centers

Medicare and Medicaid

Social Security

Welfare reform

Public welfare and assistance

Juvenile delinquency

Museums

Aid to dependent children

Unemployment compensation

Food Stamp Program



THE LEGAL VIEWPOINT

By Ken Smith
Deputy Director/General Counsel

A Look at Recent Land Use Decisions of the United States Supreme Court, Part I

Editor's Note: This is Part I of a two-part article. The second installment will be published in the August 2006 issue of The Alabama Municipal Journal.

In what could very well qualify as an unprecedented event in the United States Supreme Court's history, the Court decided four cases that significantly impact zoning and land use by municipalities during its 2004 term. These cases are:

- *Kelo v. City of New London*, 125 S.Ct. 2655, 2005 WL 1469529 (2005) Court upheld use of eminent domain for economic development purposes;

- *Lingle v. Chevron USA, Inc.*, 125 S. Ct. 2074 (2005) Court finally made plain that whether a regulation "substantially advances" a legitimate state interest is not a constitutional test for the purposes of the Takings Clause of the Fifth Amendment;

- *San Remo Hotel v. City of San Francisco*, 125 S. Ct. 2491 (2005) Court held that full faith and credit precluded further litigation of issues that had been adjudicated by state courts;

- *Rancho Palos Verdes v. Abrams*, 125 S.Ct. 1453 (2005) Court held that individual may not enforce Telecommunications Act's limitations on local zoning authority through § 1983 action.

This article will examine these four cases and their implications to the laws regarding the taking of property and eminent domain.

Kelo v. City of New London

Kelo v. City of New London, 125 S.Ct. 2655, 2005 WL 1469529 (2005), was clearly the most celebrated and talked-about land use case decided by the Court during this recent term. In this case, the Supreme Court took on the issue of whether it is appropriate for a municipality to use

its power of eminent domain for economic development purposes.

The *Kelo* case has received a significant amount of publicity due to its alleged impact on private ownership of property. Many argue allowing a public entity to use its condemnation powers to acquire property for a private development virtually eliminates private property ownership rights. As a result, state legislatures around the country and Congress have introduced and adopted legislation attempting to either overturn or restrict the *Kelo* decision. This case has been widely misunderstood as a broadening of the power of eminent domain; instead, it simply represents an affirmation of many years of takings jurisprudence.

Just how did the Court reach its decision?

In *Kelo*, the City of New London approved a development plan that was "projected to create in excess of 1,000 jobs, to increase tax and other revenues, and to revitalize an economically distressed city, including its downtown and waterfront areas." After approving an integrated development plan, the city purchased most of the property needed for the project from willing sellers but was forced to initiate condemnation proceedings against the holdout property owners. There was no allegation that the properties set for condemnation were in any way blighted or otherwise in poor condition; they simply were needed as part of the overall development project.

Susette Kelo brought a state court action claiming the taking of her property by the city would violate the "public use" restriction in the Takings Clause of the Fifth Amendment. The state trial court granted a permanent restraining order against taking the some of the properties involved in the claim. Both sides appealed to the Connecticut Supreme Court. That court affirmed in part and reversed

continued next page

in part, holding that all of the proposed condemnations were a valid exercise of the city's power of eminent domain. The court noted the Connecticut statute expresses a legislative determination that the taking of land, even developed land, as a part of an economic development project, is a "public use" and in the "public interest." The Connecticut Supreme Court also concluded this type of economic development qualified as a public use under the U.S. Constitution.

The United States Supreme Court agreed to take the case. The Court readily recognized it has long been accepted that government may not take property from one individual for the sole purpose of transferring it to another private party, even if the first person is paid just compensation. Conversely, it is equally clear property may be transferred from one private party to another if future "use by the public" is the purpose of the taking. Probably the most visible historic example of this is the transfer of private land to a common carrier (railroad).

The public use at issue in *Kelo* was not the traditional public use most people think of when condemnation comes to mind. The condemned property – at least not in its entirety – was not going to be available for use by the general public. Instead, some of the condemned property would eventually end up in private ownership.

One widely misunderstood aspect of this case is the Court's conclusion that, "This court long ago rejected any literal requirement that condemned property be put to use for the general public." While this has been characterized as a gross expansion of the power of eminent domain, it is, as noted above, simply a restatement of many years of takings jurisprudence.

The Court was specifically concerned with whether New London's development plan served a "public purpose" under the Fifth Amendment. The Court first noted such redevelopment projects need not be on a lot-by-lot, building-by-building basis in order to pass constitutional muster. In other words, each and every piece of property in a redevelopment area is not required to be in a blighted or deteriorated condition in order for it to be subject to condemnation for redevelopment purposes. While the Court recognized the city could not take petitioners' land simply to confer a private benefit on a particular private party, in this case, the Court was persuaded by the fact that the takings at issue here would be executed pursuant to a carefully considered development plan, which was not adopted "to benefit a particular class of identifiable individuals." The Court stated that, "The City has carefully formulated an economic development plan that it believes will provide appreciable benefits to the community, including—but by no means limited to—new jobs and increased tax revenue." The court noted the promotion of economic development has a long-standing history of acceptance as a traditional

governmental function. The Court, therefore, determined the reason behind the condemnation in this case satisfied constitutional muster based on previous judicial rulings.

The Court then deferred to the thought processes and determinations by local authorities that a public purpose was served because the area slated for condemnation was sufficiently distressed to justify a program of economic rejuvenation.

The Court rejected several of the petitioners' recommendations. First and foremost, the Court rejected the suggestion that it establish a new bright-line rule that economic development does not qualify as a public use. Quite simply, the Court stated that "promoting economic development is a traditional and long standing function of government." The plaintiffs raised the specter of the government taking a private person's property and transferring it to another private individual simply because the property might be put to a more productive use, thus generating more taxes. The Court dismissed this argument as well, stating that while facts like these might give rise to a suspicion that the purpose for condemnation was private rather than public, this was not the situation before the Court in *Kelo*.

Secondly, plaintiffs argued that there should be a "reasonable certainty" that the expected public benefits would actually accrue as a precondition to any use of eminent domain for economic development purposes. This suggestion was also rejected as inconsistent with the long-standing law of Fifth Amendment takings. When the government's purpose is legitimate and the means are not irrational, the Court refused to debate the wisdom of the taking or project and substitute its judgment for that of the local officials.

It is also important to emphasize that the city followed a Connecticut state statute specifically authorizing the use of eminent domain to promote economic development in making the decision to condemn the property in question. Thus, the state legislature had already made a determination that economic development could, in the proper circumstances, constitute a public purpose in Connecticut. The Court concluded that:

"Quite simply, the government's pursuit of a public purpose will often benefit individual private parties. For example, in *Midkiff* [*Hawaii Housing Authority v. Midkiff*, 467 U.S. 229 (1984)], the forced transfer of property conferred a direct and significant benefit on those lessees who were previously unable to purchase their homes. In *Monsanto* [*Ruckelshaus v. Monsanto Co.*, 467 U.S. 986 (1984)], we recognized that the 'most direct beneficiaries' of the data-sharing provisions were the subsequent pesticide applicants, but benefiting them in this way was necessary to promoting competition in the pesticide

market. The owner of the department store in *Berman* [*Berman v. Parker*, 348 U.S. 26 (1954)] objected to ‘taking from one businessman for the benefit of another businessman,’ referring to the fact that under the redevelopment plan land would be leased or sold to private developers for redevelopment. Our rejection of that contention has particular relevance to the instant case: ‘The public end may be as well or better served through an agency of private enterprise than through a department of government—or so the Congress might conclude. We cannot say that public ownership is the sole method of promoting the public purposes of community redevelopment projects.’” (Some citations omitted).

However, Justice O’Connor’s dissenting opinion distinguished *Berman* and *Midkiff*, stating that the purposes in these cases were public. Her dissent would isolate public land acquisitions for economic development from other recognized Public Use takings, thus asserting that a judicial mind can separate “good” from “bad” exercises of eminent domain. Justice Thomas also dissented, finding “public use” required a public entity to retain the property acquired through eminent domain. If Justice Thomas’ dissent is correct however, then not only are *Berman* and *Midkiff*, as well as most other Public Use cases since 1896 incorrectly decided, but the picking and choosing of legitimate objects of the Public Use Clause in the O’Connor dissent is also incorrect. These opinions are notable, if only because of recent and proposed changes in the membership of the court.

There are several key points to remember concerning *Kelo*. First, the Court did not actually expand the use of eminent domain powers. Instead, the Court merely reaffirmed the previous opinions noted above recognizing economic development as a legitimate public purpose. Next, the law of eminent domain is particular to each state. The ruling does not supersede state laws and constitutions governing the local application of eminent domain. Remember, the Court relied, at least in part, on the fact that the Connecticut legislature had specifically determined condemnation could be used for economic development. As the Court notes, “[Conn. Gen.Stat. § 8-186 *et seq.* (2005)] expresses a legislative determination that the taking of land, even developed land, as part of an economic development project is a ‘public use’ and in the ‘public interest.’”

A third point to keep in mind is that condemnation is rarely used as a first step toward acquiring property. Instead, it is most frequently applied where other efforts to obtain property necessary to serve the public need have failed. In fact, this was the situation in *Kelo*. Additionally, numerous checks on abuse of authority exist in the condemnation process, including public hearings and just compensation to the property owner.

The Court also did not foreclose a stricter review of

future takings cases that challenge certain applications as truly a “public use.” “There may be private transfers in which the risk of undetected impermissible favoritism of private parties is so acute that a presumption of invalidity is warranted under the Public Use Clause,” Justice Kennedy wrote.

The Court in *Kelo* also left the door open for state and local governments to determine whether economic development is considered a public purpose. Alabama was the first state to enact legislation in response to *Kelo*. Act No. 2005-313 (codified as Sections 11-47-170, 11-80-1, 18-1B-1 and 18-1B-2, Code of Alabama, 1975), amends Sections 11-47-170 and 11-80-1, Code of Alabama, 1975, to restrict the authority of counties and municipalities in the exercise of eminent domain. While Section 11-47-170(a) authorizes the municipal governing body to condemn property for any lawful purpose, subsection (b) provides that property cannot be condemned for “private retail, office, commercial, industrial, or residential development; or primarily for enhancement of tax revenue; or for transfer to a person, nongovernmental entity, public-private partnership, corporation, or other business entity.” This same restriction was added to Section 11-80-1(b). Similar language was placed in Section 3 (a) of the act, which restricts the state, its agencies and departments as well as entities controlled or organized by municipalities or counties.

Thus, the act prevents condemnation of property for private development or for any purpose primarily aimed at the enhancement of tax revenue. Further, property cannot be condemned if the purpose for the condemnation is to transfer the property to a private (or public-private) entity.

Despite these restrictions, certain purposes for condemnation are specifically protected in the new act. Public entities can still exercise eminent domain power “based upon a finding of blight in an area covered by any

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redevelopment plan or urban renewal plan pursuant to Chapters 2 and 3 of Title 24, Code of Alabama 1975.” Further, property can still be condemned for public utilities, streets and roads, governmental buildings and park and recreation facilities.

New language was also added to each of the above mentioned statutes concerning the sale of condemned property. If the property was never used for the purpose for which it was condemned or for some other public purpose, it must first be offered for sale to the person who owned the property at the time it was condemned, or to “his or her known or ascertainable heirs or assigns.” The price of the property is the same as what was paid for the property when it was condemned less any amounts for income and transaction taxes that were paid, if any. If these persons do not accept the offer within 90 days, the property may be sold to someone else at a public sale following legal notice.

It is important to remember Section 4 of Act 2005-313 states this new law is merely “declaratory of existing law and shall apply to any pending action for condemnation.” This factor seems to indicate all previous condemnations are also subject to these provisions, as well as any subsequent condemnations.

During its 2006 Regular Session, the Alabama Legislature deliberated a number of bills affecting eminent domain authority in Alabama. Only one bill, though, Act

No. 2006-584, was enacted into law. This law relates to redevelopment projects conducted by municipalities or housing authorities. The law allows the use of eminent domain to acquire both blighted property and property that is unblighted but that contains “blighting factors or the causes of blight” for a redevelopment project. Although the redevelopment project may contain property that is not blighted, unblighted property cannot be acquired through eminent domain without the consent of the owner.

The legislation also defines “blighted” as:

“(1) The presence of structures, buildings, or improvements, which, because of dilapidation, deterioration, or unsanitary or unsafe conditions, vacancy or abandonment, neglect or lack of maintenance, inadequate provision for ventilation, light, air, sanitation, vermin infestation, or lack of necessary facilities and equipment, are unfit for human habitation or occupancy.

“(2) The existence of high density of population and overcrowding or the existence of structures which are fire hazards or are otherwise dangerous to the safety of persons or property or any combination of the factors.

“(3) The presence of a substantial number of properties having defective or unusual conditions of

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title which make the free transfer or alienation of the properties unlikely or impossible.

“(4) The presence of structures from which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

“(5) The presence of excessive vacant land on which structures were previously located which, by reason of neglect or lack of maintenance, has become overgrown with noxious weeds, is a place for accumulation of trash and debris, or a haven for mosquitoes, rodents, or other vermin where the owner refuses to remedy the problem after notice by the appropriate governing body.

“(6) The presence of property which, because of physical condition, use, or occupancy, constitutes a public nuisance or attractive nuisance where the owner refuses to remedy the problem after notice by the appropriate governing body.

“(7) The presence of property with code violations affecting health or safety that has not been substantially rehabilitated within the time periods required by the applicable codes.

“(8) The presence of property that has tax delinquencies exceeding the value of the property.

“(9) The presence of property which, by reason of environmental contamination, poses a threat to public health or safety in its present condition.

The League anticipates other eminent domain bills will be submitted in future legislative sessions. The League will inform its members when these bills are introduced. Protecting municipal authority for eminent domain will take the efforts of all municipal officials. ■



Editor's Note: This column replaces what previously ran as "Legal Notes." We will continue to provide legal summaries within this column; however, additional background and/or pertinent information will be added to some of the decisions, thus calling your attention to the summaries we think are particularly significant.

As in the past, we caution you *not* to rely solely on a summary, or any other legal information, found in this column. You should read each case in its entirety for a better understanding. "Legal Clearinghouse" will further include legal items that should be examined but may not warrant a lengthy article under "The Legal Viewpoint."

The April "Legal Viewpoint" article in the *Alabama Municipal Journal* discussed liabilities for police operations. In that article, the League noted that a recent Alabama Supreme Court made sweeping changes in the tort immunity standard applicable to municipal police officers. This case, *Blackwood v. City of Hanceville*, ___ So. 2d ___ (2006), 2006 WL 254071, discarded discretionary function immunity in favor of state-agent immunity.

State-agent immunity is the same immunity standard applicable to sheriffs and their deputies. The Court first announced this standard in *Ex parte Cranman*, 792 So.2d 392 (Ala. 2000). Pursuant to this standard, police officers are only immune from liability if their actions fall within certain delineated activities spelled out in *Cranman*.

This month's legal summaries help clarify how the Court intends to apply state-agent immunity to municipal functions. The resolution of two cases this month, *Quinlan v. Jones* and *City of Crossville v. Haynes* depend on the court's interpretation of state-agent immunity. This type immunity will likely be markedly different from discretionary function immunity. Readers should closely examine these two cases and see how they may affect local police operations. It will also be important to see how the courts apply this new test in future cases.

Alves v. Board of Education for Guntersville is another significant case that addresses a legal question callers to the League frequently raise. In this case, the Court of Civil Appeals held that municipal zoning ordinances do not apply to governmental or legislative functions performed by public entities. Municipal officials should familiarize themselves with this case as well.

Another case raising more questions than it answers for many municipalities is *Service Employees International Union, Local 3 v. Mt. Lebanon, Pa.* Although this case is from another jurisdiction and does not directly apply in Alabama, the result of this case was mandated by the United States Supreme Court case, *Watchtower Bible & Tract Society of New York v. Stratton, Ohio*, 536 U.S. 150 (2002).

The *Watchtower Bible* case struck down a municipal ordinance requiring solicitors to obtain a permit prior to canvassing citizens. The U.S. Supreme Court held that the permit requirement stifled protected First Amendment activity. Readers may want to read the *Mt. Lebanon* case and re-examine their own solicitation ordinances.

Finally, the League wants to refer readers to a case not discussed in the summaries this month. The case, *McInnish v. Riley*, 925 So.2d 174 (Ala. 2005), has no direct application to municipalities. Instead, it discusses the nature of the separation of powers doctrine as it applies to the governor, the Legislature and the courts.

In *McInnish*, the Alabama Supreme Court struck down a statute authorizing a legislative committee to disburse appropriations from the education budget without the input or participation of the executive branch of state government. The Court held that this violates the separation of powers doctrine. While this case doesn't apply to municipalities, reading it may help explain the nature of the checks and balances system under which both the state and municipal governments operate.

COURT DECISIONS

Tort Liability: In *Gary v. Crouch*, 923 So.2d 1130 (Ala. Civ. App. 2005), the Court of Civil Appeals held that a police officer failed to prove the existence of actual malice, which was necessary to support her defamation action against her supervisor.

Age Discrimination: The 90-day and 180-day limitation periods in the federal Age Discrimination in Employment Act are incorporated by reference into the Alabama Age Discrimination in Employment Act (AADEA); therefore a plaintiff has 90 days after the Equal Employment Opportunities Commission issues a right-to-sue letter to sue under the AADEA. *Hedegard v. BE & K*, 923 So.2d 315 (Ala. Civ. App. 2005).

Tort Liability: In *Quinlan v. Jones*, 922 So.2d 917 (Ala. Civ. App. 2005), following remand by the Alabama Supreme Court, the Court of Civil Appeals held that an inmate failed to demonstrate malice or willfulness by a corrections officer who allegedly assaulted the inmate and wrongfully deprived him of private property. Thus, the correctional officer was protected from suit by state-agent immunity pursuant to *Ex parte Cranman*, 792 So.2d 392 (Ala. 2000).

Zoning: The Court of Civil Appeals held in *Alves v. Board of Education for Guntersville*, 922 So.2d 129 (Ala. Civ. App. 2005), that a board of education decision, where to a school, is a governmental function by a public agency that is not subject to municipal zoning ordinances.

Tort Liability: In *City of Crossville v. Haynes*, 925 So.2d 944 (Ala. 2005), the Alabama Supreme Court held that because a police chief was immune from suit by state-agent immunity for an alleged jail suicide, the employing municipality was also immune from being sued.

First Amendment: The United States Supreme Court held in *Hartman v. Moore*, 126 S.Ct. 1695, 74 LW 4209 (2006), that a plaintiff who alleged that he was criminally prosecuted for exercising his First Amendment rights must prove that there was no probable cause to support the criminal charge.

Taxation: The United States Supreme Court held that municipal taxpayers who alleged that a state tax credit for corporations that install new equipment disproportionately placed the state tax burden on them by reducing the total state funds available lacked standing to challenge the credit. *DaimlerChrysler v. Cuno*, 126 S.Ct. 1854, 74 LW 4233 (2006).

Search and Seizure: The United States Supreme Court held in *Brigham City, Utah v. Stuart*, 2006 WL 1374566, 74 LW 4253 (2006), that if circumstances justify a police officer's warrantless entry of a home under the emergency aid exception, the officer's actual motive for entry is irrelevant.

First Amendment: The United States Supreme Court held that a public employee who makes a statement as part of his official duties (in this case, an assistant district attorney who wrote an official memo objecting to pursuing a prosecution) is not speaking as a citizen and thus is not protected by the First Amendment from employer discipline for his statement. *Garcetti v. Ceballos*, 2006 WL 1458026, 74 LW 4257 (2006).

CITATIONS TO CASES FROM OTHER JURISDICTIONS

Family and Medical Leave Act: In *Willis v. Coca Cola Enterprises, Inc.*, 445 F.3d 413 (5th Cir. 2006), the Fifth Circuit Court of Appeals held that an employee must notify

the employer of the existence of a serious health condition before the employer is required to know that the employee is eligible for FMLA leave.

First Amendment: In *Bowman v. White*, 444 F.3d 967 (8th Cir. 2006), the Eighth Circuit Court of Appeals held that a municipal ordinance prohibiting any noise audible from 25 feet away violated the First Amendment rights of a preacher who was preaching in a public forum.

Family and Medical Leave Act: The Fourth Circuit Court of Appeals held in *Yashenko v. Harrah's NC Casino Co.*, 446 F.3d 541 (4th Cir. 2006), that where a job position is eliminated, the FMLA does not require returning an employee to the job he or she held prior to taking FMLA leave, if the employee would have been discharged even without taking leave. In this case, the employee was offered alternative employment but refused to apply.

First Amendment: The Georgia Supreme Court struck down a statute making it unlawful to commit an act that knowingly could disrupt a "meeting, gathering or procession." Although the Court recognized that similar statutes have been upheld elsewhere, the Court felt that this statute prohibited lawful conduct as well as unlawful conduct, and did not solely regulate conduct that did, in fact, disrupt a legal meeting. *State v. Fielden, Ga.*, 629 S.E.2d 252 (Ga. 2006).

Tort Liability: The Sixth Circuit Court of Appeals held that public housing tenants do not have a private right of action against a public housing authority pursuant to Section 1983 to sue for alleged use of lead-based paint. *Johnson v. City of Detroit*, 446 F.3d 614 (6th Cir. 2006).

First Amendment: An ordinance requiring door-to-door solicitors who plan to hand out written political or religious material to get a permit was struck down under the First Amendment by the Third Circuit Court of Appeals in *Service Employees International Union, Local 3 v. Mt. Lebanon, Pa.*, 446 F.3d 419 (3rd Cir. 2006).

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ATTORNEY GENERAL'S OPINIONS

Police and Police Officers: A municipality has no duty to provide police or fire services on an Indian reservation. The municipality does, though, have a duty to respond to certain incidents in which it has jurisdiction. A municipal police officer can follow an offender onto the reservation in hot pursuit, whether for a felony or misdemeanor, to determine whether the offender is an Indian or non-Indian. The Violent Crime Control and Law Enforcement Act of 1994 gave no authority to state or local law enforcement agencies to operate on an Indian reservation. 2006-81.

Gasoline Taxes: A municipality may use the proceeds of the seven cent gasoline tax to purchase a leaf vacuum truck. 2006-83.

Fair Campaign Practices Act: A political telephone bank is not considered "electronic media" for purposes of Section 17-22A-12 of the Code of Alabama. As a result, operators of political telephone banks are not required to provide the disclaimer described in that section. 2006-85.

Open Meetings Act: The Open Meetings Act permits governmental boards to convene an executive session to interview current public employees in connection with promoting these employees to fill vacant positions when those positions do not require the interviewee to file a Statement of Economic Interests with the Alabama Ethics Commission. Only the portions of the meeting that involve the general reputation and character, physical condition, professional competence, mental health and job performance of the

employee may be discussed in executive session. The professional competence of a person may be discussed in executive session only when that person's position qualifies as a profession as specified in section 36-25A-2(8) of the Code of Alabama. 2006-88.

Ad Valorem Taxation: An owner of property reclassified from Class II to Class III because it is a historic building or site is eligible to claim a refund for years in which it was improperly classified. Refunds are limited to two years from the date of payment of the tax. 2006-89.

If you have a legal issue that warrents further examination and would be appropriate for inclusion in this column, contact Ken Smith at kens@alalm.org.

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Profiles of the League President and Vice President

By: Niko Corley, Communications Coordinator, ALM



On May 9, 2006, **Mayor Lew Watson** of Lincoln was elected as the new League president. Watson, who served as vice president under Mayor Bobby Hayes of Pelham from 2005 to 2006, is in his eighth term as mayor of his east Alabama town.

Watson was a captain in the U.S. Army Corps of Engineers and began his first term as mayor in 1972 after returning from active duty in

Vietnam. Before becoming mayor of Lincoln, Watson was on a civic action committee that helped expose him to the workings of municipal government. It also placed in him the desire to one day take on a larger role in his city's government. His entry into the system was out of necessity, he says.

"What first got me was that our town was starting to grow and the mayor had just moved," Watson said. "The town needed people who were interested in the growth of the community."

Census 2000 figures show Lincoln having fewer than 5,000 residents; not one of Alabama's biggest cities, but still in the top quarter. In a state where 47 percent of municipalities have fewer than one thousand residents, Lincoln is positioned between the largest and smallest of Alabama's cities.

One of the strengths of the League, Watson says, is that its leadership has not been limited to only Alabama's biggest cities. Past presidents are "from some of the largest and some of the tiniest" municipalities in the state Watson says, and the varying experiences and ideas these mayors bring enhance the services the League can offer its member cities.

Watson is a graduate of the University of Alabama and the Birmingham School of Law. He is former chairman of the East Alabama Regional Planning and Development Commission and a member of the Kiwanis Club and the Greater Talladega Area Chamber of Commerce. His League work includes service on a number of committees, including FAIR and the League's executive committee. Watson has also been chair and vice chair of the organization's state and federal legislation committee.

His service to Alabama's municipalities extends beyond the borders of the state, as Watson currently serves on NLC's

Committee on Information Technology and Communications, Policy and Advocacy, a duty he shares with Alabama mayors Barry McCulley of Homewood, Jim Byard of Prattville, Melvin Duran of Priceville and Bob Bunting of Ozark.

Besides his eight terms a Lincoln's mayor, Watson has worked in the grocery business and is also a certified real property appraiser. He and his wife Joyce have four children.

Under Watson's leadership, Lincoln was one of the first cities in Alabama to start its own cable system, and his involvement with his area's chamber of commerce and regional planning and development commission helped attract the Honda Motor Co. to Talladega County. Through his experiences as mayor of Lincoln, Watson understands the development problems municipalities, especially smaller ones, can run into.

"We need to recognize that many communities are faced with not having growth," Watson said.

As the League's new president, Watson is committed to assisting Alabama's cities in achieving their municipal development goals and looks forward to "helping inform our members of ways to improve our cities and towns through articles on finance, current events and legislation to improve our communities."



The same night Mayor Lew Watson became the League's new president, **Mayor Charles W. "Sonny" Penhale** of Helena became vice president of the League for 2006-2007. Penhale has served as mayor of the Shelby County municipality for 38 years, and has served as a municipal elected official for more than 40.

Since he became mayor in 1968, Penhale has seen Helena grow from a town of 870 residents to a city of more than 10,000. Under his administration, the then-one-mile radius that comprised the town limits has grown to include roughly 1,100 acres of zoned land.

During the Korean War, Penhale was drafted into the U.S. Army, spending time stationed at Fort Mead, Maryland, and Camp Pickett, Virginia. Until only recently, he was a

continued next page

Terndrup says simply getting a store of flu medicine without altering one's lifestyle is the wrong way to prepare.

"People need to follow the bullet points and not expect there is going to be a magic pill or vaccine to make it go away," Terndrup said.

In order to get the word out to citizens, the Vestavia Hills Health and Emergency Response Committee held a forum in March where presentations on avian flu were made to the public and preparation information was given out. For those unable to attend the meeting, copies of the distributed materials were made available at city hall. Much of the information included would be useful during other emergencies, including acts of bioterrorism or natural disasters.

Should a flu pandemic hit, many people would miss work either because they are sick or are caring for someone who is. Others, out of fear of becoming infected, would also stay home. While medical technology has come a long way in the nearly 90 years since the first flu pandemic of the 20th century, reactions to another pandemic wouldn't be much different in 2006 than they were in 1918.

Given the absence of a vaccine against pandemic flu and the four- to six-month lag before one could be developed once a pandemic hits, other non-medicinal methods for maintaining public health would need to be put into practice.

"Today, we would approach a pandemic much like we did in 1918," Williamson said. "The way you do that is with social distancing – canceling church services, schools and public gatherings."

Keeping close contact between people at a minimum would lower infection rates and help slow the spread of the virus during a pandemic. But social distancing, beyond the minor inconveniences it causes people in their day-to-day lives, also poses real problems for industry and government.

"The biggest challenge businesses face and municipalities face is how do you maintain business, clients and services when 40 percent of the workforce is incapacitated?" Williamson said.

When a flu pandemic occurs, at bare minimum, there will be a disruption in supply. Shortages in grocery stores will not be uncommon and at least a brief interruption to normal life should be expected and planned for. Businesses may be ordered to cut their hours of operation and worker absenteeism will be high. Postal service may also be disrupted and schools, theaters and churches may be closed.

The aforementioned happenings all occurred in Alabama during the flu pandemic of 1918 and are but a few of the things municipalities need to prepare for in the event of another flu pandemic. None of this is meant to scare, but

rather, as McCallum said, to encourage planning and preparation. While both the state and federal government are stockpiling supplies and training personnel to deal with pandemic influenza, these entities should not be relied upon to save a community from a flu pandemic. There is still time to prepare, and every effort should be taken to foster discussion and planning for individual and municipal readiness. ■

Pandemic Influenza Websites:

www.vestaviahills.net

www.pandemicflu.gov

www.adph.org

www.cdc.gov

www.who.int/en

League Vice President

continued from previous page

part-time mayor, also working as a foreman at American Cast Iron and Pipe Co. from 5 a.m. until 2 p.m., after which he would run home, shower and be quickly off to city hall to carry out the city's business.

Under Penhale's leadership, Helena was one of the first cities in Shelby County to install a sanitary sewer system. A recent two-million-dollar expansion of the system, offset by a more than one-million-dollar federal grant and a low-interest loan the mayor secured, will enable Helena to continue to see strong growth in the near future. The mayor has also obtained grants to build two city parks, a library, to expand the city water system and to improve the city's streets.

Penhale has served on the League's Executive Committee and currently serves on the organization's Human Development Committee. He is a member of the Greater Shelby County Chamber of Commerce, the Birmingham Regional Planning Commission and is a lifelong member of the Helena United Methodist Church.

Penhale says the Alabama League is "the number one league in the nation," and it is an honor to be elected vice president of the organization. ■

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James M. Oliver

James M. Oliver, former mayor of Phil Campbell, died Thursday, March 2, 2006. He was 91. Oliver served as mayor of the city for three terms. He was a deacon in the Phil Campbell First Baptist Church and was a member of the Lions Club and Masonic Lodge. Oliver helped begin Northwest-Shoals Community College and served in the U.S. Army during World War II.

Charles C. Vickrey

Charles C. Vickrey, former mayor of Abbeville, died Wednesday, April 5, 2006, at the age of 87. Vickrey was a five-time mayor of Abbeville who successfully worked to pass sales tax legislation and improve sewage systems. His time on the municipality's water and sewer board was rewarded by the naming of a building in his honor. Vickrey was a WWII veteran who attended Auburn University.

Robert W. Parrett

Robert W. Parrett, former Sylacauga city councilmember and council president, died April 16, 2006. He was 68. Parrett served three consecutive terms as a councilmember for the city of Sylacauga, from 1984 until 1996. He served as council president from August 3, 1994 to October 6, 1996, after Council President Jesse Cleveland became mayor following the death of Mayor James Payton. Despite having been recently diagnosed with liver disease, Parrett ran for city council again during the last election, though unsuccessfully.

Donald L. LeQuire

Donald L. LeQuire, former Scottsboro city councilman, died Wednesday, May 3, 2006, at the age of 73. LeQuire was elected to the city council in 1982 and chose to leave office in 1986. He has the distinction of being Scottsboro's first council president, serving from 1984 until 1986. LeQuire, a physician and Korean War veteran, was involved in writing the city's alcohol control ordinance and in the development of Scottsboro's industrial park (where one of the streets is named for him).

Joyce Sanford

Joyce Sandord, Moulton city councilmember, died Wednesday, May 3, 2006. She was 75. Sanford was in her third term on the city council.

Carl C. Morgan, Jr.

Carl C. Morgan, Jr., former Selma mayor and city council president, died Thursday, May 4, 2006. He was 86. Morgan was first elected to the city council in 1960 and was elected its president in 1964, a position he held until 1978 when Mayor Joe Smitherman resigned and Morgan became mayor. Two years later, Smitherman ran against Morgan for mayor, winning and temporarily putting Morgan out of municipal office. In 1984, however, Morgan again ran for city council president and won, retaining the position until 2000 when he decided not to run for re-election. Morgan helped organize both the Selma Jaycees and the Cahaba Commission, was involved with the Alabama Tombigbee Regional Commission and was active in historic preservation at both the municipal and state levels. During his political career, Morgan was active in both the Alabama League of Municipalities and the National League of Cities, and his tireless efforts within these organizations improved not only the city of Selma but the entire Black Belt region.



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Alabama Mayors **Design Summit**

2007 APPLICATION page 1

DesignAlabama is a non-profit, citizen-led organization providing educational resources and assistance related to urban planning, architecture, landscape architecture, industrial design, graphic design, fashion design and engineering. We believe that the quality of life and the economic growth of this state are enhanced through attention to and investment in good design. We further believe that the design disciplines affect our environment in a variety of ways and therefore must be practiced in the most responsible way. It is for this reason that **DesignAlabama** seeks to work with designers, non-designers and public officials to put good design into use in their communities.

It is therefore our honor to announce the second Alabama Mayors Design Summit.

Please note bulleted information below for details about the summit and how to apply.

- In partnership with the Alabama League of Municipalities, Alabama State Council on the Arts, **DesignAlabama** will present the Alabama Mayors Design Summit at **The Marriott Legends at Capitol Hill, Prattville, Alabama on February 8 and 9, 2007**. The **intense day and a half workshop** will partner **5 Alabama mayors with 6 professional design experts** to work in a roundtable environment **to create tangible solutions for design challenges facing their communities**. It is the aim of the conference that each attending mayor will gain knowledge and understanding of design terms, design issues, design trends, make valuable contacts, and begin development of preliminary design solutions to real problems.
- During the day and a half summit, **each mayor will be asked to make a 20-minute presentation on his or her city and the design issue to be discussed**. Each mayor will be asked to bring maps, photographs, renderings and other items related to the design issue. Each mayor's design issue will be addressed in a roundtable discussion with all participating mayors and design professionals.
- *Please sign below stating that you understand that selected mayors will each make a 20-minute presentation on their city and design issue and bring all related materials. **Complete both sides of this application and return the original and two copies by August 1, 2006 to: DesignAlabama, Post Office Box 241263, Montgomery, Alabama 36124.***
- **Mayors chosen to participate in the Mayor's Summit will be notified by October 1, 2006.**

If you have any questions or comments please contact Gina Clifford at 334-834-4346.

Signature

Date

Alabama Mayors Design Summit

2007 APPLICATION page 2

If you are nominating a mayor, please complete both sections below. If you are a mayor filling out an application for yourself, please complete only the top half of this page.

MAYOR Information

Your Name _____

City _____

Mailing Address _____

City/State _____ Zip Code _____

Contact Phone _____ Contact Fax _____

Contact Email _____

Name of Administrative Assistant (if applicable) _____

NOMINATOR Information

Nominator's Name _____

City _____

Mailing Address _____

City/State _____ Zip Code _____

Contact Phone _____ Contact Fax _____

Contact Email _____

Please attach additional pages, but no more than two, to provide the information requested below.

Briefly describe yourself (or nominee) and your (or nominee's) background in public and community service, especially your (or nominee's) time as mayor.

Describe the design issue facing your city, what has been done in the past and/or is currently being done to resolve this design issue. Submit any pertinent information concerning your design issue (such as maps, renderings, newspaper or magazine articles about your design issue, and photos (*no larger than 11" x 17" in size*), with your application.

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