

# The Alabama Municipal JOURNAL

April 2010

Volume 67, Number 10



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# The Alabama Municipal JOURNAL

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## On the Cover:

Municipal officials pose for a picture on the Capitol steps this past February following a legislative CMO workshop held by the League in downtown Montgomery.

# A Message from the Editor



*The League's Annual Convention celebrating our 75-year history is next month – May 15-18 in Mobile!*

**H**ave you registered? If not, we've simplified the process by offering online registration. Visit [www.alalm.org](http://www.alalm.org) (click on the red link near the top of the home page that says: **ALM Convention – Register Here**). Online registration is quick, simple and extremely convenient. Contact Theresa Lloyd at [theresal@alalm.org](mailto:theresal@alalm.org) with any questions regarding registration and please make every effort to attend this year's convention!

A Convention Quick Guide is on page 24. Opening Session will pay tribute to the League's 75th Anniversary and Quality of Life Awards presentations will be made to this year's winners: Abbeville, Moody and Opelika. This year's concurrent session topics will include: Social Media Liability; Employers Support of the Guards and Reserves Briefing; ACJIC Update/Criminal Background Checks; Municipal Landscaping & Beautification Tips; AMEA – Aftermath of Disaster; and Grant Writing as well as several topics led by the League's attorneys including Open Meetings Act; Tort Liability; The Municipal Police Jurisdiction; and the Final Report on the 2010 Regular Session. Governor Bob Riley has been invited to speak during the Monday luncheon on May 17.

This month, in honor of the League's 75th Anniversary, we're featuring a profile of the League's second Executive Director, John Watkins (see page 9), who guided our organization from 1965 (following the death of Ed Reid, the League's first Executive Director) until his retirement in 1986. And, just because I thought it was interesting, I've included the 1938 convention program which ran in the July/August 1938 issue of *The Alabama Municipal News*. Topics that year included: Municipal Government and the Minimum School Program; Legislative Problems of the Municipalities; Home Rule for Municipal Government in Alabama (which, as you well know, has been a contentious subject for more than 100 years and promises to remain a hot topic well into the 21st Century); Attacking Municipal Problems on the National Front; The WPA Program for Alabama in the Future; Making Full use of the PWA Program in Alabama; and How to Reduce Costs of Municipal Government.

When the League formally organized in 1935, the country had been suffering through The Great Depression for several years. It wasn't until the late 1930s and early 1940s that the United States began to experience a modicum of economic recovery. In 1938, stabilizing municipal government was very much a critical issue for Alabama's local officials – hence the focus on the WPA and PWA Programs during the annual convention, both of which were crucial to the country's resurgence. The Work Projects Administration (WPA) was created by order of President Franklin Delano Roosevelt and funded by Congress with passage of the Emergency Relief Appropriation Act of 1935. It was the largest New Deal agency, employing millions to carry out public works projects, including the construction of public buildings and roads, and operated large arts, drama, media and literacy projects. It fed children and redistributed food, clothing and housing. The Public Works Administration (PWA) was a New Deal agency that concentrated on the construction of large-scale public works such as dams and bridges, with the goals of providing employment, stabilizing purchasing power and contributing to a revival of American industry. Most of the spending came in two waves in 1933-35, and again in 1938. The PWA was closed down in 1939 and the WPA, which was the largest employer in the country, ended in 1943.

*To learn more about the League's fascinating 75-year history, attend the annual convention next month in Mobile! I look forward to seeing you there.*

*Carrie*

# The President's Report

Roy H. Dobbs  
Mayor of Berry



## Putting the Brakes on Texting and Driving

*This is a condensed version of an article that originally appeared in the January 2010 issue of the NLC-RISC Report.*

**M**any states have passed or are considering legislation to limit the use of handheld electronic devices while driving, including cellular telephones, music players, pagers, texting devices, mobile computers and GPS units. Laws being passed are designed to reduce distracted driving, which multiple studies indicate is a serious factor in traffic accidents. In some cases, municipal driving regulations have also been implemented.

Public entities are generally covered by state legislation related to distracted driving, although some public employees may be exempt for specific purposes. A common example is legislation that recognizes specific needs of law enforcement or other public safety professionals.

As new legislation is passed, employers are creating policies governing whether and when employees can use electronic devices while driving for work-related purposes or in employer owned vehicles. The rationale for such policy is to improve employee safety and reduce the number and cost of accidents that can result in property damage, liability claims, and workers' compensation claims.

Public entities face the same worries as other employer agencies – namely that an employee might be injured, cause property damage or other injury while driving and distracted. It's difficult to measure the actual instances of employee distracted driving and the possible cost impacts. Most employees don't report being distracted at the time of an accident, so counting the number of claims or estimating cost of distraction is nearly impossible.

The most helpful step in addressing the distracted driving issue for public entities may be to develop a policy about employee driving expectations. At a minimum, public entity driving policies should address:

- That all employees are expected to abide by federal,

state and local driving laws.

- That all employees expected to drive for work-related purposes maintain a valid drivers license. (Note there may be specific regulation and special requirements for certain employee classes or employees requiring a commercial drivers' license; and in some cases a background check of driving records will be required or suggested).

- Insurance requirements for an employee using his/her personal vehicle for work-related purposes.

- Whether and under what circumstances employees may use any mobile telephone, texting, email, two-way radio, pager, computer or other communication device while driving. Some employers are moving toward an "emergency use only" policy for these kinds of devices and requiring that whenever possible employees stop or pull to the side of the road before they use any of these devices.

- Whether and under what circumstances use of hands-free technology is acceptable practice. Some studies suggest distraction dangers are not less when using hands-free technology.

- Whether other electronic devices such as external music players and GPS units are allowable uses while driving, and if so under what circumstances. GPS is often recommended to be programmed only when the vehicle is stopped and out of traffic.

- Specific employee groups, public purposes or devices that are permitted, under what circumstances and why. Examples might include law enforcement use of mobile computers to check license information during a motor vehicle stop.

- If use of any electronic devices while driving is allowed, practice tips for minimizing risks (things like pre-programming frequently-used numbers, active driving habits to combat distraction, placement of electronic devices within the vehicle, etc). It will be important for agencies to carefully balance the value of these tips against overall goals of a distracted driving policy.

*continued on page 26*



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- Judge  
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- Emma G., Defendant  
Florida State Court

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- Danny B., Defendant  
Marshall County, Alabama

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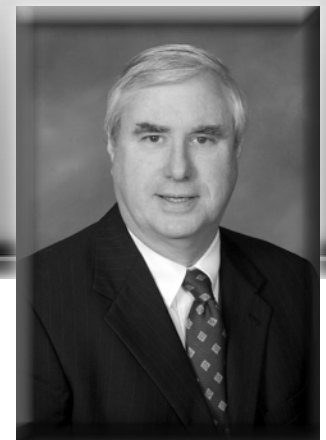
- Craig A., Defendant  
Foley, Alabama

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# Municipal Overview

Perry C. Roquemore, Jr.  
Executive Director



## Alabama's Partnership with the National League of Cities Spans More than 75 Years

Created by state municipal leagues in 1924 as the American Municipal Association, the National League of Cities has served to strengthen and promote municipalities as centers of opportunity, leadership and governance for nearly 90 years. Since its inception, the Alabama League of Municipalities has had long-standing ties with the national organization – a relationship extending from the mid 1920s before the Alabama League formally organized in 1935 to present day.

Although feeble attempts to organize Alabama's municipal officials were made during the first quarter of the 20<sup>th</sup> Century, it wasn't until a June 1926 convention in Fairfield, attended by nearly 100 local government leaders, that a committee developed a formal constitution and by-laws, calling the organization the Alabama Municipal Association of Mayors and City Commissioners. Membership was limited to those who held the highest positions in their municipalities, although nonvoting associate memberships were allowed to "minor" employees. Pressing needs discussed at this gathering included the urgency for better recognition of municipalities by state government; longer terms for elected officials (who were confined to two-year terms at that time); the demand for uniformity in traffic laws; more effective tax collection; the importance of distributing news and general information to all cities and towns; the need to revise bond laws affecting municipalities; the demand for more increased revenue for municipalities to meet the ever-increasing needs of citizens; and the need for fellowship among those undertaking a common interest. Two years later, during a 1928 convention in Selma, it was decided that the organization should be changed from one with a membership of municipal officials to one representing the actual units of government. An amendment to change the name to the Alabama League of Municipalities was approved, keeping the previous constitution and by-laws, except for dues. However, without a full-time leader to increase membership and direct its mission, the organization floundered.

In 1935, at a meeting in Montgomery, the Alabama League found its footing through the help of the national organization, the American Municipal Association (AMA). During this convention, which had the largest attendance to

date, Clifford Ham of AMA addressed delegates – informing them of the important work of the 30 or so active Leagues around the country and impressing upon Alabama's officials the need for an aggressive and sound central organization. To that end, he offered financial aid through the AMA, enabling the Alabama League to hire its first executive director, Ed Reid, a dynamic, 25-year-old who was raised in Georgiana and was serving as Secretary to the Speaker of the Alabama House of Representatives and Consultant to the Legislative Recess Committee on Homestead Exemption and Ad Valorem Taxation.

A 1938 article written by Arnold Miles, Assistant Director of the AMA, and published in the *Alabama Municipal News*, describes the American Municipal Association as "the federation of the state leagues of municipalities" with active league organizations in 40 out of 48 states and a total membership of 7,300 cities, towns and villages. Miles wrote that the "one major purpose of the American Municipal Association is to assist cities individually and collectively in their relationship with the federal government." At that time, the AMA was headquartered in Chicago but maintained an office in Washington, D.C. to keep leagues "informed of the status of all legislation in Congress affecting municipal interests in general."

Miles further wrote that in addition to the inquiry and information services, the AMA "prepares and publishes bulletins and research reports on all manner of subjects of interest to municipal officials" and that "one of the AMA activities which city officials may have keenly appreciated is the field service. The Association has been fortunate in the last several years in securing special grants of funds for the purpose of taking the services of municipal leagues right out to the municipal official himself. This procedure not only helps the official solve some of his own problems, but makes the municipal league the actual servant of its members, the municipalities. In Alabama, for example, the AMA has made available \$960 out of its 1938 field service funds to assist the Alabama League of Municipalities in bringing its services closer to (the municipalities)." He also stressed that the AMA holds an annual convention providing an opportunity for

*continued on page 12*

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# John Watkins

## The League's Second Executive Director 1965-1986

By: Lee Anna Maynard, PhD

For almost ten years before becoming its executive director, John Watkins had been an integral part of the Alabama League of Municipalities. As League Counsel and Staff Attorney, he learned firsthand about the growing and changing needs of the towns and cities the League represented, and when he assumed the duties of Executive Director following the death of Ed Reid in 1965, the administrative and leadership experience he had earlier gained as Prattville's City Manager and a municipal judge served him well.

Born in Faunsdale, Alabama, in 1919, Watkins experienced small-town life prior to embarking on an ambitious course, graduating from Sewanee Military Academy in Sewanee, Tennessee and studying at the University of the South and the University of Alabama before entering the Naval Air Force upon his college graduation in 1941. Following active duty during World War II, Watkins returned to the University of Alabama in 1945 and earned his law degree. After receiving his juris doctor, he practiced law in Prattville for five years before becoming a judge.

In 1965, Watkins swept into his new role as Executive Director of the League of Municipalities on a tide of good feeling from the League's constituents, as he had been the lead architect of recently-passed legislation that would streamline and standardize what he called the "real hodgepodge" of laws bedeviling municipal elections. The changes Watkins helped implement have saved Alabama's towns and cities thousands upon thousands of dollars in the almost fifty years since the Legislature passed the reform bills, as the costs of processing write-in ballots and running elections in uncontested races have been eliminated. Watkins' quiet demeanor and soft-spoken gentility would steer the League successfully through times of progress, upheaval, and alteration.

Dr. James Hardwick, Mayor of Talladega and outgoing President of the League, exhorted his fellow League members to "build the cathedral" at the 1965 convention. Mayor Guthrie Smith of Fayette, Hardwick's successor, heeded this call for construction and began to work in earnest to raise support and funds for the construction of an impressive building that would be not just a base of operations for the League but a tribute to the foundational importance of municipalities in the state. In September of 1968, Watkins purchased Lots 37 and 38 in the New Philadelphia Subdivision of Montgomery County, on the corner of Adams Avenue and Bainbridge Street, in shouting distance from the Alabama capitol building. For \$60,000, the League had made the first step toward creating a facility equal to the demands of an increasingly urbanized state. The South Hull Street headquarters, home to the League for more than two decades, could not house sufficient staff to provide the level of member service and support of which the League could be capable. Unlike the modest, low-slung brick building the League currently leased, the new design

by Montgomery architecture firm Tom Kirkland and Associates would speak to the aesthetic sensibilities of the time, embracing a more streamlined modernity and bringing added light, air, and space to the staff. Members of the League's many committees were present as ground was broken on November 20, 1969, and the staff of the League moved into their new quarters 21 months later, only one week shy of the expiration of the organization's long-standing lease for 24 South Hull Street.

While overseeing the construction and opening of the League's new headquarters, Watkins was also shepherding important legislation for the growth of municipalities through the Alabama House and Senate: in 1967, cities and towns were constitutionally enabled to increase their debt limits substantially; two years later, municipalities were allowed to adopt true sales taxes; in 1971, municipalities were invested with the authority to annex property to their municipal limits

*continued next page*



(when given unanimous consent by property owners). Put together, these measures meant that Alabama's towns and cities could more easily fund expansions of their services and increase their square mileage to keep pace with their climbing populations. These League legislative victories become even more impressive in the context of the radically altering political terrain of Alabama that began in the mid-1960s with the election of several Republican congressmen in what had been – for decades – a solidly one-party state. Instead of focusing on lobbying for particular issues and causes, League representatives now had to navigate political parties, too. With its forthrightly non-partisan agenda, the League disdained making financial contributions to political campaigns (a policy still in effect today), and therefore its legislative success had to stem from effectively and persuasively communicating with lawmakers.

With the introduction of the Municipal Workers Compensation Fund in 1976, Watkins and his team found another way to fortify Alabama's towns and cities. The League-sponsored insurance pool offered municipalities of all sizes affordable alternatives to the steeply increasing rates – and sometimes denied coverage – of private insurance carriers. The Texas League of Municipalities introduced this concept, and the Alabama League became the second in the nation to provide peace of mind (at a manageable cost) to its constituent municipalities. Executive Director Watkins would serve as the Fund's General Manager for its critical first decade.

As the 1970s came to a close, the League continued to crusade for municipalities' financial security and self-determining capabilities. When the Alabama Supreme Court opened the door for unlimited damages to be sought in lawsuits waged against towns and cities, the League effectively closed and deadbolted it, crafting legislation passed in 1977 that capped liability in the low hundreds of thousands of dollars, protecting municipalities and their taxpaying citizens from potentially bankrupting awards. Thanks to the League's efforts, in 1980, municipal governing bodies were finally empowered to determine their officials' salaries rather than having to entrust the state legislature with the task, ensuring that qualified candidates for municipal office could better afford to pursue public service. In the early 1980s, Alabama's voters ratified a constitutional amendment that socked away revenues and royalties from offshore oil and natural-gas drilling into an irrevocable trust fund, the interest of which was to be controlled by the state legislature. Working cooperatively with the Association of County Commissions of Alabama, the League successfully secured a piece of the trust-fund pie for Alabama's towns and cities: when the total interest on the fund exceeded \$60 million in any given year, municipalities could access 10 percent of that interest for use on capitol improvements.

On that victorious note, Watkins retired from the League of Municipalities in May 1986 after 30 years of service. During his tenure as Executive Director, he had written what became standard primers and reference books for Alabama's municipal officials, *The Handbook for Mayors and Councilmembers* and *Selected Readings for Municipal Officials*, and he served two terms on the Board of Directors of the National League of

Cities. He passed the reins of the League to Perry Roquemore, Jr., whom he had hand-selected from the 1973 University of Alabama School of Law graduating class to be the League's new Staff Attorney. During the twelve years they worked together, Watkins became an influential mentor for Roquemore, both professionally and personally.

Watkins' quiet competence and graciousness made him a popular figure with the League and municipal officials long after his formal retirement – in fact, for the 17 years until his death in July 2003, he maintained active involvement with the organization and its members. ■

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**About the Author:** *Lee Anna Maynard, PhD, is a freelance writer, editor and independent scholar based out of Montgomery, AL. She received her PhD in English from the University of South Carolina and was an Assistant Professor in the Department of English and Philosophy for Auburn University Montgomery for seven years. Dr. Maynard's first academic volume, which explores the role of boredom in the Victorian novel, was published in 2009.*



John Watkins was honored for 25 years of service at the League's annual convention in 1981.



# The Legal Viewpoint

By Ken Smith  
Deputy Director/ General Counsel



## The Municipal Recreation Function

Urban municipalities early recognized the need to provide for the recreational and athletic needs of the public. In earlier times, municipalities provided little more than public parks or, perhaps, places for volunteer bands to entertain. Today, the municipal recreational role has expanded to include swimming pools, golf courses, jogging paths, bike trails, ball fields, tennis courts – almost any activity citizens participate in for enjoyment.

During the summer months, with children out of school and warmer weather, the municipal role in recreation becomes even more important. If municipalities were not willing to open large amounts of land free of charge or at a nominal cost, many citizens would not be able to afford much in the way of entertainment. This article examines the powers of municipalities in fulfilling the recreational needs of their citizens, the liabilities municipalities face and the steps necessary to sell recreational property for another use.

### General Powers

All cities and towns in Alabama are given the power to create parks and to provide for the amusement of their citizens by Section 11-47-19, Code of Alabama 1975. This section, which was first passed in 1939, provides municipalities with a broad grant of power to entertain the public.

Sections 11-47-210.1, 11-47-211, 11-47-212 and 11-47-213 of the Code also give municipalities the power to operate entertainment facilities for their citizens either individually or in cooperation with one or more other municipalities.

Section 11-47-210.1, Code of Alabama 1975, states that any municipality may acquire lands and facilities, either inside or outside the municipality, to “acquire, operate, manage, and control parks, playgrounds, and other recreational or athletic facilities” or any other recreational activities and purposes.

The only restrictions under this section are that no municipality may locate a recreational facility within the police jurisdiction of any other municipality unless the governing body of the other municipality consents by passing a resolution. Further, no recreational facility may be located in a county other than where the municipality is located unless the county commission consents by resolution. Section 11-47-211, Code of Alabama 1975.

Section 11-47-212 extends municipal power over recreational facilities located outside municipal limits to the same extent as

permitted within the municipal limits. And Section 11-47-213 authorizes two or more municipalities to jointly acquire and operate recreational facilities for the benefit of the inhabitants of the participating municipalities.

### What is “Recreation”?

These Code provisions authorize municipalities to provide recreation activities and functions for their citizens. But what is considered a recreational activity under these Sections? Several Attorney General’s Opinions provide guidance on this issue:

- A municipal corporation may enter into a contract with a community concert association to provide music for the amusement of its inhabitants. 92-00254; see also, 92-00372.
- County commission (municipal governing body) has discretion on how best to meet the recreation needs of county residents. 93-00295.
- A municipality may finance recreational facilities through the issuance of warrants payable by a pledge of revenues derived from privilege or license taxes on the gross receipts of the business done by the utilities operating in the municipality. Hon. Clarence F. Rhea, April 2, 1976.
- While a municipality may show movies as part of its recreational program, no municipal funds can be spent to rent video tapes to be shown for an admission fee to raise funds. 88-00272.
- A municipality may purchase property outside its corporate limits but within the police jurisdiction to build a ball park. The municipality may provide streets, light and water to the park. 91-00201.
- Pursuant to Section 11-47-19, Code of Alabama, 1975, a municipality may hold a public picnic and expend municipal funds for food, entertainment, supplies, reimbursement for travel in connection with picking up food and supplies, and for remote broadcasts by local radio stations to promote the event. 93-00013.

### Recreation Boards and Authorities

While these sections authorize municipal governing bodies to directly control recreational facilities, many governing bodies prefer to delegate the power to control recreation to a separate board. Fortunately, Alabama law recognizes this desire by

*continued page 13*

# National League of Cities — continued from page 7

federal, state and local officials to gather for three days at a “national forum for the discussion of municipal problems.”

Since officially organizing in 1935 with financial aid from the AMA and a three-year grant from the Rockefeller Foundation, the Alabama League of Municipalities has been an active member of the AMA and its successor, the National League of Cities. Ed Reid served three terms on the AMA’s board of directors and attended many national meetings hosted by AMA throughout his 30-year career with the League. In 1964, the AMA became the National League of Cities. When John Watkins was named executive director after Reid’s untimely death in 1965, he maintained Alabama’s strong ties with the national organization, increasing attendance of Alabama’s municipal officials at NLC conferences and serving two terms on NLC’s board. Participation with NLC continued to grow after I became the League’s third executive director in 1986 upon John Watkins’ retirement.

From the late 1980s forward, the Alabama League has consistently had one of the largest state delegations at NLC’s annual Congress of Cities as well as strong representation during the Congressional City Conferences hosted each year by NLC in Washington, D.C. I’ve served two terms on NLC’s board as well as two terms on the NLC-RISC Board of Directors, a national organization of municipal

self-insurance programs developed by NLC. In addition, several Alabama officials have served two-year terms on NLC’s board of directors, including Mayor and League Past Presidents Al DuPont of Tuscaloosa, Jim Nix of Fairhope, Leon Smith of Oxford, Ted Jennings of Brewton, Jim Byard of Prattville; Mayor and League Vice President Jim Robinson of Montgomery; Mayors George Seibels, David Vann and Richard Arrington of Birmingham; and Councilmembers Cynthia McCollum of Madison and Debbie Quinn of Fairhope.

On December 9, 2006, during the Congress of Cities in Reno, Nevada, Alabama achieved a prestigious milestone when Councilmember Cynthia McCollum of Madison was elected First Vice President of the National League of Cities, making her the eighth woman and third African-American female in NLC’s history to hold that position. She became the first Alabama official to lead the national organization when she was elected NLC President at the November 2007 Congress of Cities in New Orleans.

In 2010, NLC represents 49 state leagues with more than 1,600 member cities, towns and villages. The Alabama League remains a strong voice within NLC and will continue to work in conjunction with the national association to advocate for municipal government throughout the country. ■

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specifically authorizing municipalities to create any of several types of boards for this purpose.

## **Park and Recreation Authorities**

The creation of park and recreation authorities is permitted by Sections 11-47-214 through 11-47-220, Code of Alabama 1975. Park and recreation authorities are incorporated bodies established to operate recreational facilities for two or more municipalities. To create a park and recreation authority, at least three individuals shall file with the governing body of each municipality a written application for permission to incorporate. A proposed form of a certificate of incorporation must be attached to the application. Section 11-47-214, Code of Alabama 1975. The required elements of the certificate are set out in Section 11-47-215.

If the governing bodies of the municipalities with which the application is filed approve the application by resolution the applicants may proceed to incorporate by filing with the probate judge a certified copy of the form which was attached to the application. A certified copy of the resolutions of approval must accompany the application. Section 11-47-216, Code of Alabama 1975.

Each participating municipality is entitled to appoint at least two members to the board of directors of the authority. The appointees must be residents of the municipalities they represent. The appointed members then select one additional member. Directors serve a maximum term of four years. No municipal officer may serve as a director. Directors may be compensated and may be removed from office only by impeachment. Section 11-47-217, Code of Alabama 1975.

## **Public Athletic Boards**

Sections 11-59-1 through 11-59-17, Code of Alabama 1975, authorize the creation of public athletic boards. The purpose of these boards is to own and operate recreational facilities as broadly defined in these sections. Public athletic boards are authorized to issue bonds and to mortgage their property. Section 11-59-8, Code of Alabama 1975.

To incorporate, any three qualified electors and taxpayers of the municipality shall file an application with the municipal governing body. The municipality may authorize the formation of the corporation by adopting a resolution to that effect. A copy of this resolution must be attached to the certificate of incorporation which is filed with the probate judge of any county in which any portion of the municipality is located. Once the certificate is approved by the probate judge, the corporation comes into existence. Section 11-59-3, Code of Alabama 1975.

The board is governed by a board of directors consisting of not less than three qualified electors and taxpayers of the municipality. Directors may receive a salary of no more than \$5 per meeting attended, not exceeding one meeting per calendar month. Directors serve staggered terms of six years. No municipal officer or employee may serve as a director. Section 11-59-7,

Code of Alabama 1975.

Public athletic boards may condemn property and may mortgage any of their property. They may issue bonds to acquire or operate recreational facilities. Section 11-59-8, Code of Alabama 1975.

Municipalities are not liable for any of the obligations of the board. However, municipalities may convey by ordinance any recreational property to the board. Section 11-59-11, Code of Alabama 1975. The income and property of the board is exempt from all taxation. Section 11-59-16, Code of Alabama 1975.

## **Public Park and Recreation Boards**

Public park and recreation boards are authorized by Sections 11-60-1 through 11-60-20, Code of Alabama 1975. These boards are very similar to public athletic boards. They, too, are authorized to own and operate recreational facilities as defined in the authorizing law. However, the definition used in these sections is much broader than that permitted by public athletic boards.

The sections creating public park and recreation boards were first adopted in 1967 – whereas the sections creating public athletic boards were adopted in 1947 – and reflect changing perceptions of how people spend their leisure time. Section 11-60-1 includes the acquisition of properties such as forests, rivers, botanical gardens, bowling alleys, motels and souvenir shops within the permitted sphere of operation of the board.

Public park and recreation boards are created by the same procedure as that used to create a public athletic board. The creation of one public park and recreation board does not preclude the municipality from establishing another, provided that a different name is used. Section 11-60-3, Code of Alabama 1975.

Directors of public park and recreation boards serve without compensation. No officer or employee of the municipality may serve on the board. Section 11-60-7, Code of Alabama 1975.

Like public athletic boards, the property and income of public park and recreation boards are exempt from taxation. Section 11-60-17, Code of Alabama 1975. Additionally, public park and recreation boards are exempt from having to pay any license fees to carry out their functions. Section 11-60-17, Code of Alabama 1975. However, any park and recreation board property is subject to police power ordinances of the municipality within which the facility is located.

Park and recreation boards are also exempt from the bid law and all usury and interest laws. Sections 11-60-18 and 11-60-19, Code of Alabama 1975.

## **Recreation Boards**

Perhaps the most common recreation board is the type authorized by Sections 11-86-1 through 11-86-6, Code of Alabama 1975. Any municipality with a population of 100,000 or less according to the most recent federal census may create a recreation board pursuant to these sections by adopting an

*continued next page*

ordinance or resolution to that effect. Section 11-86-1, Code of Alabama 1975.

These boards are unincorporated. The board of directors is composed of from five to nine residents of the municipality who serve staggered five-year terms. Board members receive no compensation. Municipal officers or employees may serve on these boards. Section 11-86.2, Code of Alabama 1975.

Recreation boards are responsible for operating any recreation programs that contribute to the general welfare of the residents of the municipality. The board has control over all property and facilities assigned to it by the municipal governing body and any property it purchases. Section 11-86-3, Code of Alabama 1975.

The board may employ a director of recreation as its executive officer. The director, with board approval, may employ a staff. The salary and tenure of the director and employees are set by the board. Section 11-86-4, Code of Alabama 1975.

Municipalities and counties may jointly form a recreation board. The Attorney General has ruled that recreation boards created pursuant to these sections are given statutory power to direct, supervise and promote city recreation programs. Therefore, while a municipality may elect to abolish the board by ordinance, it cannot rework the purpose of the board to make it simply an advisory board to the city council. AGO to Honorable Johnny Gray, November 13, 1973.

### **Selling Park Property**

Alabama Constitutional Amendment 112 and Section 35-4-110, Code of Alabama 1975, state that no municipality can sell or convey public park or recreational property for another use unless the transfer is approved by the citizens of the municipality at a referendum held for this purpose.

What constitutes park and recreation property? In *Harper v. Birmingham*, 661 F.Supp. 672 (N.D. Ala. 1986), the court held that the provisions governing alienation of recreational property apply only where there has been a clear dedication by the property owner, and subsequent acceptance by the public entity, of the property for recreational uses. To establish a dedication, the clearest intention on the part of the owner to dedicate the property for recreational purposes must be shown. *O'Rorke v. Homewood*, 286 Ala. 99, 237 So.2d 487 (Ala. 1970).

In order for the dedication to become effective, the municipality must accept the dedication for park and recreation purposes. *Vestavia Hills Board of Education v. Utz*, 530 So.2d 1378 (Ala. 1988).

There are many ways to accept a dedication. A municipality may adopt an ordinance or resolution to that effect or make improvements to the property which indicate acceptance. The *Vestavia Hills* case also makes clear that a common law acceptance may occur where the public uses the property for recreational purposes. Such an acceptance is determined on a

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case-by-case basis by examining the extent of the public's use of the property.

Section 35-4-411, Code of Alabama 1975, establishes the procedure for alienating park property. This section requires the municipal governing body to adopt a resolution or ordinance describing the proposed conveyance, the consideration for the conveyance, and the names of the parties involved. This ordinance must be published once a week for four consecutive weeks in a newspaper published in the city or town. If there is no newspaper published in the municipality, it must be published in a newspaper having general circulation in the municipality. The ordinance becomes effective only after being approved by a majority of the qualified electors of the municipality.

A water tower may be erected on park property if the council finds that the tower does not interfere with the recreational use of the property. AGO 1996-212.

### Liability Issues

Another common issue concerning recreation is the extent of municipal liability when providing a recreation area. In Alabama, the duty of care a property owner owes to persons using his or her property for sporting or recreational purposes is governed by Sections 35-15-1 through 35-15-5, Code of Alabama 1975.

Sections 35-15-1 and 35-15-2 state that no owner owes a duty of care to keep his or her premises safe for entry and use by others for any recreational purpose, even if the use is at the invitation of the property owner or occupant. Further, Section 35-15-1 states that, with certain exceptions, there is no duty to warn of dangerous conditions, use of structures or activities.

The exceptions are listed in Section 35-15-3. First, a property owner or occupant is liable for willfully or maliciously failing to warn or guard against a dangerous condition, use, structure or activity. Second, if a property owner or occupant grants permission to use his or her property for hunting, fishing, trapping, camping, hiking or sightseeing for a commercial benefit, the owner is responsible for any injuries which result. Finally, the property owner or occupant is liable to third persons to whom he or she owes a duty if someone using the property – with the owner's permission – to hunt, fish, trap, camp, hike or sightsee, damages the third person's property.

In *Wright v. Alabama Power Co.*, 355 So.2d 322 (Ala. 1978), the plaintiff was injured when he struck a fence partially submerged in a lake while he was riding an inner tube being pulled by a power boat. The lake had been created by a dam built by Alabama Power Company. The plaintiff alleged that Alabama Power owed him a duty to warn of the existence of the fence.

The court examined Sections 35-15-1 through 35-15-5 and held that persons upon land with permission or invitation for non-business purposes are considered licensees. Therefore, the landowners owed no duty to warn of potentially dangerous conditions unless they do some positive act which creates a new hidden danger that a person could not avoid by the use of reasonable care and skill.

Similarly, in *Russell v. TVA*, 564 F.Supp. 1043 (N.D. Ala. 1983), the court construed these sections as requiring only that a landowner refrain from wantonly, maliciously or intentionally

injuring someone who uses his land. Licensees, the court stated, assume the risk of whatever they encounter on the property.

In *Glover v. Mobile*, 417 So.2d 175 (Ala. 1982), the city of Mobile operated a city park that bordered on the shoreline of the Dog River. The park was open to the public. No admission fee was charged. Two children drowned while swimming in the Dog River, although the city did not permit swimming at the park. The court found no reason to apply the statutes, holding that since the children were on the property without financially benefiting the city, they were licensees, and the city was not liable for their deaths.

Similarly, in *Edwards v. Birmingham*, 447 So.2d 704 (Ala. 1984), the plaintiff was injured while playing baseball at a city-owned park. Because he did not pay an admission fee, the court found he was a licensee, and the city was not liable.

However, the fact that a municipality or board charges an admission fee does not automatically remove municipalities and recreation board from the protection of these sections. In *Martin v. Gadsden*, 584 So.2d 796 (1991), the Alabama Supreme Court held that these liability limitations shield municipalities from liability even where an admission is charged, provided that the facility is not operated for profit. Thus, the key issue is whether the fee charged is sufficient for the municipality or board to make a profit. These sections merely require that the recreational facility operate on a noncommercial basis. *See also, Cooke v. Guntersville*, 583 So.2d 1340 (Ala. 1991).

### Limitation of Liability for Noncommercial Public Recreational Use of Land

Further limitations on the liability for the noncommercial recreational use of public land are found in Sections 35-15-20 through 35-15-28, Code of Alabama 1975. The stated policy behind these sections is to encourage the donation of property for noncommercial recreational purposes without exposing the owner to liability. The definition of the word "owner" in Section 35-15-21, specifically includes municipalities and recreational boards.

Section 35-15-24 limits the property owner's liability to situations in which he or she has actual knowledge of a defect or condition that involves an unreasonable risk of death or serious bodily harm and is not obvious to users of the property. If the owner chooses not to guard or warn against the defect or condition, he or she may be held liable for any injuries that result. *Keenum v. Huntsville*, 575 So.2d 1075 (Ala. 1991).

However, Section 35-15-22 states that the owner owes no duty of care to inspect or keep the land safe for entry or use for any noncommercial recreational purpose, or to give warning of a dangerous condition, use, structure or activity on the land. So, there is a duty to warn only of defects of which the owner has actual knowledge. Constructive knowledge of the defect is not enough.

Also, Section 35-15-23 provides that the property owner makes no assurance that the property is safe by allowing the property to be used for noncommercial recreational purposes. This section goes on to state that the person using the property

*continued next page*

does not become a licensee or invitee, nor does the property owner incur any legal liability for injuries incurred while on the property. These sections place the users of non-commercial recreational property in the status of trespassers, regardless of the common law distinctions.

In *Grice v. Dothan*, 670 F.Supp. 318 (M.D. Ala. 1987), a child drowned while swimming at a public park owned by the city of Dothan. The property was used for fishing and picnicking and was clearly marked with “No Swimming” signs.

The court pointed out that, in Alabama, the purpose for which property is maintained is the controlling factor. The court said that Chapter 15 of Title 35 limits the city’s liability only to acts which constitute willful or malicious failure to guard or warn against a dangerous condition or activity on the property. The court found no facts to support such a claim.

The plaintiff also alleged the court should consider the minority of the victim as a mitigating circumstance. The court pointed out that Section 35-15-21(4) specifically defines a person to be any individual, regardless of age. Therefore, the exceptions to the general rules of premises liability which protect children do not apply in cases governed by these sections.

And, in *Ex parte Geneva*, 707 So.2d 626 (1997), the Alabama Supreme Court held that Section 36-15-24 did not subject the city to liability. In *Geneva*, the city placed a one-foot high fence around the entrance of the park to allow pedestrians to enter while keeping vehicles out of the park. There was also at

the entrance a walk area a few feet wide between the post and another fence that allowed pedestrians to go around the cable. An 11-year-old girl broke her leg when she failed to step over the cable after dark. When the cable was first installed, the city attached a caution sign and white cloth strips to it, but there was some evidence suggesting that warning devices might not have been affixed to the cable when the accident in this case occurred. The trial court awarded the plaintiff \$20,000 and the Court of Civil Appeals upheld the verdict.

The Alabama Supreme Court reversed the decision. The court held that the plaintiff failed to present substantial evidence that the danger presented by the cable was not apparent, and in order to hold the municipality liable for an injury to a licensee, the danger had to be unavoidable by a person using reasonable skill and care, known to the municipality, which then failed to warn about the danger.

The court said:

“... the undisputed evidence shows that the cable could be seen by the use of reasonable care, and, therefore, the City had no duty to warn licensees using the park of its presence. Several of the other minors at the park with [the plaintiff] were able to see and jump over the cable only moments before her accident, even as they too were running out of the park. [the plaintiff] admitted that she knew of the cable because she had stepped over it upon entering the park. Finally, there was no evidence that anyone



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besides [the plaintiff] had ever tripped over the cable, despite the park’s history of nighttime use.”

The fact that the injured person was a minor made no difference. They are held to the same duty of care under the recreational liability statutes. Section 35-15-21, Code of Alabama 1975.

### Skateboard Parks

Section 6-5-342 of the Code of Alabama 1975 outlines requirements for skateboard parks and roller skating parks and rinks. This law requires every operator of a skateboard or roller skating park to post and maintain a warning sign in a clearly visible location at the entrance of the park or rink and any other conspicuous location within the park or rink as specified in this section. The sign shall serve as a warning to the roller skaters, skateboarders, assistants, spectators, and any others involved in this activity that the operator of the park or rink has limited civil liability under Alabama law for skateboarding and roller skating activities occurring at the park or rink. Failure to comply with the requirements concerning warning signs provided in this section shall prevent an operator of a park or rink from invoking the privileges of immunity provided by this section. The warning notice shall appear on the sign in black letters with each letter to be a minimum of one inch in height and shall contain the following notice:

“WARNING Under Alabama law, a skateboard or roller skating

park or rink operator is not liable for injury, damages, or death of a participant, assistant, or spectator in skateboarding or roller skating activities in the park or rink resulting from the inherent risks of skateboarding or roller skating activities. If skateboarding is permitted in this facility, any person skateboarding in this facility must wear appropriate protective equipment including a helmet, elbow pads, and knee pads.”

### Attorney General’s Opinions

Where municipal funds are transferred to a publicly incorporated parks and recreation board, Section 11-43-12, Code of Alabama 1975, prohibits a municipal law enforcement officer from contracting with the board to provide security work. AGO 2000-191.

Under Section 11-86-3 of the Code of Alabama 1975, a park and recreation board is autonomous to the extent that it has the final authority to direct, supervise and promote recreational facilities and programs that will contribute to the general welfare of the residents of the municipality. The board, however, is required to cooperate with local agencies for the purpose of maintaining and improving recreational services and facilities for the municipality. AGO 2007-076.

A municipality may charge a higher fee to nonresidents for the use of municipally owned parks and other municipal recreation facilities. AGO 2008-026 ■

# Alabama Association of Municipal Clerks 2010 Officers



Congratulations to the 2010 officers for the Alabama Association of Municipal Clerks: President Lynnette Ogden, MMC, Town Clerk, Millport; President Elect Peggy Shaddix, CMC, Town Clerk, Sylvan Springs; Secretary Gina Antolini, CMC, City Clerk, Columbiana; and Lynn Porter, CMC, City Clerk, Trussville.

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# PROGRAM OF *Alabama League of Municipalities*

ALABAMA HOTEL

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Anniston, Alabama

August 18-19, 1938

**Thursday Morning, August 18th**

- 9:00 Registration, Alabama Hotel Lobby.
- 10:00 Opening Business Session, Alabama Power Company Auditorium.  
Mayor Cecil F. Bates, President of League presiding.
- Addresses of Welcome:  
Hon. W. S. Coleman, Mayor of Anniston.  
Hon. Charley Varn, Secretary, Anniston Chamber of Commerce.
- Response to Address of Welcome:  
Hon. Frank Livingston, Commissioner of Tuscaloosa.
- Annual Address of League President:  
Hon. Cecil F. Bates, Mayor of Mobile, President of League.
- Address and Report of Executive Secretary:  
Ed E. Reid, Executive Secretary of League.
- Address: "Municipal Government and the Minimum School Program".  
Dr. A. H. Collins, State Superintendent of Education.
- Appointment of Convention Committees.

12:00 RECESS FOR LUNCH.

**Thursday Afternoon**

- 12:30 LUNCHEON AT FORT McCLELLAN (Compliments City of Anniston.)  
Hon. Harry M. Ayers, Editor of the Anniston Star, Master of Ceremonies.  
Address: United States Senator John H. Bankhead.  
Music by Fort McClellan Band.
- 2:30 Resume Business—Alabama Power Company Auditorium.  
Presiding: Mayor Earl Bloom, City of Homewood.  
Address: "Legislative Problems of the Municipalities."  
Hon. L. P. Burns, Mayor of Selma, Chairman of Legislative Committee.  
Address: "Home Rule for Municipal Government in Alabama."  
Hon. M. L. Robertson, Speaker Pro Tem, Alabama House of Representatives.  
Address: "Need of Careful Examination of Utility Franchises."  
Hon. W. C. Harrison, Alabama Public Service Commissioner.  
Address: "Attacking Municipal Problems on the National Front."  
Hon. Earl D. Mallery, Washington Manager of American Municipal Association.
- 4:30 Round Table Discussion—Led by Mayor George P. Haslam, City of Piedmont.
- 5:15 Adjournment.
- 5:30 Refreshment Room Open.

**Thursday Evening**

- 7:30 ANNUAL BANQUET OF THE LEAGUE.  
President Cecil F. Bates, Presiding.  
Toastmaster: Hon. Leon McCord, Judge of the U. S. Circuit Court of Appeals.  
Address: "Alabama's Fight to Equalize Freight Rates."  
Hon. Bibb Graves, Governor of Alabama.

**Friday Morning, August 19th**

- General Session, Alabama Power Company Auditorium.  
Presiding: Mayor W. B. Mahan, Mayor of Russellville.
- 9:30 Address "The WPA Program for Alabama in the Future."  
Col. W. G. Henderson, State WPA Administrator.  
Address: "Making Full Use of PWA Program in Alabama."  
H. S. Geismer, Special PWA Engineer.
- Fifteen-Minute Talks on Municipal Public Works Programs:  
Mayor Jap Bryant, City of Bessemer.  
Mayor John Burton, City of Jasper.  
Commissioner J. Herbert Meighan, City of Gadsden.
- Address: "The Memphis Plan for Traffic Safety"  
Hon. Clifford Davis, Vice-Mayor of Memphis, Tennessee.
- Address "How to Reduce Costs of Municipal Government."  
Hon. Mervyn Sterne, Chairman, Alabama Bankers' Association Committee on Public Credit.
- 12:00 SHORT BUSINESS SESSION OF LEAGUE.  
President Cecil F. Bates, Presiding.  
Report of Committee.  
Resolutions  
Nominations  
1939 Convention  
Election of Officers.
- 1:15 BARBECUE AT COLDWATER SPRINGS (Compliments of City of Anniston.)
- ADJOURNMENT.

Note: There will be a round table breakfast session at 7:30 o'clock, Friday morning, August 19 at the Alabama Hotel, for municipal clerks, auditors, comptrollers, treasurers and, in fact, all officials desiring to attend. N. M. Payne, Clerk-Treasurer of the City of Huntsville, will preside at this special session.

Ladies: There will be a committee composed of the wives of the City Council of Anniston to provide for the entertainment of the ladies attending the Convention. Arrangements are being made to entertain the ladies at a luncheon Thursday noon, August 18, at the Business and Professional Women's Clubhouse—bridge and a tour of the city in the afternoon.

The Town of Dadeville is planning extensive sewer and waterworks extensions under the WPA program. Estimates and preliminary plans are being prepared under the direction of Mayor Albert Hooten and the Town Council.

\* \* \* \* \*

The Town of Flomaton is planning to apply to PWA for a grant to be matched with local funds for building a municipal bonded warehouse.

**1938 Convention program published in the July-August issue of *The Alabama Municipal News*.**

# LEGAL CLEARINGHOUSE

**NOTE:** Legal summaries are provided 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. 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.

## ALABAMA COURT DECISIONS

**Courts:** The prosecution did not receive proper notice that a trial would occur and, thus, the prosecution's right to procedural due process was violated. It is generally understood that an opportunity for a hearing before a competent and impartial tribunal upon proper notice is one of the essential elements of procedural due process. The record did not indicate that the prosecution received notice that the trial court intended to conduct a trial on same date as a hearing on a motion for reconsideration, at which it would consider evidence pertaining to charges pending against defendant, and the prosecutor was unaware that the matter was set for trial. *State v. Smith*, 23 So.3d 1172 (Ala. Crim.App.2009)

**Courts:** A probation-revocation order failed to set out specific evidence that the court relied upon in reaching its decision to revoke the defendant's probation, as required to satisfy the rule that a judge must make a written statement or state for the record the evidence relied upon and the reasons for revoking probation. Even though the order listed witnesses upon whose testimony the court relied in revoking defendant's probation, and listed conditions of probation the defendant violated, the order failed to set out the specific evidence relied upon by the court and no transcript of the revocation hearing was available for appellate review. *Dowdle v. State*, 24 So.3d 546 (Ala.Crim.App.2009)

**Courts:** While hearsay testimony is sufficient for purposes of obtaining a warrant or an indictment, hearsay testimony, standing alone, is insufficient to revoke a defendant's probation. *Sturdivant v. State*, 24 So.3d 1173 (Ala.Crim.App.2009)

**DUI:** A driver's three municipal-court convictions for driving under the influence of alcohol could not be used to elevate his current offense to felony DUI. *State v. Adams*, 23 So.3d 1106 (Ala.Crim.App.2009)

**Elections:** A Mayoral candidate's election contest was

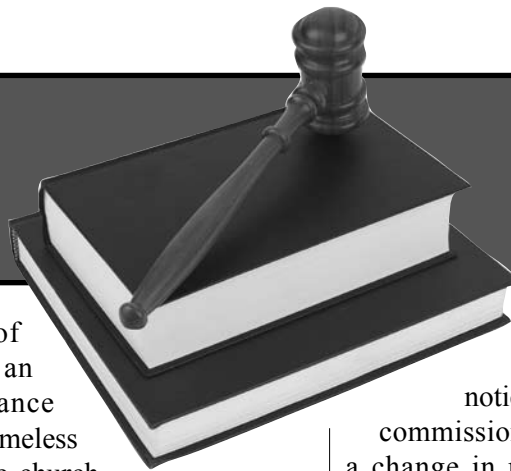
filed against the town, but not against the declared winner until after the deadline, and therefore did not invoke the trial court's subject matter jurisdiction. The putative winning candidate was the only proper and logical opponent. *Crouch v. Howard*, 23 So.3d 663, (Ala.2009)

**Ordinances:** A city ordinance regulating metals recyclers, which prohibited any cash transactions for copper, did not conflict with a state statute regulating metals recyclers because the ordinance merely enlarged upon the statute by adding certain restrictions. Whether an ordinance is inconsistent with the general law of the state is to be determined by whether the municipal law prohibits anything which the state law specifically permits. Mere differences in detail between a state statute and municipal ordinance do not create a conflict, and no conflict exists merely because state law is silent where the ordinance speaks. *Alabama Recycling Ass'n, Inc. v. City of Montgomery*, 24 So.3d 1085 (Ala.2009)

**Personnel Boards:** If there is substantial evidence to support a city personnel board's decision whether to terminate a municipal employee, the board's decision should be affirmed, and a reviewing court may not properly substitute its judgment for that of the board. "Substantial evidence," is relevant evidence that might be accepted by reasonable minds as adequate to support a conclusion. *City of Dothan v. McCleskey*, 24 So.3d 1105 (Ala.Civ.App.2008)

**Tort Liability:** A property owners' cause of action for inverse condemnation accrued, and the applicable two-year statute of limitations began to run, at the time that the taking was complete, which was when their property first flooded as a result of nearby development and increase in drainage to their property. *Long v. City of Athens*, 24 So.3d 1110, (Ala.Civ.App.2009)

**Zoning:** A zoning ordinance expressly provided that one of the categories of uses that the zoning board of adjustment could allow by special exception in an area zoned R-1 was an "institution for children." The ordinance authorized the board to grant a special exception allowing a nonprofit corporation to build a group home for female children under the age of 17 in an area zoned R-1, which restricted its use to single-family residences, and, thus, the board did not exceed its authority in entering into a settlement agreement with the corporation to allow the special exception. *Pischek v. Baldwin Youth Services, Inc.*, 23 So.3d 1168 (Ala.Civ.App.2009)



**Zoning:** A zoning board of adjustment granted a church an exception to a zoning ordinance necessary to construct its first homeless shelter on church property. The church was not required to seek, through a second petition for exception approximately five years later, further approval from the board to construct a second shelter on the same property. A City official erroneously instructed the church to seek approval for a second time, which prompted a neighborhood association to contest what turned out to be a second, and unnecessary, petition for an exception. *Greater Washington Park Neighborhood Ass'n v. Board of Adjustment*, 24 So.3d 443 (Ala.Civ.App.2009)

#### UNITED STATES COURT DECISIONS AFFECTING ALABAMA

**Arrests:** To give force to the Constitution's protection against compelled self-incrimination, *Miranda* prescribed four warnings before custodial interrogation: (1) that the suspect has the right to remain silent; (2) that anything the suspect says can be used against him in a court of law; (3) that the suspect has the right to the presence of an attorney; and (4) that if the suspect cannot afford an attorney, one will be appointed for him prior to any questioning if he so desires. In determining whether police officers adequately conveyed the *Miranda* warnings, courts are not required to examine the words employed as if construing a will or defining the terms of an easement. The inquiry is simply whether the warnings reasonably convey to a suspect his rights as required by *Miranda*. *Florida v. Powell*, --- S.Ct. ---, 2010 WL 605603 (U.S.2010)

**Arrests:** The *Edwards* rule, under which a suspect, who has invoked his right to the presence of counsel during custodial interrogation, is not subject to further interrogation until either counsel has been made available or the suspect himself further initiates exchanges with the police, does not apply if a break in custody lasting 14 days has occurred. *Maryland v. Shatzer*, --- S.Ct. ---, 2010 WL 624042 (U.S.2010)

**Buildings:** Given that easily accessed and more accurate records of land transfers are available in the county probate office, a city's procedure of using the county revenue commissioner's tax records to identify owners of property was not reasonably calculated to allow it to determine the correct owner of a house it intended to demolish, and

therefore the city violated the landowner's due process rights by providing inadequate notice before demolishing the house. The revenue commissioner's records were often late in reflecting a change in property ownership. The Court indicated that simple ways existed to resolve this problem, such as conducting a title search of the *probate* office's records when it declares a property unsafe and sends notice to its owner or recording notice in the probate office that a property had been declared unsafe and subject to demolition, thereby alerting subsequent purchasers that the property is condemned. *Ellis v. City of Montgomery*, 460 F.Supp.2d 1301 (M.D.Ala.2006)

**Licenses and Business Regulations:** A corporation's "principal place of business" is where its officers direct, control and coordinate the corporation's activities. *Hertz Corp. v. Friend*, --- S.Ct. ---, 2010 WL 605601 (U.S.2010)

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# 2010: Year of Alabama's Small Towns and Downtowns

## April • May • June

*Information provided by the Alabama Tourism Department*

4/3 Natural Bridge	Highway 13 Yard Sale	5/8 Abbeville	Yatta Abba Day
4/3 Oak Hill	Oak Hill Homecoming	5/8 Clay	Clay May Days
4/3 Pinson	Pinson CityFest	5/8 Guin	Mayfest
4/3 Romulus	Community Easter Egg Hunt	5/8 Valley Grande	Founders Day
4/7 Aliceville	Aliceville Dogwood Festival	5/9 Newville	Small Town Celebration
4/10 Center Point	Center Point Springs Festival	5/14 Anniston	Anniston Military Heritage Weekend
4/10 York	York Homecoming 2010	5/14 Cullman	Strawberry Days at the Market
4/16 Gardendale	Gardendale Magnolia Festival	5/14 Mentone	Rhododendron Festival
4/16 Wetumpka	River Fest	5/15 Franklin	Possum Day
4/17 Furman	Furman History Celebration	5/15 Leighton	Rabbit Festival
4/17 Livingston	Sucarnochee Folk Festival	5/15 Sanford	Sanford Homecoming
4/17 Vestavia Hills	Dogwood Festival Fun Day	5/21 Northport	Heritage Homecoming Weekend
4/23 Belk	Belk Bluegrass Festival	5/22 Oak Grove	Bloise Zeigler Day
4/23 Marion	Muckle's Ridge Festival	5/22 Stockton	Stockton Homecoming
4/23 Monroeville	The Monroeville Reunion	5/28 Montgomery	Jubilee Cityfest
4/24 Berry	Berry Heritage Festival	5/28 Tuskegee	Memorial Day Weekend Fly-In
4/24 Grove Hill	Old-Timer's Weekend	5/29 Heflin	A Heflin Homecoming
4/24 Notasulga	Shiloh-Rosenwald Reunion	5/29 Sardis City	Sardis City Celebration
4/24 Repton	Heritage Homecoming Festival	5/31 Lottie	Lottie Memorial Day Services
4/24 Rutledge	Rutledge Homecoming Weekend	5/31 Oxford	Oxford Homecoming Week
4/24 Tarrant	Homecoming 2010	6/4 Alabaster	Alabaster CityFest
4/24 Thomaston	Pepper Jelly Day Festival	6/4 Gordo	Mule Day/Chickenfest
4/24 Troy	Troyfest	6/4 Pell City	Pell City Homecoming
4/24 Union Springs	Chunnenuggee Fair/Conecuh Experience	6/5 Florence	Frontier Days
4/25 Langston	Langston Homecoming Weekend	6/5 Haleyville	Haleyville Alumni Day
4/30 Level Plains	45th Anniversary of the Incorporation of Level Plains	6/5 Rogersville	Rogersville Heritage Homecoming Celebration
4/30 Lowndesboro	Lowndesboro Heritage Celebration	6/5 Skyline	Skyline Day
4/30 Prattville	Come Home To Prattville – CityFest	6/6 Wedowee	Wedowee Arts Festival
5/1 Bayou La Batre	Blessing of the Fleet	6/11 Alexander City	20th Annual Alexander City Jazz Fest
5/1 Camden	Camden Homecoming Weekend	6/12 Eutaw	Family & Friends Community Day
5/1 Clayton	Clayton Homecoming	6/12 Sheffield	Sheffield Founders Day
5/1 Columbia	Homecoming/190th Birthday Celebration	6/19 Brewton	30th Annual Alabama Blueberry Festival
5/1 Cottonwood	Down Home Country Fest	6/19 Gainesville	Gainesville Day
5/1 Cowarts	Cowarts Homecoming Weekend	6/19 Jasper	Memorial Park Homecoming
5/1 Dauphin Island	Dauphin Island: An Historic Journey	6/19 Slocomb	Slocomb Tomato Festival
5/1 Dothan	Mural City Art Fest-Street Festival	6/19 Susan Moore	Small Town Celebration
5/1 Gee's Bend	Gee's Bend May Day	6/23 Tuscumbia	Helen Keller Festival
5/1 Homewood	We Love Homewood	6/25 Brighton	Brighton Homecoming
5/1 Kansas	Kansas Day	6/25 Clanton	Peach Jam Jubilee
5/1 Pelham	Springtime at Ballantrae	6/25 Columbiana	Liberty Day
5/1 Somerville	Somerville Celebration Festival	6/25 West Blocton	Wild West Blocton Days
5/1 Spanish Fort	Delta Woods & Water Expo	6/26 Florala	Annual Masonic Day Celebration
5/2 Cardiff	Cardiff Cemetery Decoration Day	6/26 Shorter	Town of Shorter Liberty Day
5/2 Hoover	Celebrate Hoover Day	6/26 Sylvan Springs	Sylvan Springs Homecoming
5/7 Gurley	Celebrating Our Past	6/27 Wilsonville	God and Country Celebration
5/7 Helena	Buck Creek Festival	6/28 Albertville	Happy Birthday Albertville



# THE GREAT ALABAMA HOMECOMING

215 towns welcome y'all in 2010.

Some 215 towns across Alabama welcome you home this year during the Great Alabama Homecoming. It's all part of the Year of Alabama Small Towns & Downtowns - a celebration of everything that is Sweet Home Alabama.



There are homecoming events and festivals going on practically every weekend from mid-March through mid-December. Special homecoming events like the Ashland Homecoming Weekend, Clayton Homecoming, Celebrate Guntersville, the Monroeville Reunion, and Talladega's 175th Birthday Bash. Check the calendar to see when your favorite towns are holding homecoming events and start planning your trip today.



Remember to enjoy some good old-fashioned Southern cuisine along the way. Sample local favorites like the barbeque chicken with white sauce at Big Bob Gibson BBQ in Decatur, the orange rolls at the All Steak in Cullman, banana pudding at Sisters in Troy, and the royal red shrimp at King Neptune's in Gulf Shores.

If you've never visited Alabama then this is the perfect year to make your first trip and experience Sweet Home Alabama.

Check the Great Alabama Homecoming calendar at [www.alabamahomecoming.com](http://www.alabamahomecoming.com) and start packing!





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1935-2010

## CONVENTION QUICK GUIDE

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### Saturday, May 15

10:00 a.m. – 5:00 p.m. Registration – Upper Concourse  
11:00 a.m. Resolutions Committee Meeting  
1:00 p.m. AMIC Annual Meeting  
2:00 p.m. – 5:00 p.m. General Session: Broadband Update and 2010 Elections Outlook  
6:00 p.m. – 8:00 p.m. League Welcome Party

### Sunday, May 16

7:30 a.m. 2010 Annual Municipal Golf Tournament – Timber Creek Golf Course, Daphne  
1:00 p.m. – 5:00 p.m. Registration – Upper Concourse  
2:00 p.m. – 4:30 p.m. Round Table Discussions (by population)  
4:30 p.m. – 6:00 p.m. ABC-LEO Reception – Renaissance Riverview Hotel, Jubilee Room  
5:30 p.m. – 7:00 p.m. Exhibitors Showcase and Reception – Convention Center, North Exhibit Hall

### Monday, May 17

8:00 a.m. – 5:00 p.m. Registration – Upper Concourse  
8:30 a.m. – 9:30 a.m. Clerks Breakfast and Business Meeting (Renaissance Riverview Hotel)  
9:30 a.m. – 5:00 p.m. Clerks Meeting (Convention Center)  
8:30 a.m. – 5:00 p.m. Alabama Association of Public Personnel Administrators (Convention Center)  
9:30 a.m. Spouses Breakfast (Renaissance Riverview Hotel)  
9:00 a.m. – 10:30 a.m. **Opening Session** – Grand Ballroom  
Celebrating the League's 75th Anniversary; 2010 Quality of Life Awards Presentations  
10:30 a.m. – 4:00 p.m. Exhibits Open  
11:00 a.m. – Noon Choose from the following concurrent workshop sessions:  

- The Municipal Police Jurisdiction
- Final Report on the 2010 Regular Session
- Tort Liability

  
12:15 p.m. – 1:45 p.m. **Luncheon – Guest speaker: Governor Bob Riley (invited)**  
2:00 p.m. – 2:30 p.m. **Dessert in the Exhibit Hall**  
2:30 p.m. – 3:30 p.m. Choose from the following concurrent workshop sessions:  

- Employers Support of the Guard/Reserves Briefing AND ACJIC Update/Criminal Background Checks
- A Primer on the Open Meetings Act
- Social Media Liability

  
3:30 p.m. – 5:15 p.m. Choose from the following concurrent workshop sessions:  

- Municipal Landscaping & Beautification Tips AND Inspire, Enable & Mobilize Your City of Service
- AEMA – Aftermath of Disaster
- Grant Writing

  
6:00 p.m. Reception  
7:15 p.m. Banquet followed by Jeanne Robertson, Humorist

### Tuesday, May 18

8:00 a.m. – Noon Registration – Upper Concourse  
8:30 a.m. – 10:30 a.m. Annual Business Session  
10:30 a.m. – Noon General Session – Ask Your Attorney Panel  
Noon President's Luncheon

Meetings and/or events subject to change • CMO credits can be earned. See convention program for details.





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# Texting and Driving continued from page 5

- Information that must be reported as part of an employee accident report.
- What sort of reporting requirements exist for an employee or supervisor who witnesses a policy violation?
- What disciplinary action may be taken for a reported or documented violation of policy, if any?

## Resources and Additional Information

A number of cities and towns are working on employee driving policies that can be shared with others. Information is also available through the National Highway Traffic Safety Administration, National Safety Council, and Insurance Institute for Highway Safety. ■

The City of Prattville sent the following memo to all city employees on November 23, 2009 regarding the City's policy on texting while operating city vehicles:

Recent deadly crashing involving drivers distracted by text messaging while behind the wheel highlight a growing danger on our roads. Text messaging causes drivers to take their eyes off the road and at least one hand off the steering wheel, endangering both themselves and others.

To that end, City of Prattville employees shall not engage in text messaging while driving City owned vehicles, when driving personal vehicles while on official City business or when using electronic equipment supplied by the City of Prattville. This ban does not include operating a motor vehicle when one has pulled over to the side of an active roadway and stopped in a safe location.

Certain employees, devices and/or vehicles that are engaged in or used for public safety or other emergency conditions are exempted.



## Texting and Driving Information and Statistics:

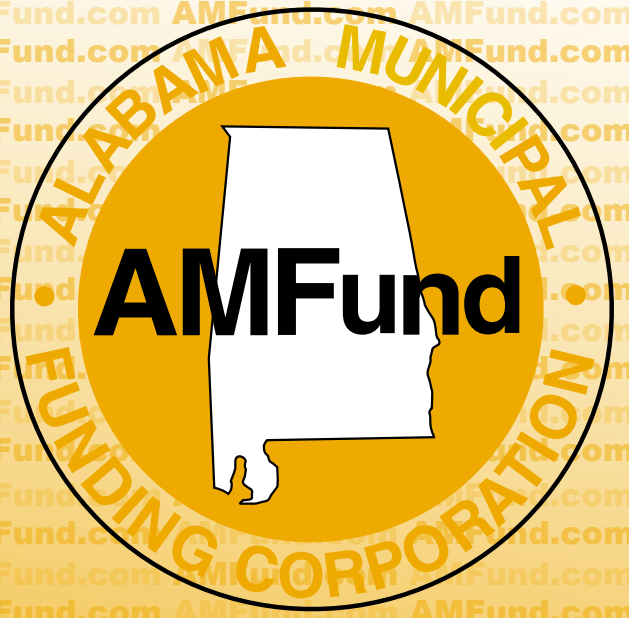
The Department of Transportation (DOT) recently released a sample law framework designed to assist city and state governments in banning the deadly practices, such as sending text messages. The sample framework and other information on the Distracted Driver initiative is available at [www.distraction.gov](http://www.distraction.gov).

### Statistics Collected by the National Highway Traffic Safety Administration:

- Using a cell phone while driving, whether it's hand-held or hands-free, delays a driver's reactions as much as having a blood alcohol concentration at the legal limit of .08 percent, according to the University of Utah
- Driving while using a cell phone reduces the amount of brain activity associated with driving by 37 percent, according to Carnegie Mellon University.
- Eighty percent of all crashes and 65 percent of near crashes involve some type of distraction, according to a Virginia Tech University 100-car study for the National Highway Traffic Safety Administration (NHTSA).
- Nearly 6,000 people died in 2008 in crashes involving a distracted or inattentive driver, and more than half a million were injured, according to NHTSA.
- The worst offenders are the youngest and least experienced drivers — men and women under 20 years of age — according to NHTSA.
- Drivers who use hand-held devices are four times as likely to get into crashes serious enough to injure themselves according to the Insurance Institute for Highway Safety.

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