

The Alabama Municipal JOURNAL

July 2010

Volume 68, Number 1

Congratulations 2010 Municipal Quality of Life Award Winners!



Above: Representatives from Abbeville accept the Municipal Quality of Life Award (Population Category 1-5,000) for their innovative RUOK program. Awards were presented by League Executive Director Perry Roquemore (far left) during the Opening Session of the 2010 Annual Convention on May 17.

Right: Councilmember Phillip Deason of Moody accepts the Quality of Life Award (Population Category 5,001-12,000) from League Executive Director Perry Roquemore for the city's winning entry Moody Miracle League.



Left: Mayor Gary Fuller of Opelika accepts the Quality of Life Award (Population Category 12,001 and over) from League Executive Director Perry Roquemore for the city's winning entry Opelika Sportsplex & Aquatic Center.



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On the Cover:

2010 Quality of Life Award winners were recognized during Opening Session of the League's Annual Convention on May 17 in Mobile. Visit www.alalm.org for video profiles of the winning entries.

A Message from the Editor

Everyday I follow updates on the BP oil spill in the Gulf and everyday I'm disheartened by the increasing amount of brown sludge slowly choking ecosystems and marring our beautiful shoreline. I recently read an AP story titled "Oil Is In Everything From Shampoo to Vitamins". According to this article, there's nothing that we do on a daily basis that isn't touched by petrochemicals: "It's in carpeting, furniture, computers and clothing. It's in the most personal of products like toothpaste, shaving cream, lipstick and vitamin capsules." And while there may be some among us willing to give up our shampoo, there are certainly very few willing to set aside our cell phones, computers or – the zenith of modern comfort – air-conditioning. Oil has made our lives more convenient, more comfortable and more ... complicated. Nearly everything we consume, including (and especially) food, is processed, preserved and/or chemically enhanced.

I'm old enough (just barely!) to remember a time before microwaves, remote controls, and the wide-spread use of plastic containers. There was no central air conditioning (or window units for that matter) in the public school I attended in rural NC. We were fortunate if the rooms had fans. I rode my bike everywhere. During the "growing season" I picked field peas and shelled butter beans and shucked corn (none of which came prepackaged or was cooked in a microwave). And I still love fresh produce – especially if it's locally grown. (I can eat my weight in boiled peanuts. And watermelon. And collards.) But I digress. Clearly, as a nation and as a culture, we can't go back.

But what impact will this oil spill ultimately have on our cities and towns? Without doubt there will be long-lasting, perhaps even dire, consequences to the municipalities along the U.S. coastline – consequences that extend well beyond the environment, particularly given the likely effect on the fishing and tourism industries. In a June 20th *Mobile Press Register* article, reporter David Ferrara wrote: "This is not the death of the Gulf of Mexico," said George Crozier, director of the Dauphin Island Sea Lab. "If you went Gulf-wide with this and stirred it up in the Gulf of Mexico, I'm not sure we could find it." Crozier pointed out that the Gulf Coast will almost certainly see a greater financial impact than ecological one. Oil evaporates, degenerates and sinks as it sloshes around with currents. "It is going to be the economic death of a lot of human endeavor that is tied to the resource base of the Gulf," Crozier said. "Beaches next year should be just fine, but they may be serving pot roast instead of Gulf snapper. ... The ecosystem is a lot healthier and more resilient than the human system."

According to a report released last month by Moody's Investors Service, the oil spill has created an unprecedented financial, legal, regulatory and environmental crisis for the companies that operate in the Gulf of Mexico and in other offshore markets worldwide – not to mention the possibility of ultimately creating negative credit impacts for state and local governments.

I don't have any answers, only concerns. I do know that Alabama's communities are hardy and will confront this latest catastrophe with exemplary vigor and tenacity. If you are interested in volunteering, the Coalition of Active Stakeholders Team (COAST) was created to manage the volunteer efforts responding to the Deepwater Horizon oil disaster and includes the Alabama Coastal Foundation (www.joinacf.org), Mobile Baykeeper (www.savethegulf.mobilebaykeeper.org), BP, the US Coast Guard and the State of Alabama (www.servealabama.gov/2010/OilSpill/OilSpillinfo.aspx). Other volunteer opportunities can be found at the Deepwater Horizon Response Request Line at 1-866-448-5816 or via their website at www.deepwaterhorizonresponse.com.

According to the Governor's Office of Faith-Based and Community Initiatives, to report oiled wildlife, please call 1-866-557-1401 and leave a message. Messages will be checked hourly. To report oil spill related damage, call 1-800-440-0858. To report oiled shoreline or request volunteer information: (866)-448-5816. To submit alternative response technology, services or products: (281) 366-5511 To submit your vessel as a vessel of opportunity skimming system: (281) 366-5511. And to submit a claim for damages: (800) 440-0858.



Booms at the Perdido Bay entrance to Soldier's Creek, June 2010.
Photo by Elmore DeMott • www.elmoredemott.com

Carrie

The President's Report

Charles Murphy • Mayor of Robertsdale



NLC Announces Government Employees Marketplace (GEM) Sponsorship

NLC recently announced that it is now sponsoring the Government Employees Marketplace (GEM), a value-added service for cities and towns to offer employees and retirees. GEM provides a convenient one-stop website (www.govmarket.org) for employees and retirees to access special volume discounts on a variety of brand name goods and services for personal use.

With many cities unable to offer salary increases or new or extended benefits, GEM is a service that can save employees money on their everyday purchasing. The role of the city is to promote the program to employees through the city intranet or internal website, employee newsletters, bulletin boards and other communications. There is no cost for a city to participate in the GEM program. There is also no cost for city employees to join GEM and no membership fees or minimum purchasing requirements. By joining GEM, employees can receive special promotions, seasonal sales and other discounts on thousands of brand name products.

Products available from nationally recognized companies include: apparel, computers and electronics, gourmet foods, health products, home and garden products, pet supplies, sports and fitness equipment, toys, travel discounts and much more. Companies such as Dell Computers, Sprint, Hertz, Office Depot and others also offer exclusive savings to GEM members. With the exclusive Sprint deal, GEM members can save 15 percent off of their monthly cell phone bill.

GEM also includes local features with information on gas prices, groceries, dining reservations and gift cards. The local access feature also allows users to refer local businesses to the site for featured discounts

they offer locally to city employees or the public at large.

Several NLC member cities – Auburn, Wash., Charlotte, N.C., Mesa, Ariz. and Savannah, Ga. – have been previewing the GEM program with city employees and providing feedback to NLC. City officials in Charlotte recently announced the GEM program kick-off to more than 400 employees and distributed GEM shopping bags packed with program information. The city also presented the program to more than 20 human resources specialists and prepared an infomercial and intranet promotion. Information on GEM was e-mailed to all city employees

Cities interested in announcing the GEM program to employees can find materials on NLC's website at www.nlc.org/enterpriseprograms/gem.aspx to help with the announcement, including a sample e-mail to city employees, a sample page for a city intranet and sample postcards and flyers for distribution to city employees.

To register for GEM, employees should go to www.govmarket.org and register as a city employee. In addition to government employees (city/county/state/federal), GEM is also available to school employees (K-12 and higher education) and employees of nonprofit organizations.

For promotional materials to announce the program to city employees, visit GEM on NLC at www.nlc.org/enterpriseprograms/gem.aspx or contact Marc Shapiro at shapiro@nlc.org. For general information about GEM, visit www.govmarket.org or contact Alexis Turner at aturner@govmarket.org. ■



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- Court Clerk
Large Municipal Court

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- Judge
Alabama Court

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- Emma G., Defendant
Florida State Court

"...thank you for getting me into a treatment program. I'm loving my sobriety. It's a wonderful life. It does work One Day At A Time."

- Danny B., Defendant
Marshall County, Alabama

"Thank you for everything. Even though you did not have to do it, you did it anyway and it was much appreciated. You kept me out of jail."

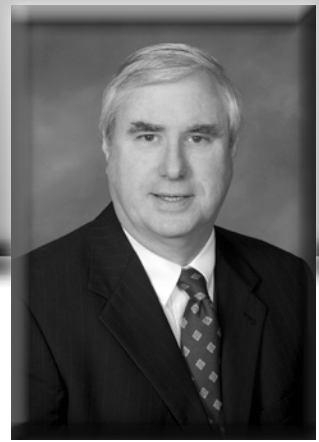
- Craig A., Defendant
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Municipal Overview

Perry C. Roquemore, Jr.
Executive Director



Significant Budget Shortfalls Could Mean More Job Losses

Continuing research into the economic and fiscal conditions of cities demonstrates the need for Congress to Adopt the Local Jobs for America Act. A new report from the National League of Cities indicates that most cities and towns are facing worsening economic conditions that are forcing layoffs and reductions in city services.

The State of American Cities Survey on Jobs and the Economy shows that 7 in 10 city officials indicate they are responding to the economic crisis by making personnel cuts, including layoffs, hiring freezes and furloughs. Many cities are also cutting public safety spending and healthcare benefits. The report identifies declining property markets as a growing challenge for cities. Over 80% of officials cite the commercial market as a foremost concern. As a major contributor of local revenue, the resulting loss of property taxes could act as a significant barrier to local economies' ability to recover.

As a response to the declining economic conditions, cities continue to engage in the difficult task of balancing their budgets. In addition to those cutting personnel, 68% are cutting capital projects. 22% of city officials indicate they are cutting public safety budgets, which is typically an option of last resort. City officials indicate that service and employment cuts are coming at a time when cities are seeing record increases in poverty. 63% of officials say that poverty has increased in their community in the last year, the largest percentage since the question was asked in 1992. Cities with increased amounts of poverty typically see greater service requests, the same services now being cut.

With local and state sectors comprising about one-eighth of GDP, and cities making up a significant portion of this sector, the services and employment offered by local governments are critical to the health of local and regional economies that drive national economic performance. Looking forward, over half of all respondents say they anticipate that next year will see even greater cuts in city services if taxes or fees are not raised. Local officials agree that the state of America's cities continues to worsen, threatening long-term national economic recovery.

City budget shortfalls are predicted to become more severe as tax collections, which lag the overall economy, catch up with economic conditions. Without the Local Jobs for America Act, city leaders will have to lay off more employees, cut essential

services and cancel projects – retrenchments that could place a drag on our national recovery.

These cuts demonstrate a clear need for a federally-funded local jobs bill that gets city employees back to work and creates meaningful employment opportunities in local communities. The Local Jobs for America Act will assist cities to protect public safety and avoid laying off municipal employees. It will also lay a foundation for future growth as cities will be given funds to innovate and create useful jobs in both municipal and nonprofit agencies.

The State of American Cities is an annual survey of municipal officials. You may find the report www.nlc.org/ASSETS/2814803215F44BE08B60E35203944BA6/RB_JobsEconomy_10.pdf. Thanks to the continued efforts of the state municipal leagues and city officials, there are now 159 House members co-sponsoring the Local Jobs for America Act, H.R. 4812.

NLC is calling on city leaders to contact House members who have not yet signed on and let them know we need their support for the legislation to help cities recover from the recession and prevent further layoffs and cuts in essential city services. The message is clear: Barring federal assistance, local governments are soon facing significant layoffs of teachers, police officers, firefighters, and other city workers.

Key talking points for the legislation

If enacted, the bill will direct \$75 billion to cities, towns and counties to save local government jobs and prevent layoffs. The bill also includes \$23 billion to support an estimated 250,000 teacher jobs; \$1.18 billion to put 5,500 law enforcement officers on the streets; \$500 million to hire and retain firefighters; and \$500 million for approximately 50,000 additional on-the-job training positions to help the private sector expand employment.

For cities and towns, the resources made available will counter the recession's impacts-declining property, sales, and income taxes and lost state aid and increased demand for services.

Please provide NLC with any feedback you receive from your outreach. (Carolyn Coleman, coleman@nlc.org, 202.626.3023 and Neil Bomberg, bomberg@nlc.org, 202.626.3042). ■

"We know we're making the right call when we buy Cat® equipment."

When the Public Works Department in Tuscaloosa County, Alabama, solicits bids for heavy equipment, purchase price is just one factor it considers, says Engineering Coordinator Michael Henderson. "If there's a disaster in our area, we need to know our equipment, and our dealer will come through for us. We must know, beyond a shadow of a doubt, that the equipment is ready to work because response time is critical."

Factoring in Life Cycle Costs when purchasing equipment is equally important to Mike. "It's in the county's best long-term interests to consider total costs. When we choose Cat® equipment, we can be confident we're getting a quality machine, backed by a strong company and dealer. We also know that when it's time to cycle it out, there will be value left in that equipment."

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The National Institute of Governmental Purchasing (NIGP), National Association of State Procurement Officials (NASPO) and National Association of Fleet Administrators (NAFA) endorse the use of Life Cycle Costing as a preferred procurement method.



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The Legal Viewpoint

By Brad Bishop, Cumberland School of Law Professor;
Chair of Supreme Court Commission on Municipal Courts
and Maria Fleisher, Research Assistant

Municipal Safe Streets Act

To tow or not to tow – that is the question.

History

In 1995, the Alabama Legislature passed the Alabama Safe Streets Act, which required that if “a driver is unable to produce a valid driver’s license on the demand of a law enforcement officer, the vehicle *shall* be impounded regardless of ownership.” Under this act, if an officer pulled a car over in a traffic stop and the driver did not have a valid license, the car was towed on the spot and the driver was left stranded on the side of the road. If the driver had merely left his license at home, and it wasn’t suspended or revoked, he would be given a ticket but spared the impound. Three years later, in May 1998, the Act was repealed. According to a June 1998 article from the *Gadsden Times*, the legislature repealed the act “primarily because of a section dealing with forfeiture of vehicles.”¹ Under the 1995 Act, a vehicle could be subject to forfeiture as a nuisance if certain conditions were met, one being that the driver’s license was revoked or suspended. Apparently this provision was very controversial and led to the overturning of the entire Act. The *Gadsden Times* also claimed that the Act contained many loopholes, making it very difficult to enforce. An article from the *Birmingham News* stated that the Act was repealed because troopers were concerned that if they let an unlicensed driver go, didn’t impound, and that driver was later in an accident, the trooper could be liable for the accident.² There was also concern that the law was not being equally applied to all drivers.

Although the Act was only in place for a short time, some Alabama cities wanted to continue to have the power to impound the vehicles of those driving without a valid license. Within a few months of the Act being repealed, several police chiefs, including James Chapman of Oneonta, met with Attorney General Bill Pryor, who told them that cities and towns were free to enact local ordinances that allowed police to tow cars when the driver did not have a valid license.³ By June, Hoover, Oneonta, and other Alabama

cities had done just that, intentionally omitting any provision requiring forfeiture of vehicles. Both the Oneonta and Hoover ordinances allow that a car may be recovered, and not forfeited, if the person can show proof of ownership, and either has a driver’s license or is accompanied by someone with a license. Other than this exception, many city ordinances use the exact language of the repealed Alabama Safe Streets act.⁴

By 2007, Athens, Huntsville, Decatur, and other Alabama cities had enacted similar laws.⁵ Almost a decade had passed since Hoover and Oneonta passed their laws, and some argue that this new stream of laws had a new target: illegal immigrants. During the first week of implementation of the new law in Decatur, a third of the impounded cars belonged to Hispanic drivers.⁶ In Russellville, within the first five days that their impound ordinance was in effect, eleven cars were impounded, and eight belonged to Hispanics.⁷ Cities also appear to be using road blocks to implement impound ordinances. Like other cities in the nation, many in Alabama set up road blocks to deter people who are under the influence of alcohol or drugs from driving. However, the road blocks result in a much larger number of people driving without a valid license being cited than those who might be driving under the influence of alcohol. In Albertville, more than 70% of the vehicles seized and impounded as a result of roadblocks were taken from drivers with Latino surnames.⁸

Alabama is not the only state in which municipal impound ordinances are common. A 2007 article in *USA Today* lumped Alabama with California, Illinois, and “elsewhere” as states that have communities which allow police to tow cars when the driver can’t produce a valid license.⁹ The article states that “[t]he laws don’t single out illegal immigrants, but some officials say they sought the penalties because more illegal immigrants are living and

continued next page

driving in their towns.” There are also concerns that these types of laws promote racial profiling. A *New York Times* article from February of this year brought national attention to the problems these laws are creating.¹⁰ Like some Alabama cities, California cities use sobriety checkpoints to apprehend unlicensed drivers. According to the article, these roadblocks “are far more likely to seize cars from unlicensed – and often illegal immigrant – motorists, than to catch drunken drivers.” In 2009, impoundments at checkpoints in California generated around \$40 million in towing fees and police fines, which is divided between the city and towing companies. Unlicensed drivers rarely challenge the impoundment, and most cannot recover their cars because of the high fees. One towing company said that two-thirds or more of the impounded vehicles were never reclaimed and were sold, allowing the towing company to keep most of the proceeds. According to an investigation, police seized 24,000 vehicles from unlicensed drivers at checkpoints in California in 2009.¹¹

Current status of the law

While California cities continue to impound vehicles from unlicensed drivers, some believe these actions are unconstitutional. This belief is based primarily on the

2005 decision by the Ninth Circuit in *Miranda v. City of Cornelius*.¹² In this case from Oregon, Jorge Miranda was teaching his unlicensed wife how to drive. An officer pulled up behind them and when he noticed that the car was driving very slowly, he suspected an impaired or improperly licensed driver and turned on his lights. The car was already close to the Miranda’s home so Mrs. Miranda drove until she pulled into her own driveway. The officer determined that Mrs. Miranda was driving without a license and decided to impound the car, which was allowed under a city ordinance. The Miranda’s sued the city, claiming that the impoundment was an unreasonable seizure under the Fourth Amendment, and that they were deprived of due process under the Fourteenth Amendment. The couple also sought a declaratory judgment that the local impound ordinance was unconstitutional. The district court granted summary judgment for the City but the Ninth Circuit reversed. The Ninth Circuit reasoned that impoundment of an automobile is a seizure within the meaning of the Fourth Amendment. Such a seizure without a warrant is unreasonable, stated the Ninth Circuit, unless an exception applies. In this case, the only possible exception that could apply is the “community caretaking doctrine.” The defendants cited *Atwater v. City of Lago Vista*,¹³ which held that an officer is deemed to have

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acted reasonably under the Fourth Amendment in making a warrantless arrest if the officer had probable cause to believe that the arrested person violated a *criminal* statute. However, the court looked to *Colorado v. Bertine*,¹⁴ which gives very limited discretion to the officer when deciding whether to impound a vehicle under the community caretaking doctrine. The police's authority to search and seize property when acting in its role as a "community caretaker" is very different from the authority to search and seize property to investigate a criminal activity. Because in this case the statutory authority the police relied on in pulling over Mrs. Miranda and in impounding her car made driving without a license a traffic *violation*, and not a crime, the officer's authority could not be characterized as part of a search and seizure to investigate a *criminal* activity. Instead, it must fall under the community caretaking doctrine, which is much more restrictive. Under this doctrine, an officer may only impound a vehicle that "jeopardizes public safety and the efficient movement of vehicular traffic."¹⁵ Therefore, whether an impoundment is appropriate depends on the actual physical location of the vehicle, and the police officers' duty in such a situation is to prevent the vehicle from creating a hazard to other drivers or being a target for vandalism or theft. The court held that, "[t]he violation of a traffic regulation justifies impoundment of a vehicle if the driver is unable to remove the vehicle from a public location without continuing its illegal operation." In this case, the car was parked in the Miranda's driveway and was clearly not creating an impediment to traffic or threatening public safety. The court determined that impounding the car in an attempt to prevent the Miranda's from driving without a license in the future does not satisfy the caretaking function and is not enough to justify the impoundment. In its conclusion, the court stated that the impoundment "must be considered an unreasonable seizure" and therefore the Fourth Amendment was violated. Whether or not the due process clause was violated was left to be determined by the lower court if the plaintiffs produced more evidence. The court didn't address whether the law itself was unconstitutional.

The *Miranda* decision has not clearly set a standard for ordinances allowing impoundment and has created considerable confusion. In response to *Miranda*, the LAPD in 2007 imposed a moratorium on impounding vehicles of unlicensed drivers "amid concerns that the practice may be unconstitutional."¹⁶ The LAPD asked the city attorney to examine the issue and the attorney eventually advised that he believed the city impound policy was legal, with some exceptions, which he did not outline. Based on this advice, the Los Angeles Police Chief lifted the moratorium.¹⁷ However, other cities in California have moved to soften their impound ordinances because they "placed an unfair burden on illegal immigrants and low-income residents."¹⁸

In October of last year, San Francisco decided to modify its impound ordinance to allow unlicensed drivers 20 minutes to call someone with a valid license to come get them and their car. A second offense in six months would result in an immediate 30-day impound. Mayor Gavin Newsom said the change was addressing "what was perceived as racial profiling."¹⁹

The significance of state law criminalizing driving without a valid license

In 2007, civil rights attorneys filed a lawsuit on behalf of about 20 plaintiffs whose cars had been impounded under California city ordinances and named the California Governor and several cities as defendants. Plaintiffs claimed that the law was unconstitutional because it constituted an unreasonable seizure. The judge dismissed the claim and issued a narrow ruling that avoided addressing whether the law was constitutional. He agreed with defendants that *Miranda* didn't apply in this case because the Oregon law that applied in *Miranda* made driving without a license a traffic violation, and in California, driving without a license is a misdemeanor crime, and therefore the police have much more discretion in impounding a vehicle.²⁰ The case is currently being appealed to the Ninth Circuit which will likely make a ruling on the constitutionality of the impound ordinances within the year.²¹

Alabama, like California, has a law making driving without a valid license a misdemeanor (Ala. Code § 32-6-18). This makes the *Miranda* decision less applicable to our state because an officer does not necessarily have to comply with the community caretaking doctrine, and instead has wide discretion for search and seizures that involve an investigation of a criminal act, which includes driving without a valid license. On the other hand, the Legislative Counsel of California offered its opinion on the matter and made no distinction whether driving without a license is a criminal act or not, and instead stated that under California law the community caretaker doctrine must always be met before the officer can validly impound the car of an unlicensed driver.

Potential liability

Given the constitutional challenges in California and the statistical evidence supporting racial profiling, these impound ordinances are perfect targets for challenges. Hoover's ordinance, like the Safe Streets Act of 1995, is modeled after California's law (vehicle code § 14607.4, .6), so if that law is found unconstitutional, the Hoover ordinance, and other Alabama municipal ordinances, most likely will be as well. Many civil rights and Hispanic interest groups have threatened to bring additional litigation

continued next page

challenging municipal safe streets ordinances.

According to a *Huntsville Times* article from November, 2008, Huntsville attorneys advised the City Council to refrain from implementing ordinances aimed at illegal immigrants.²² One of the attorneys stated that there is not a great deal of certainty about what cities can do to curb illegal immigration, but recent cases show that cities that do take action have “paid a very hefty toll.” The article cited the impound ordinance passed the year before, which wasn’t specifically aimed at illegals, but has had the effect of discouraging them from driving. The attorneys suggested that Huntsville wait for the state or federal government to pass laws to deal with illegal immigrants because “they have better resources to craft laws and deeper pockets to defend them.” It is likely that in light of this advice, Huntsville stopped strictly enforcing its impound ordinance, to avoid expensive litigation that could arise in the future.

Municipal impound ordinances currently appear to be constitutional, but the future is uncertain and there are already some possible arguments that challengers could make under *Miranda*. Furthermore, the concerns that caused the state legislature to repeal the Safe Streets Act in 1998 are still applicable to city impound ordinances today. Although there is no specific forfeiture provision in these ordinances, drivers that cannot afford to recover their cars, or those that have no one with a valid license to help them retrieve their cars, are essentially required to forfeit their vehicles. Also, there is still the risk of liability when an officer allows one unlicensed driver to go free, and that person later gets in an accident. Finally, there remains concerns that these laws are unfair to minorities, particularly Hispanics, and are not equally applied to all drivers.

In light of all of these concerns, Alabama cities, might be prudent to consider following Huntsville’s lead in choosing not to enforce these ordinances until there is clear direction from the courts on whether they are constitutional. Under current Alabama state law (§ 32-6-19), a car shall be impounded only if the license is revoked or suspended because of a DUI, or suspended as a result of failure to comply with Alabama’s implied consent law. State law does not allow for impoundment when the driver’s license is suspended for a reason other than the two listed, or when the driver has no license at all. There is currently a bill in the Alabama House of Representatives (HB411) that would amend § 32-6-18 to provide that: “when an officer has legally stopped a vehicle on the roadways of Alabama whose driver is without a valid driver’s license and insurance, or certificate of self-insurance issued by the director pursuant to Section 32-7-34, and the driver cannot produce a valid document showing legal entry into the United States, that motor vehicle may be impounded until a hearing is held on the violation of this article.” An almost identical bill was

presented in 2008, and failed to pass.²³

In conclusion, to tow or not to tow, is the question; the answer, at this point, is uncertain. Whatever the result this year, it appears that the state is attempting to address the matter and perhaps cities would be wise to leave it to the state and federal legislatures to deal with the problem of unlicensed drivers. ■

Endnotes

1. Suzy Lowry, *License-less drivers in Oneonta will have cars towed*, GADSDEN TIMES, June 28, 1998, at B3.
2. Kent Faulk, *Cities increasing penalties for unlicensed drivers: Critics say aim is to intimidate illegal immigrants*, THE BIRMINGHAM NEWS, January 27, 2008.
3. Id.
4. Hoover Ordinance No. 99-1677.
5. Kent Faulk, *Cities increasing penalties for unlicensed drivers: Critics say aim is to intimidate illegal immigrants*, THE BIRMINGHAM NEWS, January 27, 2008.
6. Evan Belanger, *Impounds racially split during first week of ordinance*, Decaturdaily.com, Feb. 9, 2008;
7. Kent Faulk, *Cities increasing penalties for unlicensed drivers: Critics say aim is to intimidate illegal immigrants*, THE BIRMINGHAM NEWS, January 27, 2008.
8. Bob Sims, *Issues of illegal immigration intensifies in Albertville, Alabama*, al.com, May 17, 2009.
9. Emily Bazar, *Car ordinance hurt illegal immigrants, City officials punish non-licensed drivers*, USA TODAY, Aug. 15, 2007.
10. Ryan Gabrielson, *Unlicensed Drivers are Caught in Net for Drunk Ones, and Lose their Cars*, N.Y. TIMES, Feb. 14, 2010.
11. Id.
12. 429 F.3d 858 (2005).
13. 532 U.S. 318 (2001).
14. 479 U.S. 367 (1987).
15. quoting *Dakota v. Opperman*, 428 U.S. 364 (1976).
16. Richard Winton, *LAPD curbs its seizure of vehicles*, L.A. TIMES, Aug. 29, 2007.
17. Richard Winton, *Impounding of vehicles upheld*, L.A. TIMES, Sept. 7, 2007.
18. Anna Gorman, *30-day auto impounds reconsidered*, L.A. TIMES, Nov. 1, 2007.
19. *New Impound Policy for Unlicensed Drivers to Begin Sunday*, BAY CITY NEWS, Oct. 26, 2009.
20. Edward Sifuentes, *Judge dismisses suit challenging 30-day impound law*, NORTH COUNTY TIMES, Sept. 13, 2008.
21. Ryan Gabrielson, *California DUI Checkpoints Snag More Unlicensed Drivers than Drunk Ones*, CALIFORNIA WATCH, Feb. 15, 2010.
22. John Peck, *Let feds handle it, city is told*, HUNTSVILLE TIMES, Nov. 8, 2008.
23. HB 303.

ALM's Communications Efforts: Educating and Informing Municipal Officials Since 1937

In October 1937, barely 18 months after the League formally organized, Ed Reid, the organization's 27-year-old executive director, published the inaugural issue of *The Alabama Municipal News*. Efficiency, modernity, and consistency were clearly watchwords for the new League, and the collecting and disseminating of information was not only critical to accomplishing these goals but also a natural fit for Reid, who had been the editor of a weekly newspaper in Flomaton. His gift for communication and promotion aided him as he began regularly publishing the organization's goals, findings, and accomplishments. The first issue of the *The Alabama Municipal News* named the League's current officers, explained the phenomenon of "pressure groups" and their impact on legislative processes, explored the hidden costs of some legislative proposals and educated readers on the ins and outs of fire insurance for municipal properties. It also included a schedule of membership dues: \$10 for towns of less than 1,000; one cent per capita of population for cities and towns of 1,000 to 5,000; \$60 for cities 5,000 to 10,000 in population; \$75 for cities 10,000 to 50,000; and \$100 for cities above \$50,000.

Reid's goal, as this first issue illustrates, was to provide accurate information, informed opinions and pragmatic advice for running towns and cities – the principals that still guide the League's official monthly publication, *The Alabama Municipal Journal*.

Printed on tabloid-sized newspaper stock, Reid included the following announcement just below the masthead on page 4 of the 8-page inaugural issue:

With this issue the Alabama League of Municipalities begins the publication of a monthly tabloid-size newspaper to be known as The Alabama Municipal News. It is to be the official organ of the League of Municipalities and is expected to be a most potent factor in the successes of the numerous endeavors on behalf of Alabama's cities and towns.

Through this newspaper, we will be able to facilitate the dissemination of authentic facts and figures and municipal close-ups of interest to the officials of the several municipalities in a more interesting manner. Articles will appear in each issue written by outstanding leaders of the many fields of municipal government. We hope to fill the columns of each issue with such information as will be valuable to the officials of each town and city in the state.

The concerns who will use the columns of this paper to advertise their products or their services are making possible its publication. As a proper reciprocation of this support, The Alabama Municipal News believes our municipal officials should support the advertisers who are making possible this publication each month.

Feedback regarding the initial issues was extremely positive. A December 1937 note from Gadsden City Attorney Albert Rains stated: *I am very much pleased to receive The Alabama Municipal News. It is a fine publication and indispensable to those interested in municipal government in Alabama.*

By August 1939, however, the time and expense associated with preparing and printing a monthly publication began to

continued next page



take a toll. During his report to delegates at the 1939 annual convention in Birmingham, Reid suggested the Alabama League partner with several other southern leagues to publish the *Southern Municipal News*, a brainchild of the North Carolina League of Municipalities under the direction of its executive secretary, Patrick Healy, Jr., who was a featured speaker during the 1939 Alabama League convention where he invited Alabama to join Arkansas, Georgia, Mississippi, North Carolina, South Carolina and Tennessee in this cost-saving endeavor. From Reid's report:

We continued during the year the publication of The Alabama Municipal News, monthly Journal of the League. We have succeeded in selling enough advertising to pay the publishing costs of the publication and defray a part of the mailing expense. We have been very much pleased with the favorable response from League members to this service.

The publishing of the magazine and the preparation of the material included in its issues draws heavily on the time of the League staff. We have devoted more time to this activity than we were perhaps able to do so. Such is the case with all the leagues issuing publications of this type. In that connection, I should

mention a proposition that has been made to the Alabama League by the North Carolina League of Municipalities.

The North Carolina organization began the publishing of The North Carolina Municipal News about the same time we commenced our publication. It found that in order to do justice of the job of running a league on the one hand and operating a magazine on the other, separate and distinct staffs would be necessary. To provide for this, however, would entail a greater expense than the North Carolina League could afford to bear. It then occurred to them that their state league publication might be turned into a regional publication serving the members of all the leagues in this region. This regional magazine would be divided into two sections – a general section and a section devoted to news and articles contributed by each of the leagues.

It is proposed that the Alabama League would be entitled to a minimum of 1,000 copies and a maximum of 1,200 copies per month for distribution among the officials of our member municipalities. At the present time, our resources do not permit us to mail more than 750 copies of The Alabama Municipal

News in favor of the regional publication it is understood with the North Carolina League that the Alabama League shall not incur any financial responsibility for the publication, operation and management of The Southern Municipal News. It is further understood that the Alabama League would receive ten percent of the net profits from the operation of the regional magazine.

Acceptance of the North Carolina League's proposition would enable us to do the following:

- 1. Devote more time to our other services and activities.*
- 2. Feature our magazine material in a publication of wider circulation in our own state.*
- 3. Give our readers the benefit of information published from other states, thus giving them an opportunity to make comparisons of league services and activities.*
- 4. Enable us to renew the publication of our weekly mimeographed news bulletin giving the latest developments within our state regarding municipal government.*

I recommend the North Carolina proposition to you for your consideration.

By November 1939, the Alabama League had joined forces with Arkansas, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee in publishing *Southern Municipal News*. Ed Reid was listed as an associate editor and subscriptions were \$1. For several years, the Alabama League participated in this effort; however, by 1944 the League had pulled away



from the regional tabloid to resurrect its own publication – a monthly magazine titled the *Alabama Local Government Journal*. In 1953, the name was changed to *The Alabama Municipal Journal*, which remains the League’s official magazine.

Until his death in 1965, Ed Reid was the driving force behind the *Journal*. In an August 1965 tribute to Ed Reid, *Birmingham News* Editorial Page Editor E.L. Holland, Jr. wrote:

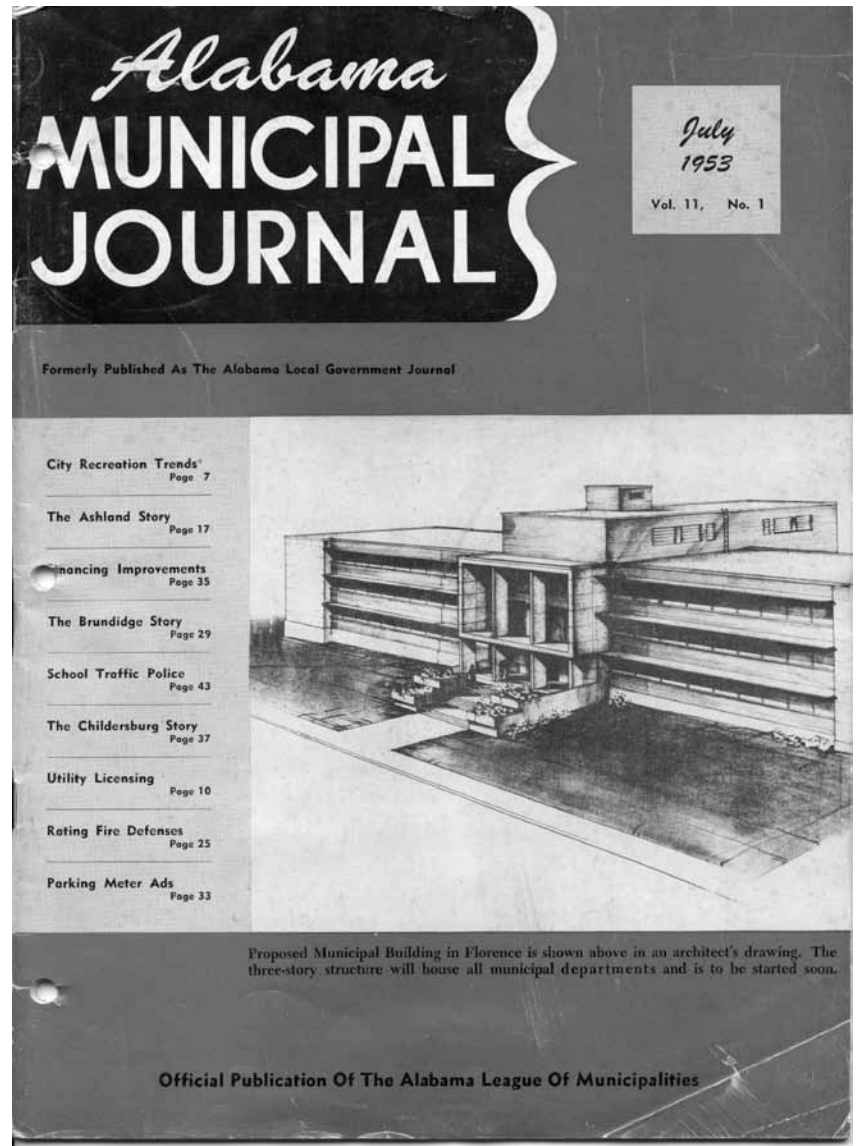
Ed Reid wove the thread of Alabama municipalities into the national fabric. This he did in specific ways. One such was his consistent, even persistent, editorial requirement that the League’s Journal grasp at the substance of the city today and tomorrow. The publication cover to cover, regardless of byline, bore his personal imprint. Not only did it discuss immediate details of municipal government, its message was offered through governors, Congressmen, senators, cabinet and sub-cabinet level officers, authorities on highest national urban levels.

Mayors and other city officials could and did consume a Reid-selected steady diet of the best in municipal thinking, and viewpoints related to the municipal approach from city, state and federal officeholders or appointees. The consumption reared a host of healthful, enterprising communities.

Ed Reid was the Journal. Not that everything he accomplished is reflected therein; plainly it is not. But the architected urban-municipal philosophy of Ed Reid is clearly drawn in each issue. More than philosophy is balanced delicately but unobtrusively as between the larger and smaller municipality.

In 1948, the League began publishing *The Handbook for Mayors and Councilmen* (now known as *The Handbook for Mayors and Councilmembers*) every four years to provide a basic summary of the powers and duties of the offices of mayor and council for municipalities operating under the mayor-council form of government. In 1972, the first issue of the *Selected Readings for the Municipal Official* was published to provide information on a array of pertinent topics including council organization, parliamentary procedure, basic municipal powers, territorial jurisdiction, revenue powers, municipal courts, public safety, property controls, regulatory powers and liability and risk management. This publication is also revised every four years just prior to municipal elections.

In 1970, the League hired Dan Dowe as its first Publications Manager to immediately began overseeing publication of all League materials. In addition to the *Journal*, the League was publishing a monthly newsletter – *The Alabama Municipal News* (named after the first League publication in 1937 and distributed to mayors, councilmembers, clerks and municipal



attorneys from 1969 to 1997) – as well as manuals, directories, bulletins, special reports and a myriad of other information. Upon his retirement in 1986, he was succeeded by Anne Christensen, who relocated out of state in 1997.

In August 1997, Carrie Banks was hired as the League’s Communications Director to oversee marketing and public relations endeavors as well as published materials. A North Carolina native with an undergraduate degree in journalism from East Carolina University and a master’s degree in advertising and public relations from the University of Alabama, Carrie had previously worked for several nonprofit entities, including the Alabama Education Retirees Association. Her skills and background were suited for preparing the League’s Communications Department for the 21st Century.

The League’s official web site – www.alalm.org – was launched in the fall of 1997. Today the web site serves as a clearinghouse for a variety of timely information, including electronic versions of the monthly *Journal* as well as information on League staff, programs, publications legislation, conferences and municipal issues. ■

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

Arrests: An accused who invoked his Fifth Amendment right to counsel during interrogation can initiate further interrogation through a third party. With third-party communications, the police are still prohibited from reinitiating questioning, and the impetus for reinitiation must still come from the accused. *Ex parte Williams*, 31 So.3d 670 (Ala.2009)

Courts: A defendant's guilty plea was involuntary, where the trial court failed to properly advise the defendant during his guilty-plea colloquy. The trial court failed to inform the defendant regarding, or to ascertain whether defendant understood, the mandatory minimum and maximum sentences, including any sentence enhancements, as well as whether his sentences would run consecutively or concurrently, and the trial court did not ascertain on the record that the defendant had read and understood an explanation-of-rights form. *Durr v. State*, 29 So.3d 922 (Ala.Crim.App.2009)

Courts: Evidence that a probationer had participated in an emergency call with the town rescue squad did not support revocation of his probation based on an alleged violation of a condition that the probationer not participate in volunteer fire department calls and that he be removed from the volunteer fire department roster, as there was no evidence presented that the rescue squad and the volunteer fire department were one and the same. *Quattlebaum v. State*, 29 So.3d 925 (Ala.Crim.App.2009)

Courts: In correcting an illegal sentence, the double-jeopardy protection is not violated even if the defendant has begun serving the original sentence. The trial court is obligated to alter an invalid sentence, and any resulting increase in the sentence does not raise double-jeopardy

problems. *Bryant v. State*, 29 So.3d 928 (Ala.Crim.App.2009)

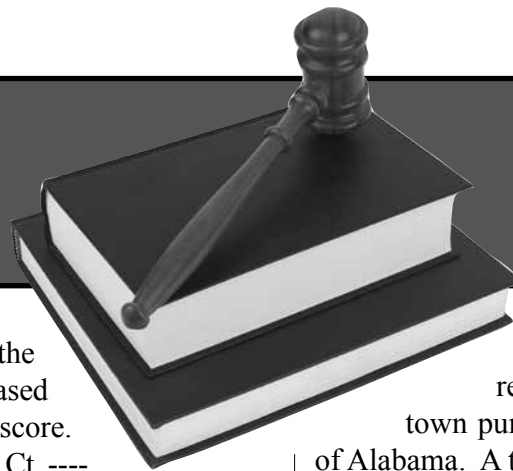
Courts: A defendant is not constitutionally entitled to the State's witness list before trial. Alabama Rules of Criminal Procedure and case law clearly establish that the names of prosecution witnesses and summaries of their testimony are not discoverable. *State v. Fowler*, 32 So.3d 21 (Ala.2009)

Nuisances: A city waterworks and sewer board suffered irreparable injury as result of a continuing trespass by a developer that owned land adjacent to a lake that occurred when the lake was inundated with new sediment from the developer's construction site. The developer failed to take steps to curtail the effects of runoff and erosion from its property, such that the board's remedy at law was inadequate, and, thus, the board was entitled to a preliminary injunction prohibiting the developer from continuing construction of the development in such a manner as would result in further discharge of sediment. Redress through money damages for such trespass was not adequate due to its continuing nature and the multiplicity of actions that would be required to compensate the board for ongoing injury. *Water Works and Sewer Bd. of the City of Birmingham v. Inland Lake Investments, LLC*, 31 So.3d 686 (Ala.2009)

UNITED STATES COURT DECISIONS AFFECTING ALABAMA

Arrests: If the State establishes that a Miranda warning was given and the accused made an uncoerced statement, this showing, standing alone, is insufficient to demonstrate a valid waiver of Miranda rights. The prosecution must make the additional showing that the accused understood these rights. The fact that a defendant was silent during the first two hours and 45 minutes of a three hour interrogation was insufficient to invoke his right to remain silent under Miranda, where the defendant never stated that he wanted to remain silent or that he did not want to talk with the police. *Berghuis v. Thompkins*, --- S.Ct. ---, 2010 WL 2160784 (U.S.2010)

Discrimination: African American firefighter candidates who were denied jobs could state a disparate impact



claim under Title VII each time the city hired from an eligibility list based on an allegedly flawed test cutoff score. *Lewis v. City of Chicago, Ill.*, --- S.Ct. ----, 2010 WL 2025206 (U.S.2010)

Employees – Disability Benefits: Litigants in Employee Retirement Income Security Act (ERISA) cases may recover attorneys’ fees even if they are not prevailing parties. *Hardt v. Reliance Standard Life Ins. Co.*, --- S.Ct. ----, 2010 WL 2025127 (U.S.2010)

First Amendment: The goal of avoiding governmental endorsement of religion does not require eradication of all religious symbols in the public realm. The Establishment Clause does not oblige government to avoid any public acknowledgment of religion’s role in society. Rather, it leaves room to accommodate divergent values within a constitutionally permissible framework. *Salazar v. Buono*, 130 S.Ct. 1803 (U.S.2010)

Schools: The school principal and the school board’s special investigative unit’s executive director did not have final policymaking authority for purposes of §1983 municipal liability for a high school teacher’s sexual harassment of a student. The principal’s and director’s decisions were subject to meaningful administrative review. School administrators will only be deemed “deliberately indifferent” for Title IX purposes if their response to the harassment or lack thereof is clearly unreasonable in light of the known circumstances. *Doe v. School Bd. of Broward County, Fla.*, 604 F.3d 1248 (11th Cir.2010)

DECISIONS FROM OTHER JURISDICTIONS

Elections: A city’s campaign reform ordinance, which prohibited persons from making any independent expenditure if they received contributions above certain amounts, violated the First Amendment right of free expression as applied to a chamber of commerce’s affiliated political action committees (PACs). *Long Beach Area Chamber of Commerce v. City of Long Beach*, 603 F.3d 684 (9th Cir.2010)

ATTORNEY GENERAL’S OPINIONS

Audits: Upon request by the mayor, the Department

of Examiners of Public Accounts is required to perform an audit of a city or town pursuant to section 11-43-85 of the Code of Alabama. A town cannot waive the requirement of a yearly audit and at least once a year the town must secure an audit and pay an agreed upon sum for the services rendered by either the Department of Examiners of Public Accounts or an independent auditor. AGO 2010-068

Boards: Where a state, county or municipal board is authorized by state legislation and no compensation is authorized for members of the board, these people are considered volunteers. Such a board qualifies as a governmental entity pursuant to section 6-5-336 of the Code of Alabama, and its members are immune from civil lawsuits based on this same statutory authority. AGO 2010-067

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Congratulations Paula Smith, 2010 Clerk of the Year!

Paula Smith, MMC, Birmingham City Clerk, was named 2010 City Clerk of the Year on June 12 during the Alabama Association of Municipal Clerks and Administrators Summer Conference. Paula has nearly 30 years of municipal government experience and was appointed to her current position as Birmingham City Clerk in 1997. She was the first female as well as the first black woman to be appointed to this position.

Paula earned a law degree from Miles College School of Law in 1989 and has obtained her Master Municipal Clerk (MMC) designation from the International Institute of Municipal Clerks and Administrators (IIMCA). ■

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Alabama **1** Call

Nine-Term Fayette Mayor and League Activist Guthrie Smith Dies at Age 97

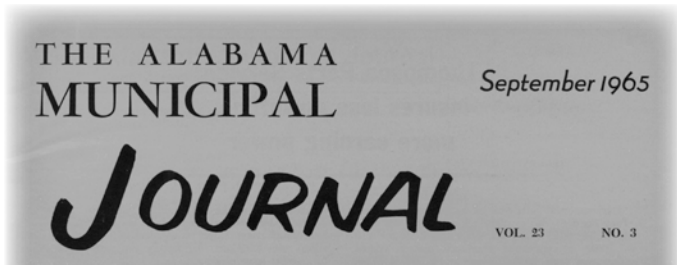
In August 1965, Mayor Guthrie Smith of Fayette was elected President of the Alabama League of Municipalities during an unprecedented transitional period for the organization. Ed Reid, who had served as League Executive Director since its inception in 1935, passed away that July from cancer and long-time League Staff Attorney John Watkins was named as Reid's successor. At that time, Mayor Smith had been in municipal office since 1948. After serving on the Fayette City Council for seven years he was appointed to finish the term of the deceased mayor. He went on to serve nine terms as mayor, retiring in 1992 with more than 40 years in office. Throughout his tenure as an elected official and until the time of his death this past May at age 97, he not only was a champion for Fayette, but he was a stalwart supporter of the League.

His moving speech "We Must Move with the Tides of Change", which was delivered during the Opening Session of the 1992 League Convention, was reprinted in the *Congressional Record* as well as the League's 75th Anniversary publication. In addition, Mayor Smith was featured in the League's anniversary documentary video, which was shown during annual convention in Mobile this past May and is posted on the League's website at www.alalm.org.

Born in the small Fayette County community of Covin,



Ninety-seven-year-old former mayor Guthrie Smith of Fayette in his home museum during a visit from League staff (September 2009).



New League President Guthrie J. Smith, Mayor of Fayette. See Page 3, "Cover Story."

Official Publication of THE ALABAMA LEAGUE OF MUNICIPALITIES

September 1965 cover of the *Alabama Municipal Journal* featuring newly elected League President, Mayor Guthrie Smith of Fayette.

Smith moved to Fayette with his family in 1920. He earned a business degree from Birmingham-Southern College in 1935 and a master's degree in economics from the University of Virginia in 1937. In 1943, Smith was inducted into the U.S. Army and sent into the heart of World War II as a member of the Counter Intelligence Corps where he traveled through France and Germany in a military-issue Jeep with a Kodak camera to document the atrocities of Hitler's Nazi regime. As a member of the Army's 100th Infantry Division, Smith helped liberate the concentration camp at Dachau in Germany in 1945.

Following his discharge in 1946 he returned to the U.S., eventually settling in Fayette where his impact is still felt today. Mayor Smith was one of very few elected officials who worked with all three League executive directors – Ed Reid, John Watkins and Perry Roquemore. He remained interested in the League and active in the Fayette community until his death on May 7, just a few months shy of his 98th birthday.

Roquemore, who became League Director in 1986, remembers Smith fondly: "Guthrie Smith was the E.F. Hutton of municipal government. Whenever he spoke, everyone stopped to listen because they knew what was coming was important. Guthrie Smith was a tremendous asset to the League, to me personally, and to municipalities throughout the state." ■

2010: The Great Alabama Homecoming!

Year of Small Towns and Downtowns

July • August • September

7/2	Guntersville	Celebrate Guntersville	9/6	Section	Section Labor Day
7/3	Bay Minette	Homecoming Celebration	9/8	Huntsville	50th Anniversary Celebration of Marshall Space Flight Center
7/3	Brent	Heroes and Patriots Weekend			Arab 2010 Welcome Home Reunion
7/3	Cherokee	Independence Day Celebration	9/11	Arab	
7/3	Lincoln	100th Anniversary, City of Lincoln	9/11	Ashford	Harvest Day
7/3	Midway	Midway Homecoming	9/12	Mt. Vernon	Founder's Day
7/3	Pickensville	Pre 4th of July Fireworks and Heritage Celebration	9/17	Crossville	Crossville Harvest Festival
7/3	Red Level	2010 Fourth of July Homecoming	9/17	Decatur	Riverfest Homecoming Weekend
7/3	Scottsboro	Fourth of July Celebration on the Tennessee River	9/17-19	Leeds	Gateway to a Region
7/3	Taylor	2010 Homecoming Weekend	9/18-25	Eva	Eva Frontier Days
7/4	Magnolia Springs	Fourth of July Homecoming	9/18	Hartselle	Depot Days Festival
7/10	Geraldine	Picnic in the Park	9/18	Locust Fork	Locust Fork Founder's Day
7/10	Graysville	Mayberry Days	9/18	Red Bay	FoundersFest
7/17	Hayneville	Founders Day	9/24-25	Geneva	Geneva Homecoming
7/17	Opelika	Summer Celebration	9/24-26	Hueytown	Hueytown Homecoming
7/17	Tallassee	Homecoming Weekend	9/24-26	Jacksonville	Jacksonville Homecoming Weekend
7/23	Ensley	Function at Tuxedo Junction	9/24-26	Winfield	Mule Day Festival
7/31	Harpersville	Harpersville Homecoming	9/25	Childersburg	CoosaFest
7/31	Vina	July Fest	9/25-26	Daphne	Jubilee Festival
8/7	Fairfield	Fairfield Music Festival			
8/7	Valley	Cotton Mill Reunion			
8/13	Five Points	Back to School Homecoming First Consolidated School Celebration			
8/13	Lipscomb	Centennial Celebration			
8/14	Hobson City	111th Hobson City Founders Day Celebration			
8/14	Littleville	Littleville Fun Fest			
8/18	Birmingham	Centennial Celebration of Rickwood Field			
8/20	Athens	Athens Homecoming Celebration			
8/21	Fultondale	Fultondale Founder's Day			
8/21	Priceville	Priceville's Annual Cruise-In			
8/21	Russellville	Watermelon Festival			
8/27	Killen	Killen Founder's Day			
8/28	Wadley	A Homecoming Celebration			
9/3	Gadsden	First Friday Homecoming			
9/4	Whatley	Fort Siquefield Re-enactment & Reunion			
9/6	McIntosh	Homecoming and Labor Day Celebration 2010			

This list of events is provided by the Alabama Tourism Department. The municipalities listed are participants in the 2010 Year of Small Towns and Downtowns program. If you have questions about this program, please contact Brian Jones with Alabama Tourism at 334-242-4665.



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Congratulations

Kellyton Fire & Rescue



“We made the decision to purchase a KME pumper from NAFECO”



“When Kellyton Fire was blessed with the opportunity to purchase our first new fire apparatus, we made the decision to purchase a KME pumper from NAFECO. We have never regretted that decision. We were so satisfied that we also purchased our rescue truck and most recently, a new NFPA compliant KME tanker from NAFECO. John Wilson and Brandon Oaks are extremely knowledgeable and have been a pleasure to work with. Kellyton Fire and the Kellyton Community are proud of our relationship with KME and NAFECO.”

*Fire Chief Gerald Sewell
Kellyton Fire & Rescue*

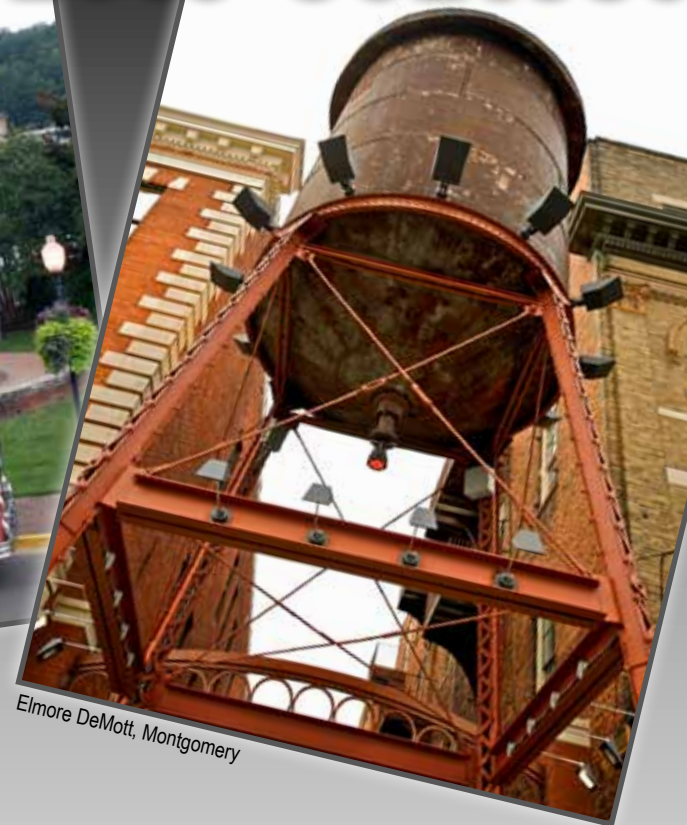


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2011 Municipal Photo Contest



Teresa Lee, Prattville



Elmore DeMott, Montgomery

www.alalm.org

Showcase your Municipality

Visit www.alalm.org for entry form.

The Alabama League of Municipalities is holding its fourth annual photo contest. The winning photo will be featured on the cover of the *2011 Annual Directory* as well as the cover of one issue of the *Alabama Municipal Journal*.

To Enter:

Photos must be of an Alabama city or town and follow a municipal theme: municipal buildings, parks, street scenes, downtowns, city festivals, etc. Photos do not have to be taken by a professional photographer; however, all photos must be taken within the last 18 months. **ALL ENTRIES MUST BE VERTICAL.** Horizontal images will not fit the format for the *Directory* or the *Journal*. **Each entry must include a photo description as well as photographer's name and contact information.**

Photo Format:

Photos must be submitted on a cd. Entries should be vertical, color images and submitted in JPEG or TIFF format in a resolution high enough for print quality purposes. The print size for the *Directory* is approximately 8.5 x 11 inches. Therefore, the submitted image should be at least 150 dpi at this size (1,200 x 1,500 pixels), although 300 dpi (1800 x 1200 pixels) is preferred. **Submissions that are not vertical or that do not have the correct print quality size will be disqualified.**

Note: Photo files will not be returned. Please do not send your only file of a photo.

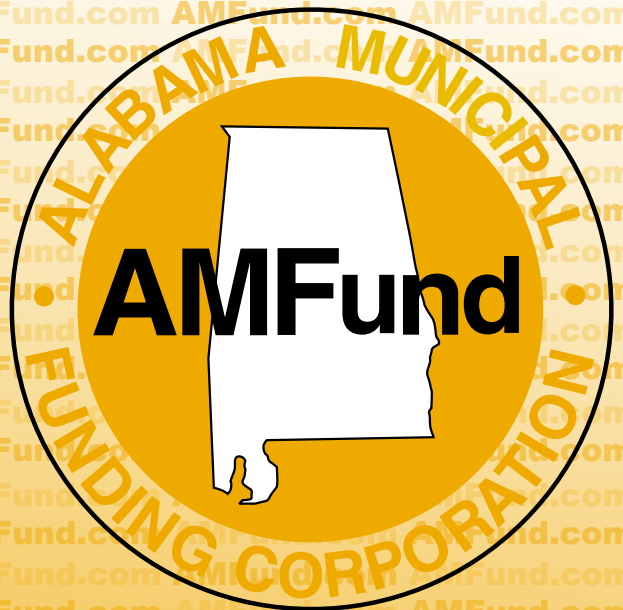
Ownership/Use Rights:

Photographers retain the copyright to their photographs. By entering the Alabama League of Municipalities (ALM) photo contest, photographers agree to have their submitted photograph(s) displayed within any ALM publication as well as the ALM website without any fee or other form of compensation, and also agree that the photo may be used, with photo credit, on the website for the National League of Cities (NLC) and within NLC's publications. Photos will be credited to the photographer named on the entry form. In the event that ownership of any photograph submitted to ALM is contested in any manner, ALM retains the discretion to disqualify that photograph and discontinue use of the photograph.

ALL ENTRIES MUST BE SUBMITTED BY NOVEMBER 5, 2010

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