

The Alabama Municipal JOURNAL

November/December 2012

Volume 70, Number 5

A little lower...



**Municipal Employees
Under Attack**

see page 5



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The Alabama Municipal JOURNAL

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On the Cover:

Municipal employees are under attack. Plaintiff lawyers, realizing they can't penetrate the state tort caps, have started suing municipal employees in their "personal" capacity. See "Municipal Employees Under Attack" on page 5.

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A Message from the Editor

Approximately 35 percent of the mayors and councilmembers who began their four-year terms on November 5th have never held public office. For those of you in that category, this issue of the *Journal* should prove especially helpful and interesting. On page 7 you will find 30 tips for newly elected officials and on page 9, League General Counsel Lori Lein has provided a User's Guide to the League's Legal Department. In addition, be sure to read the historical overview of the Alabama League of Municipalities (ALM) which begins on page 25.

The League staff welcomes you and looks forward to working with you and your colleagues over the next four years. We hope you will take an active role in the League and will sign up for our Certified Municipal Official (CMO) program, which consists of a series of continuing education sessions designed specifically for elected municipal officials who voluntarily wish to receive formal training in municipal government. Officials who complete 40 hours of training are awarded the professional designation of Certified Municipal Official. With an additional 40 credit hours, participants earn the Advanced Certified Municipal Officials designation (visit www.alalm.org for more information).

Many of you earned your first five hours towards your 40-hour Basic certification when you attended one of our four Orientation Conferences for Elected Officials held throughout the state in late October and early November. These one-day conferences are held every four years following the municipal elections, and, this year, nearly 1,000 officials and personnel were introduced to the League's role in local government; received highlights on the League's special programs and services; and were instructed on best governing practices from Alabama's top legal and administrative authorities on municipal government.

Since 1935, the League has worked to strengthen municipal government through advocacy, training and the advancement of effective local leadership. As the recognized voice of Alabama's cities and towns, ALM's more than 440 member municipalities benefit from a variety of member programs and services.



Capacity crowd at the Orientation Conference for Elected Officials in Montgomery on October 31.

Legislative Advocacy

For more than 75 years, the League has served as the primary legislative advocate for Alabama's municipalities, representing its members at the Alabama Legislature, in Congress and with numerous administrative agencies.

The League annually supports legislation that has state-wide impact on municipal government. ALM's legislative priority initiatives are approved by member municipalities at the yearly Legislative Committee meeting before the Regular Session of the Alabama Legislature. ALM staff members diligently monitor all legislative activities and actively work to defeat any legislation considered harmful to municipalities or the function of local government. The staff also prepares and distributes two weekly e-newsletters, *State House Advocate* and the *Legislative Bulletin*, throughout the Regular Session and during Special Sessions as necessary. (NOTE: To receive the League's e-newsletters, visit www.alalm.org and subscribe by clicking on the red "Sign Up For Our E-newsletters" link at the top of the page just under the picture of the League building.)

Guidance on Governing & Management

The League is headquartered in downtown Montgomery within walking distance of the State House and the staff is always at your service.

The Legal Department responds to thousands of member inquiries each year ranging from simple sample municipal ordinance requests to complex questions requiring considerable research. The League's website, www.alalm.org, provides a surplus of information on a variety of topics. The site is user-friendly, updated regularly and an invaluable resource for municipal officials and employees.

This publication, *The Alabama Municipal Journal* is published and mailed 10 times per year to each mayor,

continued on page 23

The President's Report

Mayor David Bradford • Muscle Shoals



Municipal Employees Under Attack

Our municipal employees are under attack. Plaintiff lawyers, realizing they can't penetrate the state tort caps, have started suing our employees in their "personal" capacity. Adding insult to injury, some judges in the state are actually finding for the plaintiff, thus circumventing the tort cap – *even though these judges agree that the employee is simply performing his/her job.*

What does this mean to us? It's simple. If the tort cap doesn't exist, all insurance companies in the State of Alabama will be forced to raise their rates. **Significantly.** Early actuarial numbers indicate rates will increase *in excess of 300 percent*. Yes, you read that correctly: *300+ percent*, which equates to *a lot* of money quickly and an enormous expense over time.

In the mid 1980s, a similar crisis occurred nationwide. Insurance rates were so exorbitant that cities had to shut down their parks, tear out playground equipment and discontinue bus routes. One city even pulled its police department off the street. It was so bad, in fact, that *Time Magazine* devoted 14 pages to the problem (March 24, 1986).

What's the answer? Every Judge and Legislator in the State of Alabama needs to be reminded that municipalities exist for a reason: to provide public services that no other entity can or is willing to provide, particularly when the profit margin is nonexistent. Garbage service, police and fire protection, public transportation, parks and playgrounds ... these are all provided by municipalities via our taxpayer dollars to improve the safety and quality of life for our citizens – you, me, our children and grandchildren. These services, many we consider to be absolute necessities, are funded on shoestring budgets – budgets that can't tolerate an additional *300+ percent increase* in insurance premiums.

Because our cities and towns provide these unique, special services, laws were created to protect Alabama's

municipalities – *and their employees* – from excessive exposure to lawsuits. After all, if a city has to pay a multimillion-dollar verdict, the taxpayers are ultimately going to be asked to cover that expense through much higher insurance premiums.

As they exist today, Alabama municipal statutes are a set of laws that were created to limit municipal liability. These laws have been on the books and effectively enforced for years, and – until very recently – the Alabama court system has interpreted them as they were intended.

Remaining silent on this subject is not an option. Failure to act can and will be catastrophic for municipal budgets throughout the state. Considering the current economic downturn, our cities and towns don't need to face another financial crisis. Certainly, nobody wants to go back to the insurance problems of the mid-1980s. However, without action from our local leaders, we'll be stepping backwards 25 years – only this time it could be worse.

It's imperative that we bring this critical issue to the forefront by discussing it with our judges and by contacting our legislators and asking their position on municipal statutes. We must also remind them that the reason municipalities have built-in protections is to, ultimately, protect the taxpayer – and that there should not be another avenue for plaintiffs attorneys to have access to taxpayer money. Even more importantly, we must be vigilant in pointing out that in order for cities and towns to recruit and keep qualified employees, municipalities *must* have ways to protect our employees against backdoor assaults that are now coming in the form of individual lawsuits.

Contact your legislators.

Talk to your judges.

Protect your employees, your municipality and our taxpayer dollars. ■



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- Court Clerk
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- Judge
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- Emma G., Defendant
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- Danny B., Defendant
Marshall County, Alabama

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- Craig A., Defendant
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Municipal Overview

Ken Smith • Executive Director



30 Tips for Newly Elected Mayors and Councilmembers

Reprinted with permission from the June 2010 issue of Texas Town & City, the official publication of the Texas Municipal League. Edited to include the Alabama League of Municipalities.

1. Allow yourself enough time to be effective. Just attending council meetings isn't enough – you must study and discuss the problems and keep yourself informed on what's going on. To do even a fair job takes a lot of time.
2. Pace yourself. Limit the number of meetings you have. Set some priorities, recognize the need to spend time with your family, and don't burn yourself out. Recognize that life – and the city – is dependent on a lot of things we have little control over.
3. Don't make promises you can't deliver! Most major decisions and actions require approval of the governing body, and this takes a majority vote.
4. Treat everyone the same. Be consistent! And always deal with people as if you will have to deal with them again. Even if you don't, someone else will.
5. Don't spend most of your time checking on what your city staff has already done. Your primary job is to provide policies and direction for the city. For example, instead of spending time reviewing invoices, make sure you have a good purchasing practice through which invoices are generated in the first place.
6. Take your budget preparation job seriously, for it determines what your city does or doesn't do for the coming year. It's the biggest policy development tool available to govern the city. And when budget cutbacks are essential, don't cut back on those activities that are vital to the critical operation of the city.
7. Be alert for the little things. They are the things that always seem to grow and come back to get you.
8. Establish policy statements. Written policy statements let the public and the city staff know where they stand. They help the governing body govern, and writing them provides a process to develop consensus. "That's the way it's always been done" is not good enough to either stay out of trouble or to get things done.
9. Maintain the infrastructure! Make certain you are adequately keeping up with what you now have before taking on any new projects. Deferring maintenance costs to the future simply shifts your troubles to those who follow you in the future.
10. Don't give quick answers when you're not sure of the real answer. It may be embarrassing to appear ignorant, but it can be more embarrassing to tell a person something that is wrong.
11. Don't be stampeded into action. Don't be misled by the strong demands of special interest groups who want it done now, their way. Your job is to find the long-term public interest of the city, and you may be hearing from the wrong people.
12. Don't spring surprises on your fellow councilmembers or your city staff, especially at formal meetings. If a matter is worth bringing up for discussion, it should be put on the agenda. Surprises may get you some publicity at the embarrassment of others, but they tend to erode the "team" approach to governance.
13. Don't bypass the system! If you have a city manager or other chief administrative official, stick to policy and avoid personal involvement in day-to-day operations.
14. Don't let others bypass your system. Insist that people such as bond dealers or equipment suppliers first work with your city staff. If direct contact with councilmembers is advisable, this should be with the

continued next page

council as a whole and not on a one-on-one basis.

15. Formalize your personnel rules and regulations. Make sure they're clear. For example, if you don't pay for unused sick leave when an employee is terminated, put it in writing. Once the rules are established, councilmembers should avoid the temptation to get involved in personnel matters.

16. Familiarize yourself with the Open Meetings Act and the Public Information Act, and be sure to complete the state-mandated training in both. Respect the letter and intent of both acts, and don't underestimate their importance and seriousness.

17. Keep your constituents informed through such means as a weekly editorial in the local newspaper, radio interviews or news releases. Be friendly and deal effectively with the news media. Lack of proper communications is one of the biggest problems of cities.

18. Keep your employees informed, also – particularly those on the front line who make decisions or are in frequent contact with the people.

19. Appoint citizen advisory committees as needed, but be prepared to follow their advice. Appointing your opposition to a useful committee can let them work for you, instead of against you.

20. Hire the best people you can and give them as much responsibility as they can and will handle. There is always the possibility that they will get you into trouble at first, but if you stand behind them, eventually they can keep you out of trouble.

21. Charge your employees with being responsible for new ideas and better ways of doing things. Listen to what they have to say.

22. Have your city attorney attend your council meetings, but don't expect the attorney to know all the answers right on the spot. Give the attorney the chance to research the matter.

23. Don't simply ask your city attorney whether or not you can do something. Sometimes, the most appropriate question is, "How can we legally accomplish this objective?"

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The Legal Viewpoint

By Lori Lein
General Counsel



The League's Legal Department: A User's Guide

On behalf of the League's Legal Department I'd like to congratulate you on taking office. Or better yet, congratulations on surviving the election process! Having gone through the election cycle, many of you several times now, you may already be familiar with the legal department at the League of Municipalities. One of the League's most important functions is responding to legal inquiries from its member municipalities. In addition to responding to direct legal inquiries, attorneys for the League also participate in numerous training sessions for elected officials and municipal employees.

I've been with the League since 2001 and have had the privilege of serving as your General Counsel since 2011. One of the things I love most about my role as General Counsel is guiding our member municipalities, elected officials and employees as they deal with the multitude of legal issues that present themselves on any given day at city hall. I am fortunate to have a wonderful team to help me in serving our members. In addition to me, the legal department consists of Tracy Roberts, Deputy General Counsel, Rob Johnston, Assistant General Counsel and Sharon Carr, Legal Services Administrator. To learn more about each of us please visit the staff section of our webpage at www.alalm.org.

While the legal department has many roles, with nearly 450 members – representing literally thousands of officials, employees, board members and others who may make requests – there are limits to what the department can do. This article will help readers make the most effective use of the legal department. It is intended simply as a guide, and should be read that way. Because our goal is to serve our member municipalities, League attorneys attempt to remain flexible in the services they provide.

What Services Are Available?

The legal department's primary function is to represent the interests of member municipalities throughout Alabama. Therefore, we attempt to have an attorney available by telephone every day during regular business hours. However,

the Legal department is not a substitute for local legal representation. The volume of requests we receive makes individual representation impossible. Therefore, we have to restrict our activities to those which we feel best serve all our member cities and towns.

In addition to providing direct legal assistance, the Legal department provides other services, such as: preparation of *amicus curiae* (friend of the court) briefs in appellate cases; preparation of monthly summaries of court decisions and Attorney General's Opinions for the League magazine and the League's Law on Disc computer program; monthly legal articles in the *Alabama Municipal Journal*; drafting manuals explaining the duties and responsibilities of municipal officials and employees; providing sample and model ordinances; conducting educational and training seminars; managing the Alabama Association of Municipal Attorneys (AAMA) and the Alabama Municipal Judges Association (AMJA); and assisting with the League's lobbying efforts.

Who Can Inquire?

This question raises complex ethical conflicts of interest issues concerning the responsibilities of the League's attorneys. Explaining it simply, the League represents its member municipalities and not individuals, even if they are municipal officials.

The League answers inquiries from mayors, council members, board members, clerks, attorneys and other representatives of member municipalities. League attorneys do not advise officials about their private legal matters. Additionally, conflict of interest rules generally prohibit us from advising members of the public regarding municipal legal matters, although we do share articles or other general information we have on hand with private citizens. Please do not encourage citizens who are not municipal officials or employees to contact the League for legal advice as we may have to refuse assistance.

Further, the League's attorneys cannot take sides in

continued next page

disputes involving one municipality against another or in conflicts between municipal officials. League attorneys exercise discretion in these situations and will generally refer you to your local attorney where a potential conflict of interest appears likely to arise. If it appears that we are being asked to resolve a dispute between two or more officials, we may ask that the question be reduced to writing with an agreed to statement of facts between the concerned parties so that we may respond to all sides jointly. We will also make every effort to encourage cooperation on questions involving disputes between municipal officials.

How to Use the Legal Department

Whether you inquire by telephone, e-mail, letter, or fax, the following guidelines will help us give you the most prompt, accurate response:

- Call or write as soon as possible after identifying your problem – immediate deadlines make responses difficult since often a question requires research.
- Give us as many facts as possible. On questions involving boards, it is best to know under what section of the Alabama Code the board was created.
- If you are following up on an issue you have been discussing with one of our attorneys, please advise the receptionist so that your call may be directed to that attorney.

- If you have inquired with a particular attorney but have not received a response please indicate that information in any follow-up inquiry so as to avoid duplicate effort on the part of attorneys in the department. Please be patient as some responses take time and may require discussion among all the attorneys in the legal department in order for us to develop a consensus answer and avoid conflicting and/or confusing responses.
- If you are under a deadline, let us know when it is and we will try our best to meet it.
- Municipal officials and employees are welcome to discuss matters in person at League headquarters in Montgomery. Please call in advance to make an appointment. If your questions involve a review of documents, we may ask that they be forwarded prior to the meeting so that we may review them.

Telephone Inquiries

As noted above, the legal department's primary goal is to have an attorney available by telephone every day during business hours. Of course, there are exceptions, such as during the League's convention or when we are trying to meet a publication deadline, or on hectic meeting days of the Alabama Legislature. We try to return calls either the same or the following day and we try to give an answer over the telephone. However, not every question has a clear legal

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answer. In these cases, we will try to give you our best legal opinion, based on years of municipal legal experience and knowledge of state and federal laws.

Further, some questions require research before a knowledgeable answer can be given. Therefore, it is best not to put off calling until just before a deadline. Of course, not every question can be anticipated, and when a quick legal response is needed, we will make every effort to provide a speedy answer.

Written Inquiries

Because of the volume of calls, it is difficult to confirm telephone advice in writing. However, we are happy to answer written inquiries in writing and try to do so in a timely fashion. All requests for written responses should be submitted in writing, laying out the question and any relevant facts. Written inquiries are generally answered in the order received and the response time depends upon time available to draft a response. Again, we will try to accommodate a deadline, but this is not always possible. As always, it is generally best to work with your local attorney if a quick response is needed.

We generally treat faxed messages the same as written requests. A carefully written legal opinion takes just as long to prepare in either case. If you simply want us to call you back with an answer, please indicate that in your request.

Email

Because of the nature of email requests, they may be treated as either a written request or a telephone inquiry. League attorneys attempt to respond to electronic questions as quickly as possible, but please bear in mind that when our attorneys are out of the office, they may not have access to a computer, which will delay any reply. If you have an email question that must be answered quickly, but have not received a response, it is generally advisable to follow up with a telephone call to be sure that the message was received, and that the attorney you are attempting to reach is in the office. Please inquire as to the status of the attorney you are requesting information from before simply sending your request to another attorney in the office. This will help us avoid duplicate effort on inquiries.

***Amicus Curiae* Briefs**

While the League does not file lawsuits on behalf of its members, we do sometimes file *amicus curiae* briefs in cases on appeal to either the Courts of Appeal or to the Alabama Supreme Court if the issues involved in the case have statewide significance. If you are involved in a case on appeal and you think the Court should have input from the League, please send a written request for an *amicus* brief, with supporting documentation, to the legal department.

Sample Ordinances

We maintain a large supply of sample ordinances on many topics. These samples come from several sources. Our most important source for ordinances is our members. If you adopt a new ordinance, it would benefit all League members if you could forward a copy to the League's legal department for our files.

Please remember that these ordinances have not been drafted by the legal department. Before using one as a guide, it is important to adapt these ordinances to your local needs and to obtain advice from your local attorney regarding compliance with statutes and case law.

We are often called upon to review ordinances or to interpret a word or phrase in an ordinance. While we can offer a cursory reading of an ordinance, we cannot be familiar with the circumstances which require the adoption of an ordinance, nor can we investigate facts which might influence the meaning of specific words or the inclusion of specific sections. Our interpretation is not intended to be definitive and should be used merely as a second opinion for your local municipal attorney. He or she is in the best position to provide you with a detailed analysis of your ordinance and provide you with a final answer.

Coordination with Local Attorneys

Each municipality should have its own attorney. The League's legal department is a resource to assist your municipal needs; it is not a replacement for your municipal attorney. Nothing we do or say is meant to interfere with the critical relationship between your municipality and your attorney. When the law is unclear or the inquiry presents substantial risk of litigation, we'll often suggest that you seek advice from your attorney, because he or she will have to represent you should you have to go to court. When your attorney provides advice, he or she does so in the belief that the recommended action puts the municipality in the most defensible legal position. Your municipal attorney is also in the best position to know local factors which influence the need to proceed in a particular manner. Therefore, we generally encourage municipal officials and employees to follow their attorney's advice, especially on questions where the law is open to interpretation or factual matters require further development. Of course, we are always happy to discuss an issue with local attorneys or to verify their interpretation of a statute or case.

You should not seek our advice in the hopes that we will second-guess your attorney. We are here to assist, and not compete with, your attorney. If you have already discussed the matter with your attorney, please advise us of this when you call or write. Legal opinions are fact-specific and people who are not lawyers are often unaware of how a fact which seems unimportant to them might affect the legal response.

Thus, if our opinion differs from that of local counsel, we will generally advise you to follow the advice of your local attorney.

To further help municipal attorneys represent their clients, the League created the Association of Municipal Attorneys (AAMA) in 1992. AAMA provides a number of services to municipal attorneys. It conducts two training seminars annually for municipal attorneys, publishes updates of ongoing litigation and also maintains an internet forum to enable attorneys to communicate with each other on legal issues. In addition to AAMA, the League created the Alabama Municipal Judges Association (AMJA) in 2007 to provide similar services and training opportunities for municipal judges. We strongly encourage all municipal attorneys, prosecutors and judges to join AAMA or AMJA and hope that all municipal officials will request that their local attorneys and judges join and participate in these important organizations. For more information, contact the League's legal department, or visit the League's web site, where links to information about AAMA and AMJA are posted.

Local Political Disputes

As attorneys, we answer your questions regarding municipal law. We often receive calls for "legal assistance"

where the caller is seeking resolution to a political disagreement. Every municipality has political disagreements; most cannot be resolved by looking at a statute. In many cases, statutes are subject to multiple interpretations, especially where the responsibilities and duties of municipal officials are concerned. These calls are awkward, and we cannot give you an answer about who is right and who is wrong. These disputes are best resolved in the political arena through compromise and cooperation rather than through legal guidance.

Coordination with Other Agencies

The League often serves as a contact point on municipal issues for other agencies, including state departments like the Attorney General's office, as well as other entities, such as regional planning commissions. League attorneys often provide advice to representatives of these offices and frequently serve as speakers at educational conferences and seminars run by these agencies. Because of our relationships with these agencies, we may refer you to one of them if we feel they can assist you with your questions.

Relationship with the Municipal Worker's Comp Fund (MWCF) and the Alabama Municipal Insurance Corporation (AMIC)

"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 League administers two risk-pooling type programs for municipalities – Municipal Workers Compensation Fund, Inc. (MWCF), and the Alabama Municipal Insurance Corporation (AMIC), which provides liability coverage for municipalities. It is important to understand that the League’s legal department does not represent these entities. We do not provide advice regarding coverage or on matters in which one of these entities has an interest. Further, following our legal advice does not guarantee coverage. Questions regarding specific coverage issues or other matters related to these entities should be directed to them, and not to the League’s legal department.

Limitations

Excluded from our advisory services are matters such as:

- drafting individualized ordinances and contracts
- comprehensive review of ordinances, contracts, applications for grants or legal responses
- on-site training for individual municipalities (although League attorneys will meet with representatives of a municipality at League headquarters if an appointment is made)

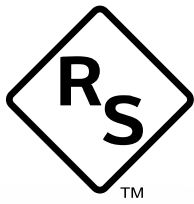
- litigation
- direct representation or negotiations with third parties on an individual municipality’s behalf

Further, it is important to remember the following:

- we cannot take sides with one municipality or one official against another
- we generally cannot respond to questions regarding the League’s worker’s compensation or liability programs; inquiries on these programs should be directed to the appropriate representative

Have a Question? Don’t Hesitate to Call

This user’s guide is not meant to discourage you from contacting the League’s legal department. On the contrary, Tracy, Rob and I hope that understanding the scope of our services will help you make better use of them. When in doubt about whether we can help you, please don’t hesitate to call. Of course, if ethics prohibit us from responding to your question we may have to refuse to answer it, or may refer you to someone who does not have a conflict. We hope you will take advantage of League services and programs. If there is anything we can do to help, please let us know. ■



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Municipal Overview

continued from page 8

24. If yours is a typical city, don't expect your city attorney to be an expert on every issue; city government is too complex. On occasion, you may need outside counsel, and it will be a good investment of public funds.

25. Elected officials should accept their leadership responsibilities, such as selling new programs to the public.

26. Make sure you have a good financial accounting and reporting system. Some cities have gotten into financial troubles simply because they spent more money than they had available and nobody knew it.

27. Don't act as if the city operates in a vacuum. We must work within the intergovernmental system to be effective. Keep in contact with your federal, state, county and school officials. Use the Alabama Municipal League.

28. Don't let a consultant take your place. You are the one who will be around to hear criticisms if things don't turn out right. The consultant should realize this.

Even though we expect their best judgment, they should expect us to want to look over their shoulders.

29. Don't be hesitant to budget money for your officers and employees to attend ALM workshops and conferences. These provide excellent learning opportunities and personal contacts that can be very valuable to your city.

30. Finally, define what "trouble" means to you. We must realize that we work in a fish bowl environment and that most of the things we do affect people. Many times, they will be affected in a manner they don't like. If "trouble" means having someone mad at you, you're in the wrong business! We should handle each item in a straightforward way that we know or believe to be correct. If things don't turn out the way they should – after all, even public officers and employees can make mistakes – no one can accuse you of improper motives, and you will know you did what you thought was proper. ■



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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 could not convert a single theft of various items of property into separate offenses by alleging the theft of different items in separate charges. All the property was taken during the same transaction and constituted one offense. When the government seeks to prove that a single act or occurrence results in multiple violations of the same statute, the rule of lenity requires only one punishment unless legislative intent to impose multiple punishments is shown. *Strickland v. State*, 92 So.3d 179 (Ala.Crim.App.2011)

Courts: Overruling *Hollaway v. State*, 979 So.2d 839, the Alabama Court of Criminal Appeals held that a defendant's

possession of methamphetamine and morphine were separate crimes under the statute that prohibited possession of "a" controlled substance, although the police found her in possession of them during one search. Separate prosecutions for possession of a controlled substance do not offend double jeopardy principles, as long as the amount of the specific controlled substance supporting each conviction constitutes a "separate item" that is sufficiently differentiated by time, location, or intended purpose. The legislative intent was to mirror the statutory trafficking requirement that each type of controlled substance was to be treated separately. Different controlled substances cannot be aggregated for purposes of determining the amount of a controlled substance to support a trafficking charge and the controlled substance must be the same, even if found in more than one location. *Wells v. State*, 93 So.3d 155 (Ala.Crim.App.2011)

Courts: Where a trial court knows or reasonably should know of an attorney's possible conflict of interest in the representation of a person charged with a crime, the trial court has an affirmative duty to inquire whether a conflict of interest actually exists. *Coleman v. State*, 93 So.3d 145 (Ala.Crim.App.2011)

Insurance: Alabama Insurance Guaranty Association's (AIGA) action against a city's water works and sanitary sewer board seeking reimbursement for money it had paid on a workers' compensation claim following the insolvency of the board's workers' compensation insurer was in the nature of a common-law action of debt for the recovery of money provided by law, and, thus, the six-year statute of limitations applied to the action. *Alabama Ins. Guar. Ass'n v. Water Works and Sanitary Sewer Bd. of the City of Montgomery*, 93 So.3d 88 (Ala.Civ.App.2011); Affirmed, 93 So.3d 94 (Ala.2012)

Sex Offenders: Residency restrictions in the Community Notification Act (CNA) were narrowly tailored to meet a compelling State interest, namely protecting the public, and especially children, from recidivist sex offenders, and, thus, the residency restrictions in the CNA did not violate the substantive component of the due process clause. *Crawford v. State*, 92 So.3d 168 (Ala.Crim.App.2011)

Searches and Seizures: A warrantless search of a defendant's cellular telephone which was not password protected, following his arrest, does not violate Fourth Amendment principles where the cellular telephone was immediately associated with the defendant's person. *Gracie v. State*, 92 So.3d 806 (Ala.Crim.App.2011)

UNITED STATES COURT DECISIONS AFFECTING ALABAMA

Searches and Seizures: A toll booth worker who delays the departure of a motorist to record observable vehicle information after the motorist pays a toll with a large denomination bill does not violate the motorists' Fourth Amendment rights to be free of unreasonable seizures. *Chandler v. Secretary of Florida Dept.*



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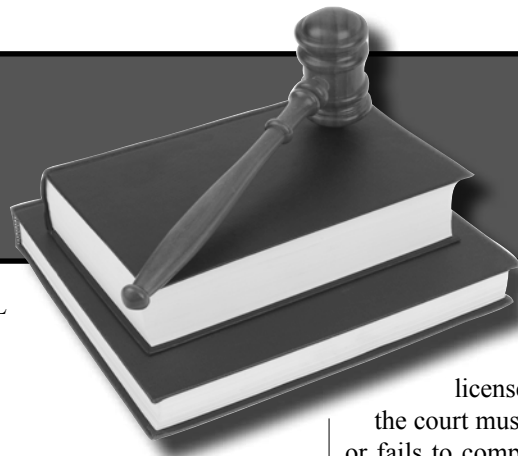
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of Transp., --- F.3d ----, 2012 WL 4094518 (11th Cir. 2012)

DECISIONS FROM OTHER JURISDICTIONS

First Amendment: When the government targets a particular viewpoint taken by speakers on a general subject, the First Amendment is violated. Government may not regulate speech when specific ideology, opinion or perspective of the speaker is the rationale for the restriction. Even in a nonpublic forum, restrictions must be viewpoint neutral. Abridgement of First Amendment speech rights must be justified by a compelling governmental interest, and the government's interest in avoiding an Establishment Clause violation may be such an interest. *Child Evangelism Fellowship of Minnesota v. Minneapolis Special School District No. 1*, --- F.3d ----, 2012 WL 3711082 (8th Cir.2012)

Ordinances: A city ordinance prohibiting "insolent" behavior at a city council meeting is facially overbroad because it is not limited to activity that actually causes a disturbance. *Acosta v. City of Costa Mesa*, --- F.3d ----, 2012 WL 3834658 (9th Cir.2012)

Searches and Seizures: Homeless individuals who temporarily left their personal property on sidewalks were entitled to Fourth Amendment protection and did not need to demonstrate that they had a "reasonable expectation of privacy" in their property. *Lavan v. City of Los Angeles*, --- F.3d ----, 2012 WL 3834659 (9th Cir.2012)

Voting Rights Act: A local government bears the burden of proving lack of discriminatory intent in seeking preclearance for redistricting plans under the Voting Rights Act of 1965 (VRA). Local governments can carry their burden of proving lack of discriminatory intent in seeking preclearance for redistricting plans by showing that the *Arlington Heights* factors, specifically, discriminatory impact, historical background, sequence of events leading up to the decision, procedural or substantive deviations from the normal decision-making process, and contemporaneous viewpoints expressed by the decision makers, do not, taken together, show a discriminatory purpose. *Texas v. U.S.* --- F.Supp.2d ----, 2012 WL 3671924 (D.D.C.2012)

ATTORNEY GENERAL'S OPINIONS

Bail Bonds: Appeals from a municipal court are taken in the circuit court of the county in which the crime geographically occurred. Professional surety companies and bail companies writing appearance bonds for cases in a municipal court with jurisdiction in multiple counties and on appeal to the circuit court of a particular county must secure approval from the presiding circuit judge of that county. AGO 2012-085

DUI: The fee provided for by section 32-5A-191(s) of the Code of Alabama applies to a DUI offender under court order to install an ignition interlock device whose license is suspended.

The fee does not apply to an offender whose license is revoked. The offender shall pay \$75 per month during the three-month period that the license is suspended. Under section 32-5A-191.4(g)(6),

the court must order an offender who does not own a vehicle, or fails to comply with an install order, to pay the lowest cost of installation charged by ignition interlock device companies approved by the Alabama Department of Forensic Sciences, payable in \$75 monthly installments until paid in full. AGO 2012-087

Employees: The Jefferson County 911 Emergency Communications District, created pursuant to the provisions of section 11-98-4(g) of the Code of Alabama, and its employees are not within the jurisdiction of the Jefferson County Personnel Board. AGO 2012-084

Gasoline Tax: The purposes for which a county is authorized to use the proceeds of the \$.07 per-gallon gasoline excise tax levied by section 40-17-325(a)(1) of the Alabama Terminal Excise Tax Act are not limited to the purposes described in section 40-17-362(b) of the Code of Alabama. AGO 2012-086 ■

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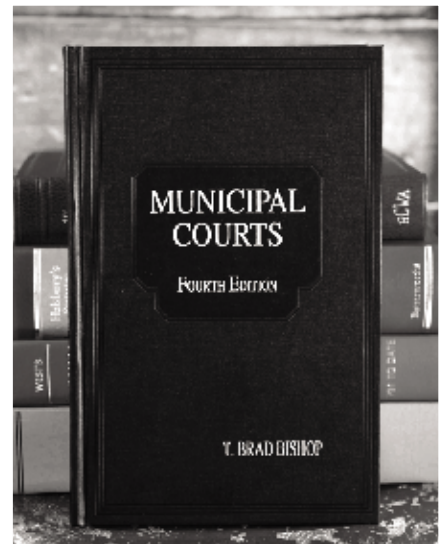
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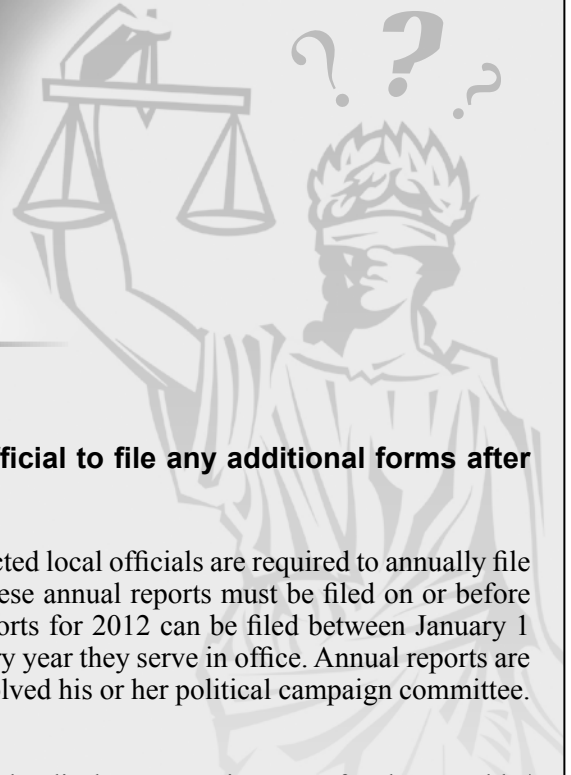
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F.A.Q.

Your Frequently Asked (Legal) Questions Answered
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Elections - FCPA

Does the Fair Campaign Practices Act require a public official to file any additional forms after the election?

Yes. Pursuant to the Fair Campaign Practices Act (FCPA), all elected local officials are required to annually file reports of contributions and expenditures made during that year. These annual reports must be filed on or before January 31 of the succeeding year. Practically speaking, annual reports for 2012 can be filed between January 1 and January 31, 2013. Local officials must file annual reports for every year they serve in office. Annual reports are required for local officials regardless of whether the official has dissolved his or her political campaign committee. See Section 17-5-8(b), Code of Alabama 1975.

The disclosure requirements for annual reports are the same as the disclosure requirements for the monthly/weekly pre-election reports. See Section 17-5-8(c), Code of Alabama 1975. Like the pre-election reports filed by candidates, annual reports for local officials are filed with the judge of probate in the county in which the office is sought. Section 17-5-9(a), Code of Alabama 1975. Annual report forms, along with all other FCPA forms, are accessible on the Secretary of State's website at www.sos.state.al.us. ■

Municipal Revenue Service

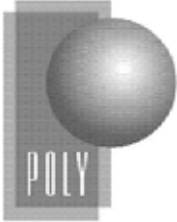


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AMFund: It's that simple.

The Alabama Municipal Funding Corporation (AMFund), the League's most recent program developed specifically to address municipal needs, is completing its sixth successful year providing low-interest, fixed-rate financing ideal for infrastructure and capital improvement projects, equipment purchases and refinancing existing loans.

Since its inception in January 2006, AMFund has commissioned 48 loans totaling nearly \$120 million with nine commissioned loans during FY2012 ranging from \$275,000 for an equipment purchase to \$1.5 million for refinancing a municipal complex. AMFund is currently preparing for several additional closings before the end of the year, and – with no borrower defaults and a redesigned website launching in early 2013 – anticipates more program growth in the coming months.

AMFund's loan application is a simple, two-page, straight-forward document that can be completed online at www.amfund.com. Once audits are submitted, the approval process moves quickly with no obligation to the borrower. AMFund's tagline adequately sums up the entire process in three words: "It's that simple."

AMFund is managed by a board of directors composed of five municipal elected officials. Mayor

Wally Burns of Southside serves as Chair and Mayor George Evans of Selma serves as Vice Chair. Also serving are Mayors Howard Rubenstein of Saraland, Dennis Stripling of Brent and Jon Graham of Calera. Greg Cochran of the League staff serves as AMFund's president and has been strategically involved with the program since its inception. Louie Cardinal of ThorntonFarish is AMFund's financial advisor.

"This program was absolutely designed to meet the needs of municipalities," said Greg Cochran, AMFund President. "We pride ourselves on the most transparent, simplistic process for achieving funding for municipal equipment purchases, refinancing existing debts and capital improvement projects, and it's evident by the number of municipalities using AMFund multiple times that we've built a program to benefit our members."

League members considering equipment purchases, a capital improvement project or refinancing existing debt are encouraged to visit www.amfund.com and submit the two-page application. ■

Questions? Contact Greg Cochran at 334-386-8130 or via email at gregc@alalm.org.

www.amfund.com



It's that simple.

AMFund's Board of Directors pictured left to right: Mayor Wally Burns of Southside, Chair; Mayor Dennis Stripling of Brent; Mayor Howard Rubenstein of Saraland, Mayor Jon Graham of Calera; and Mayor George Evans of Selma, Vice Chair.





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councilmember, municipal clerk, municipal attorney and municipal judge. Previous issues of the *Journal* are also posted online at www.alalm.org. *This Week*, ALM's weekly e-newsletter, is sent every Tuesday morning to subscribers and provides important meeting notices, upcoming training and conference information as well as other information pertinent to municipal officials and employees. (You will receive *This Week*, as well as the League's two legislative e-newsletters, when you sign up via the home page of the website as was outlined earlier.)

In addition, the League publishes a variety of useful reports, handbooks and surveys made available in electronic format to League members. This month you should have received a complimentary CD with a digital copy of the *Handbook for Mayors and Councilmembers* and the *Selected Readings for the Municipal Official*. Both publications are in a searchable PDF format and can be downloaded to your desktop, laptop or your tablet for immediate access. In addition, every chapter is hyperlinked from the Table of Contents, so all you have to do is click on the chapter title to go immediately to that page. To return to

the Table of Contents, simply click on the hyperlink at the bottom of any page in the publication. If you haven't yet received your CD, check with your municipal clerk.

Each spring, the League hosts its annual Convention and Expo, providing timely general and concurrent sessions, access to municipal vendors and state agencies as well as outstanding networking opportunities for municipal officials and employees. The 2013 Convention will be held in Montgomery May 18-21 so be sure to mark your calendars and plan to attend. Online registration opens in February.

Welcome to municipal government! I encourage you to visit our website often, subscribe to our e-newsletters immediately and sign up for the CMO program if you've not done so already. Remember: the Alabama League of Municipalities is *your* organization. Our goal is to provide you with the resources and tools necessary to best serve your community. Please don't hesitate to contact us. We look forward to working with you.

Carrie

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Discounts Available for 2013 Workers Compensation Premiums!

The Municipal Workers Compensation Fund (MWCF) strives to keep the premiums for our members as low as possible. In 2012, 55% of MWCF members received a full 10% off their premium by appointing a Safety Coordinator; signing a **Statement of Commitment, Post Accident Drug Testing Agreement**; and having an approved Medical Protocol in place. These programs not only helped reduce claims but also put thousands of dollars back into the budgets of those municipalities and municipal entities to be used elsewhere.

2013 Statement of Commitment

The *Statement of Commitment* is a two-page document comprised of safety standards that each member endeavors to follow. It is updated annually and mailed to every MWCF member during November. **If it is signed and returned by December 1, 2012, a 3% discount will be reflected on the 2013-2014 billing. This two-page document must be renewed each year.**

Post Accident Drug and Alcohol Testing Program

The MWCF provides an additional 3% discount for those members that commit to a *Post Accident Drug and Alcohol Testing* program. In order to qualify a member must sign a

“Participating Commitment” (which will be enclosed with the above mentioned document) and have such program certified by their attorney that the member’s drug and alcohol policy is Fourth Amendment compliant. Unlike the *Statement of Commitment*, this document does not have to be renewed each year.

Medical Protocol

Another 3% discount is available to those members who establish and implement a *Medical Protocol*. This program is a great benefit to both the member and the claims management team. A sample tmembers that do not yet have one on file. For further information regarding this discount, call Millennium Risk Managers at **1-888-736-0210**.

MWCF members who participate in all three programs will receive a bonus 1% discount – earning those members a full 10% discount on their annual premium for 2013! **All members are encouraged to watch for the *Statement of Commitment* information packet coming to you in November and return it promptly to take advantage of these benefits.** It will also be available for download from our website at www.almwcf.org. ■



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The Alabama League of Municipalities

77 Years Strong and Still Growing

By: Lee Anna Maynard, PhD

Alabama's municipal leaders had made fitful attempts to formally commiserate and strategize starting as early as 1914 when several individuals, including Commissioner James Wheatley of Birmingham and Dean George Jacob Davis, Jr. of the faculty of the University of Alabama, met in Tuscaloosa and discussed such subjects as constitutional limitations on debt and taxation and the city manager plan of government.

In 1926, the Alabama Association of Mayors and City Commissioners was formed when nearly 100 municipal officials met in Fairfield and elected Mayor Sidney J. Reaves of Anniston as its first president. Gestures toward organization basically amounted to collecting dues of \$5.00 and meeting annually at a hotel to "chew the fat and discuss administrative problems," as Louis P. Mullins, a charter member, remembered. Since membership was rather modest and the war chest was nonexistent, no efforts were made to lobby the state legislature.

Despite urging prospective members to "be present without fail" at meetings in order to, as the organization's charter hopefully outlined, "develop a cooperative approach to all Municipal problems of Statewide import" and "secure the enactment of legislation that will enable all the Towns and Cities of the State to perform their functions more efficiently," early attempts to organize sputtered out before

any significant headway was made. By the mid-1930s, however, a small cadre of participating mayors was driven to desperation by their sense of being "kicked around the Legislature by the State and county government leaders" and resolved to create an organization that would become a true force to be reckoned with.

Ed Reid Era

In 1935, upon the recommendation of Governor Bibb Graves, the newly formed Alabama League of Municipalities retained the services of Ed Reid, a charismatic, energetic young man with a background in journalism and government, as its first salaried director. Reid, only 25 years old, was born in Evergreen, had grown up in Georgiana, attended the University of Alabama, edited a newspaper in Flomaton, and embarked on a political career in the state capitol of Montgomery, serving as private secretary to the Speaker of the House. Louis Mullins, former mayor of Elba, recalled Governor Graves' labeling Reid a "ball of fire" and a "go-getter" when he recommended Reid to the 24 members of the fledgling organization.

Defined by his unbridled energy, dynamic personality and political savvy, Reid made lasting impressions on all who met him, quickly revising the opinions of those who might have dismissed him based on his relative youth and diminutive stature. In a region full of larger-than-life political figures, Reid still managed to cut a distinctive figure through his confidence, competence and ambition, quickly endearing himself to the municipal officials he represented. He aggressively and single-mindedly pursued the interests of the League, garnering respect at both the state and national levels.

The League's meager bank account –
continued next page



***Pictured left:** In 1946, the League signed a lease on a small, seven-room, shot-gun style building at 24 S. Hull Street in downtown Montgomery. The offices would remain at that location for the next 24 years, until the League purchased land and built a permanent headquarters at 535 Adams Avenue, within walking distance of the Capitol and State House.*

not even breaking four figures – motivated its new director to seek outside funding, and Reid was awarded a grant from the Rockefeller Foundation that covered his salary and provided a modest travel budget for a few years, enough time for him to recruit significantly more members for the League and funnel their membership fees into creating the infrastructure those municipal members would soon find indispensable. Within four years, Reid cultivated a nearly 350 percent increase in the League’s roster of member municipalities, from the original 24 to 107.

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, the former newspaper editor. His gift for communication and promotion aided him as he traveled throughout the state meeting and virtually requisitioning local political leaders into League membership and as he began regularly publishing the organization’s goals, findings, and accomplishments in the *Alabama Municipal News*. In the inaugural issue, distributed October 1937, Reid’s publication 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. His goal was to provide accurate information, informed opinions and pragmatic advice for running towns and cities – the principal that still guides the League’s official publication, *The Alabama Municipal Journal*.

Through the late 1940s and first part of the 1950s, under the leadership of Ed Reid, the Alabama League of Municipalities focused on helping their member towns and cities create more stable, solvent, and seamless operations while influencing key legislation that made Alabama’s highway department financially responsible for maintaining state and federal roadways that passed through municipalities; increased the scope of decisions local governments could make without consulting state lawmakers; enhanced municipalities’ abilities to levy and collect taxes; and established improved compensation and benefits structures for mayors, commissioners, and other elected officials in cities and towns. Just as importantly, the League facilitated quick, reliable communication and interaction between municipal officials and state and federal lawmakers.

Within 15 years of its inception, the Alabama League would rate in the top five in the nation and Reid was cited by the national association as one of the five “best possible sources of information” on local government.

As the preponderance of the population of Alabama began shifting from rural to urban dwellings during the post-war years, thus drawing more and more heavily on the



Ed Reid was the League’s first executive director and served in that capacity from 1935 until his death from cancer in 1965. The Montgomery Advertiser succinctly described Reid and the League in a circa 1955 article: “The Alabama League of Municipalities, you might say, is Alabama’s 10th Congressional District and its congressman is its director, Ed E. Reid. As Mohammedans to Mecca, politicians at all levels make pilgrimages to the little red brick office building of the League on a Hull Street incline. There, Reid, short, dapper and given to alternating blasts of amiable mimicry and barking truculence, presides. He is one of the remarkable figures on the Alabama scene. Because of his influence over the mayor-members of his organization and his encyclopedic knowledge of practical politics, all politicians crave his help.”

infrastructures of towns and cities, municipalities of all sizes depended on the League’s legislative and administrative efforts. The League’s efforts in the ten years immediately after victory was declared for the Allies focused primarily on helping municipalities develop and expand with as few growing pains as possible, and the organizational and educational work accomplished during this time of relative stability was to be tested by the turmoil accompanying the push for civil rights.

As local unrest reached a fever pitch, the guiding light of the Alabama League of Municipalities, the man who, for many, was the League, died. With Ed Reid’s death from cancer in July of 1965, John Watkins, the League’s Legal Counsel, became the new Executive Director. Watkins had impressive shoes to fill: Reid had not only built the League from the ground up, but he had also turned it into an efficient organization recognized nationally as a powerhouse of influence, organization, and communication. He had attended

every legislative session from 1935-1965 and was voted “Most Effective Lobbyist in the Legislature” five times. In the words of Leonard Beard, a mayor of Sheffield and the 1956 president of the Alabama League of Municipalities, no other League in the country had a better reputation for “*getting things done* both at the state and national level” or for conducting research, disseminating information, and handling an incredibly high volume of daily inquires from constituent municipalities.

Reid’s early fame as a “go-getter” never diminished – up until his death, municipal officials who had benefitted from the League’s efforts under his administration touted his organization’s service and even-handed representation of cities and towns of all sizes. The trailblazer from Evergreen earned a nationwide reputation for his expertise in local government matters and – more importantly for the people of Alabama and the officials who served them – he showed municipal leaders that *they* mattered.

John Watkins Era

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.

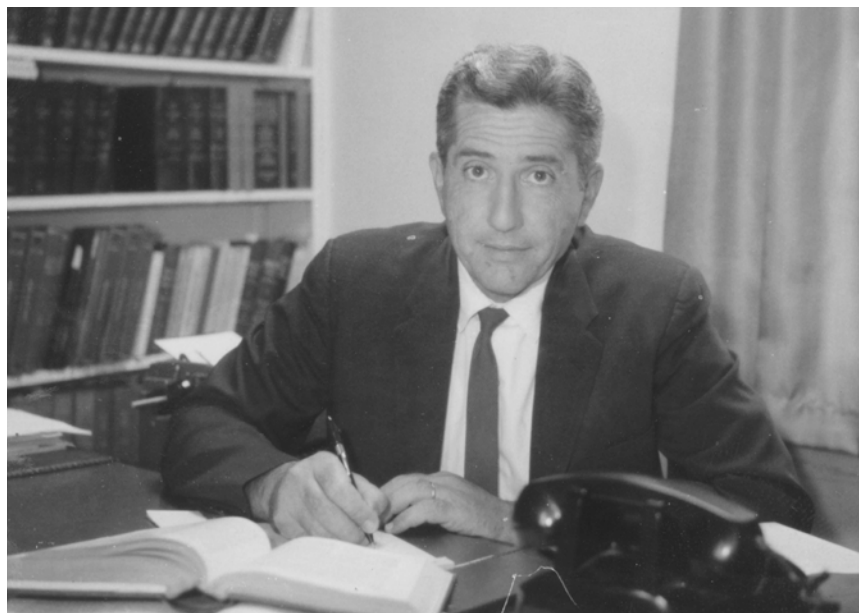
Born in Faunsdale, Alabama, in 1919, Watkins experienced small-town life prior to embarking on an ambitious course, graduating from Sewanee Military Academy in Sewanee, Tennessee and studying at the University of the South and the University of Alabama before entering the Naval Air Force upon his college 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

continued next page



*Staff Attorney **John Watkins** was named the League’s second executive director during the 1965 Annual Convention. He retired in 1986.*

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 (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.

Perry Roquemore Era

From the moment he sat in front of a quietly humming electric typewriter in the nearly-new downtown Montgomery headquarters building to record his thoughts on the 1975 legislative session for the *Legislative Bulletin*, Perry Roquemore was plugged-in to the needs of the League's member municipalities. A Montgomery native who returned home after his higher education in Tuscaloosa to accept the Staff Attorney position offered by Executive Director John Watkins and the Alabama League of Municipalities, Roquemore became not only an expert with an encyclopedic knowledge of municipal law but an effective and loyal advocate of towns' and cities' interests. Like his mentor John Watkins, Roquemore found that preparedness, professionalism, and a genuine stake in the fortunes and fates of the League's cities and towns made his a voice that was heard and heeded by the Alabama Legislature.

When Roquemore assumed command in the mid 1980s following Watkin's retirement, he faced a state and nation considerably different from what his predecessors had encountered. Alabama's cities and towns faced dangers from

within, including unreasonable (and unfunded) legislative demands and the dilemma of providing insurance coverage for their municipal employees. Unfunded state and federal mandates, approved by Congress and the Legislature, were requiring ever more from municipalities without providing any revenue to pay for the added requirements, duties, or services. In 1988, the League of Municipalities successfully promoted a constitutional amendment that restricted the Alabama Legislature's authority to force unfunded mandates onto towns and cities. Municipal governments, their hands already full from coping with the increasing number of federal and state mandates that altered their operations, faced the further complication in the 1980s – a time when obtaining liability insurance proved elusive. To resolve the problem, Roquemore, along with former mayor of Pine Hill and past League President Harold Swearingen and several other municipal officials, founded the Alabama Municipal Insurance Corporation (AMIC). To this day, AMIC provides competitively-priced coverage to many of the League's member municipalities. The revenue generated by AMIC (as well as MWCF) has funded the extension and expansion of the League of Municipalities' member services.

Reinvesting revenues from the AMIC and MWCF programs into the League generated an even higher and more efficient level of member assistance. Upon Roquemore's advice, the League's Board of Directors voted in the early 1990s to triple the size of the headquarters, from 7500 square feet to 22,000. The building expansion was completed in 1992, and its additional office space has since allowed for hiring more employees and accommodating updated technology that facilitates easy and speedy communication with the Capitol and member municipalities.

Another way Roquemore aimed to save his member municipalities time and money was by aiding in the creation of more effectual municipal leaders. Under his leadership, the League expanded and extended its voluntary training programs, offering not only annual windows for professional growth at the League convention but frequent long- and short-term educational opportunities with curricula virtually guaranteed to improve efficiency. The League's Certified Municipal Official training program (CMO) took off in 1994, and the response was so great that the League later implemented Advanced Certified Municipal Official training. Learning about the expectations, restrictions, and possibilities of municipal office has now equipped more than 3300 local government leaders to make more effective use of their time in office. The League's extremely successful CMO program, the second such in the United States, has cultivated future League leaders as well as better-educated local municipal leaders. In addition, it has served as a model program for sister organizations throughout the country.

In the late 1990s, the groundwork laid by the League in the early '80s to secure municipalities' fair share of oil

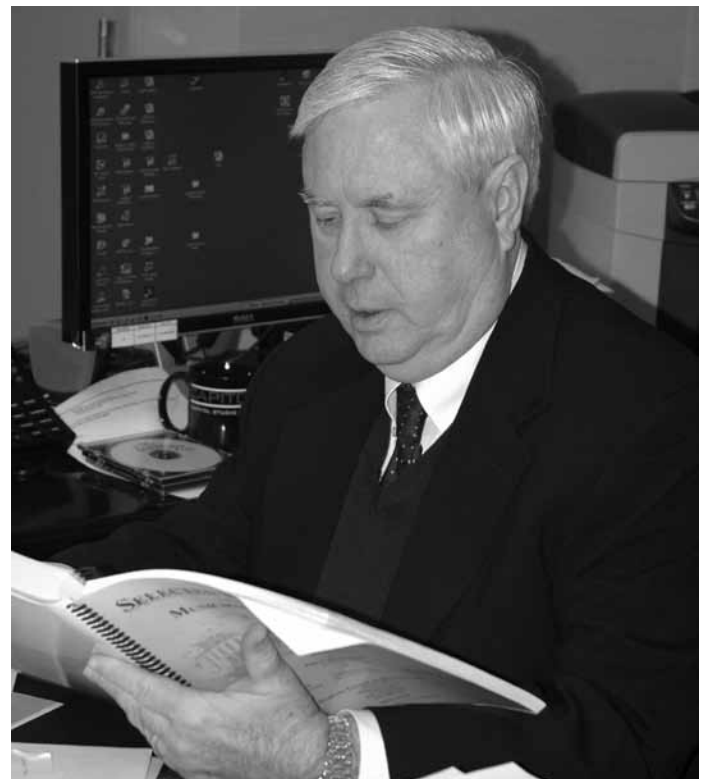
trust-fund revenues was jeopardized when the Legislature realized that, for the first time, the interest on the funds was going to exceed \$60 million and they would have to deliver on their promise to Alabama's towns and cities. The League mounted a quick defense of the municipalities' share, pursuing it so far as to win a constitutional amendment to preserve the municipal portion. This rapid response to the threat ensured what has now been a decade of additional revenues for municipalities' capital improvements.

The power of pooling resources and standing together infuses one of the League's most recent undertakings, the Alabama Municipal Funding Corporation (AMFund). Founded only a few years ago, this program empowers member municipalities to obtain funding that would otherwise be beyond their grasp, funding that can be used for virtually any municipal project.

While his predecessors worked to remove legislative stumbling blocks and to respond to and defend against intrusive power structures, Roquemore and his team were able to focus their efforts on pursuing proactive legislative measures and expanding educational, financial, and quality-of-life opportunities for their members.

Following Perry Roquemore's retirement in May 2011, the League's Deputy Director, Ken Smith, who was originally hired as a staff attorney in 1986, was confirmed

continued next page



Perry Roquemore became the League's third executive director in 1986 after serving as Staff Attorney for 12 years. He retired in 2011 with 37 years of service – the longest-serving League employee to date.

by the membership to take the helm and continue to build on the legacies of his three predecessors.

Heading into 2013

As the League's services and responsibilities have grown, so has its staff. In the last quarter century, the association's workforce has more than tripled in size to over 60 skilled professionals providing a gamut of services from legislative and legal assistance to loss control programs, insurance and low-interest loans. The number of member municipalities has grown from the initial 24 to 447, an impressive 99 percent of the municipal population of the state, and, accordingly, the demand for information and assistance has increased. As 2012 rolls into 2013, the League boasts a custom-designed and generously-sized headquarters – which has twice been expanded to meet the needs of its membership. Its initial and ongoing concern with gathering and spreading information is now aided by VOIP phone systems, weekly e-newsletters, blast email alerts, an advanced, continually updated website, searchable digital publications and slick, professional marketing pieces.

Back in Depression-era Alabama, the League's first Executive Director, Ed Reid, and the founding members of the modern incarnation of the League could little have imagined how successful their vision of an empowered and autonomous body of municipal officials would become.

Amidst all the changes throughout its 77-year history, however, the unifying principles of the League remain constant. As former Fayette Mayor and League Past President Guthrie Smith succinctly put it during the League's 75th Anniversary year: "There's more to city government than filling pot holes and catching stray cats." ■

***About the Author:** Lee Anna Maynard, PhD, is a freelance writer, editor and scholar currently based out of Augusta, GA, where she is on faculty with Augusta State University. 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. Her first academic volume, which explores the role of boredom in the Victorian novel, was published in 2009.*



The League headquarters building, which is located at 535 Adams Avenue in downtown Montgomery, was built in 1970 and expanded in 1992 from 7,500 square feet to 22,000. Both the land and structure are owned by the Alabama League of Municipalities.

– Photo by Elmore DeMott • www.elmoredemott.com

Tarrant City Attorney, Ben Goldman, Honored by International Association for Municipal Legal Work

For decades, the City of Tarrant, a small bedroom community turned industrial city, has struggled with blight, deserted property and environmental problems. Hand Arendall LLC partner Benjamin S. Goldman watched as city officials faced mounting problems with burned houses, abandoned cars and garbage issues.

But in the beginning of 2011, Goldman began working with city leaders to help force change. For that work, Goldman, 36, was honored with the Daniel J. Curtin Young Public Lawyer of the Year Award by the International Municipal Lawyers Association (IMLA). This award recognizes a public law practitioner who has provided outstanding service to the public and who possesses an exemplary reputation in the legal community, the highest of ethical standards and who revels in maintaining a life that balances a passion for professional excellence and the joy of family and friends.

“To be recognized for outstanding service to the public is such a tremendous honor for me professionally,” Goldman said. “As an attorney who focuses on municipal law, service to the public is the primary focus of my practice.”

Goldman accepted the award on October 22, 2012, at the IMLA’s 77th Annual Conference in Austin, Texas, where professionals from across the United States and Canada attended. Members of the Curtin family were on hand to participate in the award celebration.

“Our firm has had a long history in representing governmental entities, including numerous municipalities throughout the state,” said Roger Bates, Managing Partner of Hand Arendall. “Ben has grown into one of our lead attorneys in this area and is looked upon as an expert in the area of municipal representation. Ben is becoming even more known for his work outside of the city council meetings with his efforts to improve the quality of life in the cities he represents. For him, it’s not just being a good lawyer and doing a good job for your client, it’s about serving the community in which we live and changing people’s lives.”

Goldman was endorsed for the Daniel J. Curtin Young Public Lawyer Award by the Alabama League of Municipalities. In a letter written on behalf of his nomination, Executive Director Ken Smith said: “Ben has reviewed and helped us interpret legislation, answered questions from other municipal attorneys around the State, made presentations at our training conferences and worked without hesitation with us in any capacity we needed. He has quickly grasped many nuances of local government law

and a true willingness to go beyond simple representation of the city to helping his community improve and develop. In my opinion, he exemplifies what the Curtin Award was created to recognize.”

The award focused on the City of Tarrant’s efforts to remediate urban blight through programs that Goldman helped design and facilitate with other city leaders, including the revitalization of the historic downtown district, the creation of a tax increment financing district, the implementation of an environmental docket in the City’s Municipal Court, a new dangerous buildings ordinance and a program for the removal of blighted buildings, the implementation of a property inspection policy to bring dilapidated properties into compliance with applicable building code, and the initiation of the Tarrant Optimization Project (T.O.P.).

continued next page



Ben Goldman (left) pictured with Chuck Thompson, Executive Director of the International Municipal Lawyers Association (IMLA), was honored last month with the Daniel J. Curtin Young Public Lawyer of the Year Award by the IMLA for helping the City of Tarrant change its future. Goldman worked to remediate urban blight through programs that he helped design and facilitate with other city leaders.

“Ben exemplifies the highest degree of knowledge, class and professionalism in every endeavor in which he is involved,” said Tarrant Mayor Loxil Tuck. “He has provided both initiative and leadership in creating many city ordinances to address problems facing our city.”

As a part of the City of Tarrant’s neighborhood improvement initiative, Goldman wanted to send a message to the community that positive change was taking place in the City’s neighborhoods. Accordingly, Goldman created and the City Council adopted T.O.P., the new program. Large signs were placed on lots as the properties were remediated. In 2011-2012, the City remediated approximately two percent of residential housing in the City.

When the City had to turn the cost of garbage service over to residents because of budget constraints, the number of residents who actually signed up for service was dismal. As garbage piled up on streets and alleys, Tarrant faced a public health problem. Goldman obtained a change in City policy so that customers seeking to establish electric service could not do so until the City verified that the customer was subscribed to garbage service and, where applicable, that the customer had obtained a certificate of occupancy indicating compliance with the City’s property inspection policy. While citizens were willing to go without garbage service, they were not willing to go without electric service, and the problem improved as garbage subscriptions rose dramatically.

As Tarrant’s Prosecutor, Goldman began conducting Environmental Dockets designed to address problems affecting the City’s neighborhoods (litter, junked vehicles, noise, vicious animals, and other nuisances). In further remedy to the garbage problem, a standard plea has been arranged for the Environmental Dockets where the defendant will remedy whatever condition brought the defendant to court, will subscribe for garbage service, will pay a monitoring fee, and will agree to remain under the Court’s jurisdiction for one year. If the defendant agrees to the terms, at the end of one year, the charge will be dismissed. However, if the defendant does not agree, Goldman promises that, where applicable, he will petition the court to have the defendant sentenced to hard labor picking up trash. To date, 100 percent of defendants have agreed to the terms, and today, the City is cleaner.

The Environmental Dockets also had unintended consequences on crime in the City. “Our office didn’t want to get involved in an environmental docket,” said Tarrant Police Chief Dennis Reno. “But we noticed that immediately burglaries dropped by more than 50 percent. We went from 8 to 9 burglaries a week down to 2 or 3 a week. The weeks we had officers in a neighborhood serving notices, burglaries dropped. It proved that the mere

presence of a police officer in a neighborhood during the daytime will reduce burglaries.”

The City of Tarrant was also honored for these changes when it received the Alabama League of Municipalities’ “2012 Municipal Quality of Life Award.”

“Ben is not only an outstanding lawyer but he is an outstanding person,” said Lori Lein, General Counsel for the Alabama League of Municipalities, who has known Goldman for several years. “He has always given freely of his time to the League and the Alabama Municipal Attorneys Association. In doing so, he has helped us guide and support our member municipalities when issues arise affecting local government. This award is an acknowledgment of his professional abilities and integrity and is well deserved.”

Goldman graduated magna cum laude, with a B.A. from Spring Hill College. He obtained his J.D. from the University of Alabama School of Law where he was a member of the National Trial Advocacy Team, a member of the Bench and Bar Legal Honor Society, a Student Bar Association Senator, and an Honor Court Justice.

As a litigator, Goldman has successfully defended clients through all stages of federal and state court litigation, including trial and appeal. He has represented more than 50 Alabama municipalities, utilities, development boards and other governmental entities and has served as corporate counsel to local, regional and national businesses, representing them in such matters as contract negotiations, employment issues and collections. In addition, he has represented and advised lenders and large creditors in bankruptcy proceedings. Pursuant to appointments, he presently serves as City Attorney and Prosecutor for Tarrant, Alabama, and as Town Attorney for Mulga, Alabama.

In service to his community, Goldman is currently a member of the Girl Scouts of North-Central Alabama Board of Directors, the Birmingham Hospitality Network Board of Directors, the Legal Aid Society of Birmingham Board of Directors, the Tarrant-Pinson Valley Chamber of Commerce, the Birmingham Tip-Off Club, the Crewe of Columbus and a volunteer for the Alabama State Bar Volunteer Lawyers Program.

Among his recognitions, Goldman was named an “Alabama Rising Star” by Super Lawyers. He is a recipient of The Literacy Council’s Distinguished Partner Award and the National MS Society Leadership Award. He is also a graduate of the 2009 IADC Trial Academy hosted by Stanford Law School in Palo Alto, California, and he is a graduate of the Alabama State Bar Leadership Forum Class 7. In 2012, Goldman was named a “Top 40 Under 40” by the *Birmingham Business Journal*. ■



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