

# The Alabama Municipal JOURNAL

May/June 2015 Volume 72, Number 6



Greg Cochran, ALM Director of Intergovernmental Relations; Southside Mayor Wally Burns, ALM President; Senator Richard Shelby; Ken Smith, ALM Executive Director



Greg Cochran, ALM Director of Intergovernmental Relations; Senator Jeff Sessions; Southside Mayor Wally Burns, ALM President; Ken Smith, ALM Executive Director

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# The Alabama Municipal JOURNAL

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## On the Cover:

League Executive Director Ken Smith, Director of Intergovernmental Relations Greg Cochran and League President Mayor Wally Burns of Southside met with Senators Richard Shelby and Jeff Sessions during the NLC Congressional City Conference in Washington, DC this past March.

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# A Message from the EDITOR

The International Institute of Municipal Clerks (IIMC) has designated **May 3-9 as its 46th Annual Municipal Clerks Week** featuring a series of activities aimed at increasing the public's awareness of Municipal Clerks and the vital services they provide for local government and the community (for more information, visit iimc.com). The Alabama League of Municipalities joins IIMC in saluting our clerks (see p. 15) – they are the heartbeat of every city and town in our state and we appreciate all they do for their elected officials, municipal employees and their communities! **Thank you!!**

The League's 80th Annual Convention will be held in Tuscaloosa May 16-19 on the University of Alabama campus – our first time in Tuscaloosa since 1961! The City of Tuscaloosa has planned carefully for this event – particularly the Saturday evening dessert reception, "Spotlights and Sweet Bites," beginning at 8:00 p.m. at the Tuscaloosa Amphitheater. Delegates and guests are in for a real *treat* so please plan to attend! For more about our host city and the efforts undertaken to recover from the horrendous April 2011 tornado that left a trail of devastation, see "Tuscaloosa: City of Champions" on p. 9.

In 1961, ALM's conference was held at the Hotel Stafford in Tuscaloosa (which was repurposed in the late 1980s with businesses and condos as Stafford Plaza). Of note during the 1961 conference was a special Western Union telegram sent by President John F. Kennedy to Ed Reid, the League's Executive Director (1935-1965). Kennedy, who was a personal friend of Reid, had spoken at the League's annual convention several years prior when he was a United States senator from Massachusetts. The original telegram, which was read to delegates during the opening session, is framed and hanging at League headquarters in Montgomery. It says:

*Four years ago I attended my first municipal association convention in Birmingham. I recall it with particular pleasure since it provided me with the opportunity to meet personally many of the very fine and able public officials who are charged with the welfare of Alabama's municipalities. By joining together in cooperative effort through the Alabama League of Municipalities, I am sure that your effectiveness as local government officials is continually enhanced. With the able leadership provided by your officers and your outstanding executive Director, Ed. E. Reid, who has given you over 26 years of exemplary service, I know Alabama communities will continue to improve the quality of local government and continue to become better places in which to live.*

*For my part, I recognize that the federal government has an important role to play in supplementing your efforts through programs designed to place technical resources and other forms of assistance at your disposal to be utilized by you, at your initiative, and under your leadership. I am convinced, as I am certain you are, that strong, viable and productive local governments are an essential ingredient to the welfare of the nation as a whole.*

*My very best wishes to you all. I know your convention will prove successful and rewarding. - John F. Kennedy*

Fifty-four years after receiving that Western Union telegram from President Kennedy, the Alabama League of Municipalities – which celebrates its 80th anniversary on May 15 – continues to strengthen municipal government through advocacy, training and the advancement of effective local leadership. Information about this year's keynote and featured speakers, Expo Hall vendors and a Convention Quick Guide can be found beginning on page 31. We look forward to our 80th Annual Convention in Tuscaloosa May 16-19!

I'll close by pointing out that this issue of the *Journal* features two contributed articles you'll definitely want to read. On page 17, Madison's city attorney, Kelly Butler, has provided an excellent piece titled: "Municipal Attorneys: What we do and why we do it", and on page 23, Doug Watson takes a close look at the significant healthcare issues facing our municipalities in: "The Crisis in Rural Healthcare: Telemedicine to the Rescue?".

*We'll see you in Tuscaloosa!*

*Carrie*

# The President's Report

By Mayor Wally Burns, Southside



## Serving as ALM President: Personal Reflections

As my one-year term nears its end, I would like to take this opportunity to thank you for allowing me to serve as your president. It is quite an honor for a mayor from a small town of 8,500 residents to be given the leadership position of representing all of the municipalities in Alabama. My time as League President has been a rewarding and fulfilling experience. I have had the opportunity to work with many great people. I have thoroughly enjoyed working with Ken Smith and the League staff, as well as many of our city officials throughout our great state.

I have traveled from Southside to Montgomery many times over the past year. During those drives I would reflect on how or what I could do to make our League better for each of our member municipalities and identifying the most important topics I could discuss with the elected officials of our cities. The most significant things that came to mind were the benefits of our League, the critical role of communicating with our members and the vital role technology plays in our cities.

Having served in different municipal capacities since 1996, I can say without reservation that the Alabama League of Municipalities is our greatest resource and

plays a significant role in advocating for our communities. Through our constant communication with the League, knowledge can be shared regarding important issues facing our communities. Our goals and objectives could not be met without their support and commitment to municipal government. I cannot stress enough the importance of your involvement in the League. Attending the programs and conferences will provide you with the information and training that will enable you to become a successful leader.

The National League of Cities Congressional City Conference held in Washington, DC each year is imperative for any elected official. This event features workshops, training, and educational information that are relevant to your municipality and will provide you with the tools for effective leadership. Although traveling to out-of-state workshops can be costly, I encourage you to send at least one member from your municipality to the National League of Cities Conference. The knowledge gained will be priceless.

The League also offers an informative continuing education program for all elected officials. The Certified Municipal Official Program (CMO) is extremely beneficial and has progressed tremendously in the past year. The Saturday sessions in Montgomery were a great success and provided an opportunity for our elected officials who have weekly obligations to attend and complete the program. The knowledge gained through the educational classes is invaluable and greatly benefits those who are elected to serve their communities.

Building relationships with our Senators and Representatives is imperative to the legislative process. Making your presence known before advocating for reform will allow our Senators and Representatives to put a face with a name. Building this relationship could make a difference in gaining their support.

In addition, I would like to encourage each municipality to increase your presence in the digital world. Providing a website or social media page is a relatively inexpensive outlet through which to communicate with the citizens of our communities and to keep them informed. The more we

*continued next page*



*Greg Cochran, League Director of Intergovernmental Relations, and Mayor Wally Burns of Southside at the NLC Congressional City Conference in Washington, DC this past March.*

take advantage of the technology available in today's society, the more we will assure our communities that we will not be invisible to the outside world.

This is the 80<sup>th</sup> anniversary of our Alabama League of Municipalities and, not only is our membership at an all-time high, we have had to restructure our headquarters building in order to accommodate the necessary staff to maintain our programs. We currently have 22 full-time League employees – the most ever. And that number doesn't include the great folks who work for AMIC or the Loss Control Division!

My time as President of the League has sometimes required me to be away from my daily duties as Mayor of the City of Southside. My City Clerk, Cindy Osborne, and Secretary, Pam Brasher, Department Heads and City Council have been instrumental during my time away. They have kept me well informed of daily events and city matters. I could never sufficiently express my appreciation to them for their hard work and dedication to me and to the City of Southside. Knowing I have dedicated and reliable employees lessened the burden of being away from the office as I performed my duties as President of the League.

Again, I want to thank each of you for the incredible support you have given me this past year. It has been an honor and a privilege to serve as your President. ■

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– Oscar Wilde

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# Municipal Overview

By Ken Smith, Executive Director



## The Importance of Role Clarity

I have to give credit for the idea for this month's column to Jim Miller, the Executive Director of Minnesota League of Cities. Jim is a thoughtful, intelligent man with a great understanding of the nature of municipal governments. He is retiring soon and will be missed. In 2014, Jim wrote an article titled "The Danger of Role Confusion" for the League of Minnesota Cities publication, *Minnesota Cities*, which discussed the problems caused when municipal officials and employees confuse their roles with that of other officials.

Jim notes that: "This sounds trivial, but it isn't. If there hasn't been clear, frank discussion and agreement about the role of each member of the city team – because, indeed, that's what it is – confusion and conflict are much more likely to occur. Such discussion must have two components to be effective: clearly understanding and agreeing on the responsibilities of each participant, and on the limits of their roles."

What do we mean by role confusion? In the municipal context, role confusion occurs when an official – or an employee, for that matter – forgets or ignores the limits the law, policies and practices place on his or her duties, and attempts to assume duties that are supposed to be performed by someone in another position. For example, as Jim explains, "When a mayor thinks he or she can make decisions for the entire council, when an individual councilmember tries to direct the work of the police chief, or when the city clerk refuses to share information with the council, trouble is certainly around the corner, if it hasn't already arrived."

Role confusion can occur for any number of reasons. It can be a simple misunderstanding of roles. In these situations, often a conversation clears the confusion. These situations are generally solved by studying the roles of the positions involved and gaining a better understanding and appreciation of the duties that should be performed. However, the cause can be more problematic. It could be arrogance or a feeling of entitlement that leads to role confusion. Or, a person may exceed the limits of his or her authority because they feel that the person with the duty isn't going to do things the way they think it should be done, or that the other person isn't going to do their duty at all.

Municipalities in Alabama are just as susceptible to the dangers of role confusion. Fortunately, even when these events

occur, they rarely cause any serious, long-lasting trouble. Officials work out their differences and move on. But when these problems become systemic, they become the cause of major disruptions in city operations and finances, and can even result in the complete failure of the government to serve the interests of the electorate. Avoiding role confusion is a key to achieving the cooperation necessary for a municipality in Alabama to thrive. Alabama law establishes a system that is based on separation and balance of powers. In a municipal government, the mayor and the council each have their own duties and responsibilities. Problems occur when either feels the need to take on the functions of the other.

Of course, in Alabama, mayors in municipalities with populations under 12,000 also act as councilmembers under state law. These mayors preside over the council meetings. They can vote on issues that come before the council. They can make and second motions. In other words, they have the same powers as any other member of the council. However, when sitting in with the council, it is important for the mayor to remember that he or she has no greater power than that of the other councilmembers. Other than the authority conveyed by serving as the presiding officer, the mayor has no greater power during a meeting than any other member of the council. It is only when the meeting ends, when the mayor resumes the role of Chief Executive Officer of the municipality, that the mayor has additional authority.

Even when acting as the presiding officer, the mayor's power is not unlimited. The council acts as a body. Determining the will of that body requires open discussion, debate and ultimately a vote. The presiding officer must attempt to maintain a certain level of objectivity when making decisions and deciding which member has the floor. Failure to maintain an objective approach to running meetings demonstrates a lack of role clarity.

When a person makes the decision to run for office, he or she should be willing to accept the limitations placed on the power granted to that position. Similarly, when employees agree to work for a municipality, they must understand and accept the limitations on their authority.

Staff members and employees have a responsibility to provide information and help elected officials understand

*continued page 19*



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# TUSCALOOSA: CITY of CHAMPIONS

## BUILDING BACK SMARTER; EXPANDING HORIZONS

By Carrie Banks • Communications Director • ALM

For the first time since 1961, the Alabama League of Municipalities' Annual Convention will be held in Tuscaloosa – a personal goal for Mayor Walt Maddox, the League's immediate past president, and a tribute to the state's fifth largest city, particularly as it continues to recover from the EF-4 tornado that left more than \$1 billion in damages when it pulverized 12.5 percent of the city four years ago on April 27, 2011.

"It's a watershed moment for our city" Maddox said. "We've worked very hard in recent years to grow and with that growth is increasing our capacity to hold major conventions like the Alabama League of Municipalities. To pull this off speaks volumes about who we are and where we want to go as a community."

Maddox sees the League's convention, which annually draws more than 1,000 attendees including delegates, municipal clerks, exhibitors and guests, as an opportunity to attract multiple large scale conferences throughout the year – and plans to make that happen through a dedicated partnership with the University of Alabama that includes expanding the Bryant Conference Center beginning next year. "The City is putting up two million and the University is putting up four million," he said. "The impetus behind that expansion was knowing we could get conventions as large and as prominent as the Alabama League of Municipalities. So, beyond the hotels being filled, the restaurants being packed and members of the League having a great time in our community, it's created a catalyst by which we all realize we need to increase our ability to bring more tourism and convention dollars into Tuscaloosa – beyond the seven times a year when we have Alabama football."

### Challenges and Opportunities

Since Maddox was elected mayor in 2005, Tuscaloosa's population has grown from just over 80,000 to nearly 100,000 – a remarkable increase in a 10-year period. With that growth, said Maddox, comes opportunity, such as attracting more conventions, which are "good dollars for a community because you don't have to invest a lot, you don't have to build infrastructure – in most cases it's there or being provided for by the private sector – and if you can make sure that people are going to have a great stay and a quality experience then they'll want to come back and invest in your community down the line."

In the past, adequate hotel and convention space was Tuscaloosa's challenge in securing larger, multi-day events. However, with the recent opening of a 154-room Embassy Suites – which also touts 3,000 square feet of conference space and is projected to be the highest dollar booking of any Embassy Suites during its first year – as well as plans for an upcoming

Hilton Home Suites and Hotel Indigo, Tuscaloosa is strategically positioning itself to draw major conferences, beginning with the League. "Within a one-year period, we will pick up over 350 high-dollar, high-end hotel rooms just in our downtown area," Maddox said.

Unlike Birmingham, Montgomery, Mobile and Huntsville, which have a significant number of hotel rooms at or near the convention site, Tuscaloosa's partnership with the University of Alabama has required additional innovative planning, and Maddox is confident in the City's ability to transport attendees quickly and efficiently. "There's not a city in Alabama that does a better job in moving people logistically," he said. "Seven times a year we move 150,000 people into three city blocks, and we also host large events like the Tuscaloosa Regional Air show, which is over 150,000 people. Logistically, I would put us up against any city in the nation. For us, this is what we do – and I think the League delegates are going to have a blast. It's going to be unique. It's going to be a little different, but I think that's good."

Maddox said hosting ALM's convention also gives Tuscaloosa the opportunity to showcase different areas of the city: "It required us to be more innovative and imaginative about how we were going to entertain our delegates and I think it's going to be an amazing experience – beginning Saturday (May 16) with the dessert reception (8:00 p.m.), which I hope our members will partake and enjoy because our staff has put in a lot of time and effort to do something extraordinary. We're going to showcase a



# City of Tuscaloosa

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May 16, 2015

Friends,

On behalf of the citizens of Tuscaloosa, it is with great anticipation that I welcome you to the *City of Champions*. After a five decade absence, we are proud to host the 2015 Alabama League of Municipalities Convention, and look forward to making the next few days fun and exciting.

Tuscaloosa was born beside the Black Warrior River nearly 200 years ago; however, our spirit is young at heart and energized by the transformation taking place across our City. Downtown has seen a public/private investment of over \$100 million, which has created a Central City where you can live, work and play.

While Tuscaloosa is famous for its gridiron action, the *City of Champions* is also home to the original Dreamland Barbeque and a multitude of historic homes, museums and parks. You can take a stroll along the RiverWalk, shop our River Market and visit downtown for a variety of restaurants and exciting nightlife.

Our riverfront has experienced its own renewal, with the addition of new recreational trails, businesses and restaurants. In 2011, the City opened a 7,500-seat riverfront amphitheater, which is a state-of-the-art venue hosting major performances and countless community events such as the symphony, theater and choral music. We hope you will join us for a night of **Spotlights and Sweet Bites** at the amphitheater, Saturday, May 16<sup>th</sup> at 8:00 p.m.

Again, we are excited you are here and welcome you to Tuscaloosa!

Sincerely,

Walter Maddox  
Mayor

night of “Spotlights and Sweet Bites” at the Amphitheater with homemade desserts from local restaurants. I think people are going to have a lot of fun. Everyone is fired up about showing off Tuscaloosa in May.”

### **Symbiotic Relationship**

Describing the City’s relationship with the University as “seamless” and “symbiotic”, Maddox emphasized that when the University grows, the City grows and vice versa – and that the challenges a university setting brings are welcomed challenges. “Having to deal with issues such as student apartments or infrastructure to meet the growing needs of a high density area and the traffic challenges that come along with it – they’re certainly formidable challenges, but we have a good partner in the University,” he said. “They have invested in City infrastructure projects to assist us with our growth. They continue to have an open mind to us. Whether it’s education, law enforcement or economic development, they’ve been huge partners. Economically, the University of Alabama is by far the biggest engine we have – even beyond Mercedes – at 1.4 billion dollars a year. So there are challenges, but those are challenges that I want. Every mayor will take the challenge of a city growing versus a city declining.”

He also stressed that the University has been a major partner in the planning process for the upcoming League convention. “They stepped up in a very powerful way – everything from use of facilities to having Coach Saban speak – everyone at the University has bent over backwards to assist the City in being able to host the League convention,” Maddox said. “They recognize the value of local elected officials. They appreciate the service of the men and women throughout the state who put forth time and effort to grow our entire region and so they saw this as a real plus. In addition, it’s a great recruiting tool for them – it’s really exciting for the University to bring over 1,000 people into direct contact with The Capstone.”

Founded in 1831 as the state’s first public college, UA is one of the largest universities in Alabama – growing from seven buildings along University Boulevard to its massive, nearly 2,000-acre modern-day setting serving more than 36,000 students. It’s anchored by the 22-acre Quad, which sits at the same site – and is roughly the same size – as the original campus.

Maddox hopes convention delegates will soak up and enjoy the experience of being at The Capstone – a name that originated with George H. Denny, who, early in his 24-year tenure as UA president (1912-1936 and 1941), referred to the University of Alabama as “the capstone of the public school system in the state.” The nickname has been used ever since. Denny Chimes, dedicated in 1929 and named for George H. Denny, is located on the south side of the Quad and one of UA’s most visible landmarks. The President’s Mansion, a Greek revival-style structure located across from Denny Chimes, has served as the official residence of university presidents since

its completion in 1841. Due to its architectural and historical significance, the Mansion was added to the National Register of Historic Places in 1972.

“This university is one of the premiere institutions of higher education in the United States,” Maddox said. “It has a history that, to me, is soaked in tradition and lore that makes the experience so enjoyable. Even if you cheer for another team, I think you have to take a lot of pride in our state university and what they’ve been able to accomplish.”

Fortunately for the entire region, the University was essentially untouched when Tuscaloosa was faced with one of its worst disasters on record in the spring of 2011.

### **Monster from the Sky**

At 5:13 p.m. on Wednesday, April 27, 2011, Maddox was huddled with several employees in a basement room of City Hall in front of a small television monitor watching in silent horror as an EF-4 tornado obliterated parts of 15<sup>th</sup> Street. Within minutes, this monster from the sky pulverized a 5.9-mile long, 1.5-mile wide area, rendering thousands homeless, killing 53, injuring hundreds and destroying more than 5,000 structures, including the City’s Curry Building that housed EMA, logistics, part of IT and the City’s heavy equipment. In addition, the City lost a fire station and its East Police Precinct – about 17 percent of its police assets. From the Governor and state leaders to neighbors and residents in the affected areas, recovery efforts began immediately.

“After the tornado you’re on this three or four week immediate rush of health, safety and welfare issues,” Maddox said. “Then you turn a page and it starts getting into rebuilding and city operations. And those don’t end. They’re ongoing and they’re complicated and they’re hard and create a lot of strife and tension. From creating an insurance settlement that allows you to build back your own building while you’re trying to operate a large



*A commercial area on 15th Street after the April 2011 tornado. (Photo by Carrie Banks)*



*Tuscaloosa's Curry Building, which housed the City's emergency management division and environmental services, was completely destroyed on April 27, 2011. (Photos by Carrie Banks)*



*The new facility is now open and houses a state-of-the-art recycling center. (Photo by City of Tuscaloosa)*

and complex city out of makeshift buildings to making sure that every Thursday you can issue payroll – because for us we cash-flowed over \$44 million dollars – and so everything became complicated.”

Maddox said it took six months to remove 1.5 million cubic yards of debris – the equivalent of filling Bryant-Denny Stadium five times. Once that was complete, the City set in motion a process that looked at incorporating long-range planning, infrastructure, economic development and – most importantly – quality of life into a master plan that impacted 5,300-plus properties. “Of those properties, 71 percent were households with a median income of less than \$25,000,” he said. “So we had the amazing challenge of building back some of the most distressed areas of our city with some of the most antiquated infrastructure and instead of retreating from that challenge, our city stood up and said ‘we demand better’ – because when 53 people lose their lives, when 1,200 are injured, their sacrifice has to mean something. It wasn’t easy. The first two years were sometimes awkward and cumbersome because all of us were learning things for the first time. But it was well worth the wait and strategic planning because we are building back smarter, stronger and in a way that honors all those who lost so much.”

### **The Long View**

Tuscaloosa’s recovery has been steady but is still ongoing. In taking a strategic approach to rebuilding destroyed municipal structures (\$100 million in damages), the decision was made to never again house multiple assets under one roof. The new Curry facility was rebuilt to house the Environmental Services Department and now boasts a state-of-the-art universal recycling plant. Across the street, catty-corner is the new Public Safety building. Both buildings have storm shelters. City Logistics is now housed in a recently purchased building at Airport Industrial Park and Fire Station 4 had its grand reopening in April.

“The biggest thing we did was be strategic – thinking about the long view instead of the short view,” Maddox said. “Shortly after the tornado a mayor of a major city who had been through a disaster called me and said, ‘Walt, you’d rather people be mad at you for two or three years than be mad at you for a lifetime about the way you build back.’ For me, that really resonated. This is where I grew up, this is where my friends live, this is where I played – all these memories mean something to me – they’re imbedded into the DNA of who I am and so it was important to me that we don’t waste this opportunity to take our city to the next level. We can’t control the *horrible* aspect of that day – and the suffering is incalculable – but we had to turn the page and determine what would be our new course.”

For Maddox, it was extremely gratifying that the majority of Tuscaloosa’s citizens, especially the ones who lived in the most heavily damaged areas, wanted a different vision because “like it was wasn’t where it needed to be.” The challenge was in determining how to make that happen. A FEMA representative told Maddox it would take 10 years for Tuscaloosa to “recover” from the devastation wrought by the April 2011 tornado. Four years later, the mayor agrees.

“On the homeowners’ side, if you owned your home, the majority of those have built back,” he said. “On the rental side, that vast majority have not built back. In a way, it was a humanitarian blessing because the vast majority of the 2,500 families who had to find new shelter found it within the city’s metro area – whether it be Northport or the surrounding area – and they found shelter in a better environment than what they were living in. Tuscaloosa was an overbuilt market at the time, which ended up being advantageous because we were able to find housing. In fact, we only had to bring in *two* FEMA trailers.

“The majority of the homes that were destroyed were built between 1940 and 1970 and those people were being placed in housing that was built in the 1990s and any rent differentials were being covered by the City and FEMA. So what the City did, understanding the dynamic that the majority of those affected had a median income of less than \$25,000 – and we took criticism from those who were not as informed about why we would make these decisions – we established multi-use zoning in large swaths of the city allowing property owners to either go residential or commercial or create some sort of hybrid mix use.” Over time Maddox said this strategic decision will produce powerful results. In fact, one heavily damaged area currently under construction chose to become a \$60 million shopping and retail center. “Prior to the tornado, that site generated less than \$50,000 in taxes,” Maddox said. “Once the shops open in November 2015, it will generate over two million. So, being strategic and being thoughtful is going to pay dividends for this community. And I’m very blessed because my constituents wanted that.”

Maddox said an additional challenge was the federal dollars attached to disaster recovery. “You may get an award of dollars, but to draw it down is complicated. Every major infrastructure project takes two years of environmental testing and right-of-way acquisition so everything that you do is going to take years,” he said. Tuscaloosa is currently one of 67 communities from across the United States in competition for a Resiliency Grant for areas declared presidential disasters in 2011, 2012 and 2013. They hope to be successful in that endeavor. “Right now, the lowest estimate is that we’re still about \$65 million



*Tuscaloosa’s Fire Station 4 was heavily damaged by the April 2011 tornado (top photo). A grand opening for the new station – a large, modernized structure – was held April 2015. (Top photo by Carrie Banks; bottom photos by City of Tuscaloosa)*

dollars less from federal appropriations for our unmet needs as defined by FEMA,” Maddox said. “Most communities are made whole following disasters so that’s been a challenge for us. Hopefully, a Resiliency Grant will help fill that gap. But even so, if we were awarded a grant in October, it will likely

be one year before the first of those dollars ever find their way to Tuscaloosa. You have to create a project, have it engineered, get through environmental testing. If the environmental testing is clear, you can begin right-of-way acquisition and then begin final engineering followed by construction. That’s why recovery takes a long time – it’s just complicated. Nothing about it is easy.”

Maddox said four years later, 20 percent of his calendar still deals with recovery issues. “You can’t escape its shadow.” He’s also quick to point out that the City’s staff has been incredible. “They adapted to every single situation and always found a solution to the problem. I’m very proud of them.”

### Tuscaloosa Awaits

In addition to disaster recovery efforts, Maddox’s administration has achieved several admirable accomplishments over the past decade. “We’ve demonstrated we can elevate beyond just the gridiron,” he said. “We can have river front trails, great parks, an amphitheater, a river market, a vibrant downtown. We’ve been able to manage our fiscal house while at the same time investing

back into the community. It doesn’t mean that everyone agrees. But cities have a choice. They either live or they die. You can’t sit still because that is in and of itself dying. We see local government as the ability to be accountable *and* the ability to be successful. We believe government, when held accountable and maximizing scarce resources, can be a good instrument in raising the quality of life *with* the community. We don’t necessarily have to lead it, we just have to be strategic and align with the private sector.”

Maddox looks forward to showcasing his city to League delegates. For many years, his predecessor former Mayor Al DuPont – also a former League President – lobbied to host ALM’s annual convention; however, it has only been in the last few years that Tuscaloosa has been able to accommodate such an endeavor. “Mayor DuPont is an iconic figure in Tuscaloosa and I know, seeing firsthand his passion to bring the convention here, for us to be able to accomplish that means a lot. Hosting the League convention is a badge of honor for all of us. We’re already planning our package to get the League convention in 2020.”

While hosting the League Convention for the first time in 54 years is something Maddox said is very special, he’s also quick to point out that the most special feeling is going to be when he and his staff see the delegates and the various people involved with the convention having a great time in Tuscaloosa. “They will get to experience and feel what we here already know – this is an amazing place.” ■



*Tuscaloosa’s East Police Station was heavily damaged by the April 2011 tornado and a temporary unit was required (top photo). A new facility was built and is now open. (Top photo by Carrie Banks; bottom photo by City of Tuscaloosa)*

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# MUNICIPAL ATTORNEYS:

## What we do and why we do it.

By: Kelly Butler • City Attorney • Madison, Alabama

### Who Does This?

Somewhere between law school graduation and the date of this writing, I became a municipal lawyer. I don't think I really meant to do it, but here I am just the same. I'd lay money that most municipal attorneys didn't hit the doors as a first year law student aiming to set the legal world on fire by sitting behind our computers writing and writing and writing until carpal tunnel surgery is the only way to stop small children from shrieking at the sight of our claw-like hands. And I'm pretty sure we didn't take Conflict of Laws so that we could settle political squabbles which are really better suited for the playground or a Jell-o pit. But somehow, somehow, at some point, municipal law found me just like it found many others...and we just couldn't let it go. Maybe it provided a measure of stability to an otherwise unstable bottom line in a solo practice. Or maybe a box of files greeted us at the door on our first day as a BigLaw associate, said box handed over by a giggling partner who we'd swear skipped a little as he made his hasty retreat from our supply closet cozy office.

Or maybe we had an opportunity fall in our lap at the right point in our career and managed, amazingly, to not screw it up.

I realized pretty quickly what every other municipal lawyer already knew: that we are the red-headed stepchildren of the legal world. Our little part of the profession accounts for a

tiny-point-tiny percent of the country's lawyers and, for the most part, we get treated like even less. If you really look at us, though, we are an interesting microcosm of the larger Bar, sort of like the adult males left to fend for themselves on the Titanic. We come from all walks of life, a wide range of socioeconomic backgrounds, and varied cultures, but none of that matters when we go looking for help. Generally, we are left to fend for ourselves. I think that's why we have such unique personalities in the practice of municipal law – we have to be strong (or weird) enough to be okay with watching everybody else get the lifeboats while we're clinging to the random timber that floats by in the dark. (Shout out to the Alabama League of Municipalities for being the biggest and strongest timber we could ever ask for, by the way.)

### What Do We Do? Seriously...

When I clerked for my judge, and later when I was in private practice, I didn't need to say much to explain my job to High-School-Classmate-I-Haven't-Seen-in-Years: "I work for a judge" seemed to sufficiently explain my work and impress those who wondered what I'd been up to since I ran screaming from graduation. Later, during the years of private practice, I found I had to expound a little to help others understand my career choice: "I own a small boutique firm (*I have an office that looks really cool but I haven't paid myself in four months*) where I specialize in a wide range of business-related transactions (*I write boring documents that would make your brain melt and I also clean the toilets*) and represent a select list of high-profile defendants (*most of my clients are career losers selected for me by the presiding judge from the tall stack of indigent defense requests*) and private clients who pay top dollar to have me on their side (*I once got paid with a deep-fried turkey ... and it was delicious*)."

Since February 6, 2001, though, the answer has been way more difficult to give. I get the "what do you do" question quite often from non-lawyer friends and family and, more often than I find comfortable, from fellow municipal employees and elected officials. Fourteen years as a municipal lawyer and I still don't have a good answer. And by "good answer," I mean an answer that makes me sound really cool, because, let's face it, the truth is pretty boring. I mean, come on ... I write ordinances and resolutions and legislation and contracts and leases and deeds

and bid documents and all kinds of stuff that nobody – and I do mean NOBODY – else cares about until they get a question from a reporter or a subpoena from the sheriff. And the rest of what I do from day to day – which is especially true for those of us who are in-house (read: easily accessible and not on a clock) – is akin to being an ER doctor. One of the ways I describe my department is that it's like a triage ward – we treat 'em and street 'em and get our people back to work as quickly as possible, hopefully healed and now armed with better information than they had when they got to us.

Usually, though, the most accurate descriptions of what I do are in terms nobody



else understands (“I spent all day drafting a revamp of our SOPs for street cuts and a revision of our SOGs for processing trench failure complaints”) and in terms nobody wants to hear (“Let me break down WHY we shouldn’t enter into this 91-page agreement for a multi-million dollar deal without reading it first”). However, because we are all drifting in this icy municipal water together, I offer 15 painfully accurate, bite-size, somewhat dignified answers about my beloved legal niche, each suitable for dinner parties and family gatherings when the inevitable, “So what DO you do?” comes up:

1. I read. A lot.
2. I write. A lot more.
3. I talk on the phone, but only when threatened with physical harm.
4. I receive 1.2 million e-mails every day and have time to answer four of them.
5. I answer lots of questions from people in my doorway who wonder if I have a minute and then leave an hour later.
6. I counsel and console.
7. I reprimand and admonish.
8. I advise (and get ignored).
9. I advise again (and get ignored again).
10. I try to convince co-workers that I truly don’t remember anything about divorce law.
11. I hand out a lot of phone numbers for lawyers that do divorces.
12. I get ignored some more.
13. I pick my battles and refuse to be ignored when it really matters.
14. I protect my city’s representatives to the extent they are watching out for its best interests.
15. I protect my faceless client like a fat kid covers the last piece of cake.

### Okay. But Why?

I suppose, if I’m completely honest with myself, I like being part of something as critically important as local government. We’re never going to be wealthy lawyers by the world’s standards and most of us are never going to be legendary legal gods, two things that, I sheepishly confess, bothered me the first few years of my municipal career. I guess it’s true, though, that with age comes wisdom and I have left those concerns further and further behind me as I’ve become more and more aware of the direct impact local government has on the quality of life for the people around me.

I have to say, though, that my “why” recently has become clearer. When I began writing this article, things were rolling along as usual: too much to do and not enough time to do it, but it all was general, garden-variety municipal work. And then, in a moment, *everything* changed and attention shifted to matters larger and more intense than I could have ever imagined.

The details of my Moment aren’t important because, for each municipal attorney, there has been or will be a Moment that defines our “why.” A Moment may be the result of a natural disaster ravaging our city or a school shooting or a bad decision or a political scandal or one of the billion other things completely outside of the individual, direct control of a city attorney. Trust me: the genesis doesn’t matter when we define our “why.” Nothing

matters as we realize that our presence as legal counsel for our city right then, in that Moment, matters more than anything else we’ve done in our career and, instinctively, we know that it will greatly matter in all of the hours and days and weeks and months to follow. Our presence, our help, our mind, our experience will make a difference for our city and its people and we suddenly realize why we do this. It’s because protecting this faceless client is as much a part of who we are as the color of our eyes and we know that this is why we were put on this spinning terrarium – to protect and serve and defend in this Moment and in all the little “m” moments to follow.

Municipal attorneys were put here to pick up these pieces and help our city put itself back together. We are here to handle the Moment and the moments, counsel shaken employees who are suddenly willing to listen, and send them back to the comfort of their daily work with the confidence and knowledge that, whatever the problem might be, it is now safely in our hands.

We do it because that’s who we are. It’s who we were made to be.

And after everyone else has moved past the Moment, we will continue to deal with it and its consequences and its mind-numbing minutiae that nobody else will ever see. But we see it, live it, breathe it, lose sleep because of it ... because we’re still there, camped out in the Moment long after it’s over.

That’s just what we do.

In fact, we’ve been critically deep in the Moment from the time it happened and we know we’ll stay in it until the file is finally closed and stored away. We’ll do that for the employees and the electeds and the department heads so they can return to the important work they do for our city and for its citizens. We’ll handle the Moment and still manage the zillion other issues that won’t stop coming just because we’ve had our Moment. We’ll keep going because our city and its operation under the unique laws that govern its ultimate success or failure is in our hands. We’ll stay in that Moment for as long as it takes because municipal law found us and we couldn’t let it go and now it’s who we are. It’s what we proudly do even if it seems nobody will ever understand that municipal attorneys float on the random timbers to keep our clients in the lifeboats

We take on the icy municipal waters so our clients don’t drown. It’s what we do because that’s just who we are. ■

*About the author: A 1996 graduate of the University of Alabama School of Law, Kelly is a soon-to-be-middle-aged municipal attorney who spends most of her time wishing death to the city phone system and e-mail server. During lucid moments, she is the City Attorney for the City of Madison, Alabama, and manages a department of a whopping five employees (counting her) who are the hardest-working team in the business (most of the time counting her). When not in the office or with her face in her phone checking e-mail, she enjoys spending 37.8 minutes a week with her firefighter-husband and trying to buy the love of her eight-year-old daughter due to a severe case of Working Mommy Guilt. She is also the current Vice President of the Alabama Association of Municipal Attorneys and loves speaking at AAMA seminars and conferences when they have run out of options and nobody else is available.*

issues from an unbiased point of view. Councilmembers have a responsibility to discuss this data and information in an open and frank environment, then to make decisions based on what's best for the community, sometimes even going against the wishes of their constituents. All members of the body have a duty to support these decisions. The mayor has a duty to carry into effect the policies the council adopts, to enforce contracts and ordinances, and to ensure that the municipalities operates on a daily basis.

Jim notes in his article: "Closely related to role confusion is lack of respect for the office. Often in cities experiencing a high level of dysfunction, you find one or more elected officials who believe their election certificate is an entitlement to act as they please rather than conveying a responsibility. And that responsibility requires decisions that balance doing what the constituents want with what's in the long-term community interest, even when unpopular with some, and always doing so in a respectful and ethical manner."

This lack of respect for the office takes several different forms. Obviously, when a person exceeds the scope of his or her authority, this shows a lack of respect for the other office or offices involved. But it can also demonstrate a lack of respect

for that person's own office. There may be a feeling that the office you occupy is "powerless." I've heard many officials express this view over the years. What they general mean, though, is that the office they occupy doesn't have the power to do what they want to accomplish at that moment.

In reality, nothing could be further from the truth. Each office in a municipality is vested with the authority it needs to accomplish what is needed on behalf of the community and serve the interests of representative government. The limitations on powers within a specific office simply requires respectful and reasonable exercise of those powers to reach a compromise solution.

Sometimes, there's a belief that the other side—whether that is the mayor or certain councilmembers—are the ones who simply won't see reason. This may be true, but in many cases it isn't. When this is behind our failure to reach a compromise, it is often best to examine our own motives and reactions.

Failure to act within the scope of authority also demonstrates a lack of respect for the electorate. They elected each person to office to perform specific functions. When an official or employee intentionally exceeds his or her authority, that person is essentially deliberately ignoring the will of the

*continued on page 22*



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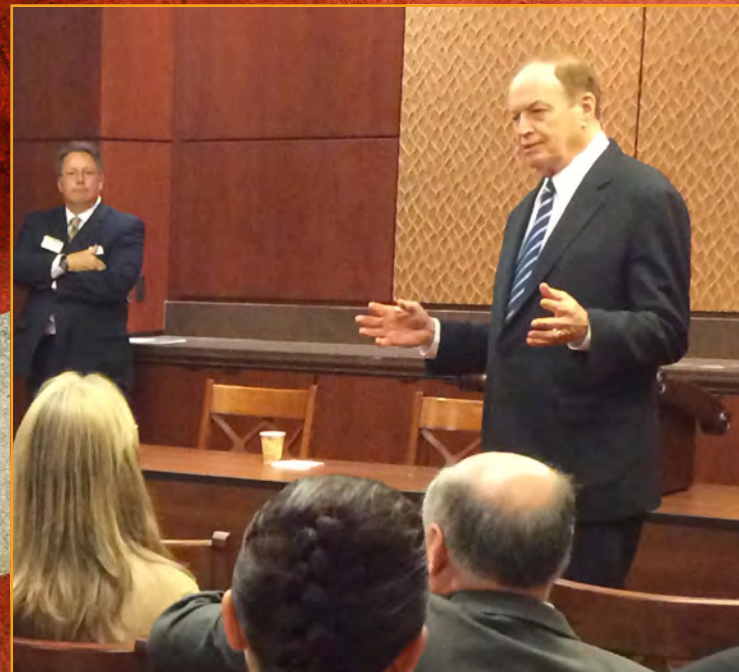
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# NLC Congressional City Conference, Washington D.C., March 8-11, 2015

*In addition to attending meetings and workshops, Alabama's caucus heard key legislative updates from Carolyn Coleman, NLC's Director of Federal Advocacy, and Greg Cochran, ALM's Director of Intergovernmental Relations. They also had a Q&A session with Senators Richard Shelby and Jeff Sessions at the U.S. Capitol.*





people who put him or her into office. At this point, solving the problem becomes much more difficult. Sometimes issues are resolved only when the voters elected new people to office.

Lord Acton stated that absolute power corrupts absolutely. With that in mind, local governments were set up for each elected position to act both as a source of power and a check on the power of the other. Through working together and negotiating for solutions, a municipal government best represents the citizens. Officials need to study the extent of their power, respect the fact that they can't always do what they want to do the way they want to do it and keep the ultimate goal in mind – providing the best government possible to the citizens of the community.

Keep in mind that confusion over roles is much easier to resolve prior to acting. Once you've stepped on someone else's official toes, they will be much more resistant to working with you to resolve any difficulties. If you wonder whether you have the authority to take some action, check the League's publications, contact your attorney or call the

League office for advice. Discuss problems openly with other officials, not in an insulting manner, of course, but in a way that seeks only a proper and legal solution to issues you see. It may be that there are good reasons for their actions, or lack of action.

Our attorneys spend a great deal of time helping officials better understand their roles. They write articles, meet with officials and answer hundreds of questions from our members each year that arise simply due to a lack of clarity regarding the specific roles performed by different municipal officials. Those who work or serve municipalities have a responsibility to learn their roles. They need to ask questions and seek the advice of others. I encourage each of you to take the time to study the position you occupy in municipal government and to strive to obtain better clarity regarding your roles and duties.

As Jim concludes: "Those cities that take the time to ensure that each player understands and respects their roles – and those of the other team members – will be less likely to experience dysfunction than those that don't." ■

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# The Crisis in Rural Healthcare: Telemedicine to the Rescue?

By Douglas J. Watson, Ph.D.

**S**mall rural Alabama towns are in the midst of a healthcare crisis that may only get worse before it improves. For a variety of reasons, including government funding policies and legal liability, rural hospitals are closing, and younger doctors are not replacing older ones who are retiring. The National Rural Health Association states: “Economic factors, cultural and social differences, educational shortcomings, lack of recognition by legislators and the sheer isolation of living in remote rural areas all conspire to impede rural Americans in their struggle to lead a normal, healthy life.” (ruralhealthweb.org accessed January 21, 2015)

## Alabama’s Crisis

According to the Alabama Rural Health Association, Alabama’s rural areas have a per capita income level that is 21 percent less than urban Alabama residents. Of more than 3100 counties in the United States, eight Alabama’s 67 counties are listed among the 250 poorest with Marion County the 251<sup>st</sup>. One in five rural Alabama residents is eligible for Medicaid and almost one-half of all rural children are eligible. Poverty, however, compounds their access to the healthcare that is available with 14 rural counties having 10 to 16 percent of all households with no vehicle. The 14 counties in Alabama with the highest percentage of uninsured under the age of 65 are all in rural areas. In each of the 14 counties, 18 percent or greater of the under-65 population do not have health insurance.

All but two (Coffee and Pike) of Alabama’s 55 rural counties are classified as partially or wholly primary care deficient. There are eight counties in Alabama that do not have a general hospital which means rural residents must travel to a hospital in one of the adjoining counties – often a substantial distance. Of the 31 rural hospitals in Alabama, 28 of them were operating in the red during the past fiscal year, according to Dale Quinney, executive director of the Alabama Rural Health Association. During the past six years, five hospitals in rural Alabama have closed, and more closures are likely unless there are major changes in policies on the federal or State level. For example, the current sequestration enacted by Congress has led to a two percent cut in healthcare funding which negatively impacts Alabama’s rural hospitals as well as Medicare funding. (Quinney 2015)

Fewer physicians and other healthcare professionals practice in Alabama’s rural areas. In large metropolitan areas, there are 304 physicians per 100,000 population while in rural areas there are only 53 physicians per 100,000 population. The ratio of general practitioners to residents in rural areas is approximately the same as in urban areas (28.1 in rural, 26.1 in urban). The problem becomes acute when one considers highly-trained specialists. For example, there are 5.2 pediatricians per 100,000 in rural areas and 17.5 in urban areas. There are 5.1 per 100,000 OBGYN physicians in rural areas compared to 13.7 in urban areas; 7.6 general surgeons in rural areas and 14.6 in urban areas. In other medical specialties, rural areas have one-third the number of specialists of urban areas. According to Quinney, there are no physicians practicing in Coosa County, which means that residents have to travel out-of-county to see a doctor.

Obstetrical service is an especially worrisome situation in Alabama and in rural America generally. In 1980 in Alabama, 46 of the 54 counties classified as rural had hospitals offering obstetrical services that allowed women to have their children close to home. According to the Alabama Department of Public Health, only 17 of the 54 counties currently considered rural offer obstetrical service. In many cases, women have to travel 50 to 90 miles or more to a hospital for the delivery of their babies – and since many live in households without automobiles, their problems are compounded. The likelihood they will receive necessary prenatal care is lower and the possibilities for complications during birth are greater. According to the Alabama Center for Health Statistics Natality Files, approximately one-fourth of rural women do not have adequate prenatal care.

In 2014, the Bryan Whitfield Memorial Hospital in Demopolis closed its labor and delivery unit because it was losing between \$400,000 and \$500,000 per year. In a February 2015 article titled “Many Alabama Women Drive 50+ Miles to Deliver Their Babies as More Hospitals Shutter L&D Departments,” Anna Claire Vollers noted that the shuttering of OBGYN units was due to the high cost of offering the service and the stringent operating requirements. In addition, malpractice insurance is costly and “there may not be adequate reimbursement from patients’ insurance”. In Demopolis, the hospital received reimbursement from Medicaid and private insurance of approximately three-fourths of the expense incurred. Demopolis

once had four physicians delivering babies whereas now it has only one. Quinney believes the loss of obstetrical services is the most critical of all the many challenges facing rural healthcare.

Dental care and mental health care are also serious problems in rural Alabama. There are no full-time dentists in Lowndes, Greene or Coosa counties. Nationally, there are 60 dentists per 100,000 population in urban areas, and there are 40 per 100,000 in rural America. According to the Alabama Office of Primary Care and Rural Health (2014), all Alabama counties except for Shelby County and parts of Madison County are classified as dental health professional shortage areas for low income residents. Most dentists do not accept Medicaid patients, and those that do receive only 73 percent reimbursement.

Mental health services do not meet minimal care standards in most rural counties, and, according to Quinney, Alabama needs at least 80 additional psychiatrists to meet minimal needs in rural counties. All but 23 of Alabama's counties were classified as mental health shortage areas in 2014, and 22 of the remaining ones are classified in the same way for low income residents. Nationally, 20 percent of non-metropolitan counties lack mental health services compared to five percent of urban counties. Suicide rates, hypertension levels and percentages of youth who use smokeless tobacco and abuse alcohol are greater in rural areas than in urban areas.

Alabama's health care crisis is not unique. In the United States, only one-tenth of all physicians practice in rural areas even though one-fourth of the American population is rural. According

to the National Rural Health Association, rural residents are less likely to have employer-provided health insurance and the rural poor do not have Medicaid coverage at the same rate as their urban counterparts. Per capita income is \$7,417 less in rural areas than in urban areas with nearly one-quarter of rural children living in poverty. The National Rural Health Association states: "Medicare payments to rural hospitals and physicians are dramatically less than those to their urban counterparts for equivalent services. This correlates closely with the fact that more than 470 rural hospitals have closed in the past 25 years."

Several promising initiatives are underway that address the crisis in rural healthcare in Alabama and in other states. Telemedicine, the training of young doctors specifically for rural health, as well as changes in health care insurance practices hold promise for improvements for those who live in rural areas.

### Telemedicine

According to the American Telemedicine Association (ATA), "telemedicine is the use of medical information exchanged from one site to another via electronic communications to improve a patient's clinical health status." (americantelemed.org, accessed March 18, 2015) Technological advances have led to improvements in telemedicine for rural residents that would not have been possible in the recent past. The ATA points out that telemedicine uses technologies such as two-way video, smart phone, email, wireless tools and other telecommunications technology that were not previously available.



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Medical schools do not consider telemedicine a medical specialty but as technology used in the practice of medicine. It is available to numerous primary care physicians and specialists who serve patients in remote areas. For example, a specialist in an urban area can aid in the diagnosis of a patient located miles away in a rural area. In this case, doctors are able to employ “live interactive video or the use of store and forward transmission of diagnostic images, vital signs and/or video clips along with patient data for later review.” (americantelemed.org, accessed March 18, 2015)

Remote patient monitoring has also proven to be a valuable tool in maintaining the health of residents of remote areas. Devices are used to collect and transmit data to a home health or diagnostic center for interpretation and monitoring. The patient may need to be monitored for a specific vital sign, such as blood glucose or heart ECG or a variety of other indicators that left unattended may result in serious illness or death.

The Alabama Department of Public Health (ADPH) recognizes the opportunity that telemedicine presents to improve the health of rural Alabamians. Currently, the department is purchasing nine telemedicine carts that will be employed in rural areas to allow diagnostic tests to be conducted. Ultrasounds that are not universally available to women in remote areas will be possible through telemedicine. This is especially needed in Alabama where obstetrical care in rural areas is lacking and getting progressively worse.

Governor Robert Bentley, M.D. recently endorsed the ADPH’s use of telemedicine: “Proposals to make Alabama healthier and make health care more affordable ... could include greater use of nurse practitioners, physician assistants, and expansion of telemedicine ... I really want to see good health care brought to all the people of Alabama at a reasonable cost.” (Phillip Rawls, Associated Press, January 3, 2015) Other physicians, such as Dr. Howard Rubenstein, a 30-year family medicine practitioner and the current mayor of Saraland, are concerned that telemedicine will lessen the quality of care because a physician is not directing treatment in-person. “Mid-level professionals should be supervised directly by a physician,” he said. “I want to be able to examine a patient face-to-face in order to ensure high quality care.”

The University of Alabama at Birmingham (UAB) Medical School is pioneering treatment for home dialysis patients through a grant from Baxter International. UAB Medicine’s Red Mountain Home Dialysis Training Unit is working with approximately 40 patients who normally drive from outlying areas for monthly checkups from as far away as Florence and Dothan. “Patients instead will speak with their UAB Medicine physician via teleconference from their hometown county health department, where their blood will be drawn and sent for lab testing as part of the ‘virtual visit.’” (uabmedicine.org accessed March 18, 2015) According to Dr. Eric Wallace, the director of the UAB Peritoneal Dialysis Program, only two other home dialysis programs in the United States are using telemedicine,

but neither eliminates hospital visits or provides the equipment used at home. UAB Medicine (uabmedicine.org) observes:

In Alabama, telemedicine is being used in certain clinical capacities covered by Medicare, including psychiatry, HIV/AIDS outreach, and ophthalmology. As telemedicine becomes more widely accepted, it could open additional doors for UAB to export highly sub-specialized care to communities that need it. Within the field of nephrology, rural providers may lack the expertise to manage complex conditions such as polycystic kidney disease and Fabry disease, for example. The more conveniently UAB can deliver care, the more likely patients are to pursue advanced treatment and stick to it.

**Insufficient Broadband Access a Major Obstacle**


One of the major obstacles to employing widespread telemedicine use in Alabama’s rural communities is the state’s significant lack of universal broadband service. According to a March 2015 Associated Press report on state-by-state high speed Internet access, about 1.7 million people, or 35 percent of Alabama’s population, don’t have access to high-speed Internet. Fifty-six percent of those in rural areas are without access. President Obama recently established the Broadband Opportunity Council with representatives of 25 federal departments to study ways to make broadband more accessible to Americans. The Federal Communications Commission (FCC) indicated “more than 50 million Americans cannot purchase a wired broadband








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connection capable of delivering download speeds of 25 Mbps, the mark that the FCC has defined as the minimum for adequate broadband service.” (Reardon 2015) This inability to connect to broadband is especially acute in the rural areas of America, and specifically Alabama.

In order to address this need, one of three things must happen: 1) a large-scale government program to bring broadband to rural areas similar to the New Deal’s rural electrification effort; 2) incentivize private providers to extend broadband coverage to presently underserved areas; or 3) technology will continue to improve so that telecommunications will be available to rural areas in the same quality and quantity as in urban areas.

*The New York Times* (reprinted in the *Opelika-Auburn News*, March 16, 2015) reported recently that Google is working on Project Loon using giant balloons to beam wireless signals to rural areas in the Southern Hemisphere. While this particular project may not impact Alabama’s rural communities, other innovations in the future may have that effect. Governmental incentives to private technology companies may be needed to encourage the development and employment of new technology.

### Insurance Reimbursement

While Medicare provides reimbursement for some telemedicine services in Alabama, Medicaid and private insurance do not reimburse for telemedicine services. For example, in the case of the UAB Peritoneal Dialysis (PD) Program, Medicare does not reimburse for the services provided. As a result of the grant referred to above, UAB doctors hope to show that the quality of service provided remotely is equal to or better than

in-clinic care. The grant from Baxter International funds the cost of the doctors, the research coordinator, nursing support at county health clinics, and videoconferencing terminals at UAB hospital. “The results of the trial could influence whether telemedicine for PD becomes sanctioned by Medicare in Alabama, and ultimately, by private insurers. Some 28 other states, including Mississippi and Georgia, already mandate private insurance coverage for telemedicine in many health care specialties.” (uabmedicine.org accessed March 18, 2015)

Dr. Rubenstein believes the most serious problem facing rural healthcare is the failure of Medicaid and private insurers to reimburse doctors at a fair rate. He notes that doctors in rural areas are often treating less educated citizens who need a higher level of care, yet Medicaid reimburses doctors at a 40 percent level. Dr. Rubenstein suggests that, at the least, rural doctors should be paid the same rate as urban doctors but that a higher rate is more equitable because of the difficulty in offering quality medical care to rural residents. In addition, doctors in rural areas should have some legal protection from lawsuits because of their exposure to a “high risk population” where liability is the greatest.

### Retail Medicine

Large retailers with a presence in many small, rural communities have recently begun to open walk-in clinics. Although none are currently available in Alabama, the Clinic at Walmart, for example, is an independently-owned and operated clinic located within Walmart stores that operate seven days per week, twenty-four hours per day and charge reasonable fees to patients who do not need appointments. CVS has its

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Minute Clinics that offer routine medical care at reasonable prices. If a person has a serious illness, CVS Minute Clinics advise them to find treatment elsewhere. Walgreens has similar walk-in healthcare services. (As with Walmart, neither CVS nor Walgreens currently operate their clinics in Alabama stores.)

These private healthcare providers emphasize preventive medicine and have plans to improve a patient's health in part by keeping excellent electronic records of their visits. Some of the retail clinics are cash-only, which limits access for the rural poor. State and local economic developers should consider offering incentives to entice private providers to locate their clinics in the most-needy counties. Only time will tell if these private sector efforts have a meaningful impact on rural healthcare.

### New Medical Schools

There are two new medical schools in Alabama – one in Auburn and one in Dothan. Once they begin to graduate doctors, they should help to address the doctor shortage in the state's rural areas. Located on the Auburn University campus, the Edward Via College of Osteopathic Medicine's mission is to train doctors to practice in the rural areas of the South. Local governments should consider partnering with either or both of these new medical colleges to bring doctors and other healthcare professionals to their towns. Recruiting healthcare providers is a form of economic development that could include a number of provisions and incentives, such as facilities or other subsidies for a period of time, for doctors willing to practice in their communities.

### Conclusion

The healthcare crisis in rural Alabama is one that will require the attention of key leaders in the State of Alabama. Fortunately, the Alabama Department of Public Health (ADPH) is taking the lead on several telemedicine initiatives. However, unless ADPH is given adequate resources to expand its efforts – and unless broadband access is significantly improved throughout the state – the impact will not be sufficient to bring healthcare for rural Alabamians to the same level as those living in urban areas. An assessment of broadband in rural areas should be conducted by the State to determine what telemedicine services can be offered. Public and/or private investments may have to be made to expand broadband capability in order to allow telemedicine to reach its full potential in Alabama.

As telemedicine expands in Alabama, it's expected that both government and private health insurance will recognize its legitimacy as a method of providing healthcare to rural residents. Without the support of Medicare, Medicaid, and private insurers, the impact of telemedicine will certainly be less than its potential allows. The State of Alabama, state universities, the new medical schools and the private sector must all play a large role in improving healthcare in rural areas, both in retail medicine and in expanding broadband capability. This is clearly not a problem for government to solve on its own, although it may have to take the lead if the goal of convenient and accessible healthcare for all Alabamians is to be realized. ■

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*Dr. Douglas J. Watson is a Distinguished Research Fellow for the Center for Leadership and Public Policy at Alabama State University. He retired as city manager of Auburn before serving as Professor of Public Administration at the University of Texas at Dallas from which he retired in 2010. He lives in Auburn where he is active on boards of the City of Auburn and various non-profit organizations.*

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# The Legal Viewpoint

By Teneé Frazier, Assistant General Counsel



## Volunteer Fire Departments

### Are Volunteer Firefighters Employees or Volunteers?

The subject of Volunteer Fire Departments can elicit a multitude of questions. What is a volunteer fire department? What control does the City have over a volunteer fire department? Is there a distinction between an incorporated volunteer fire department and unincorporated volunteer fire department? What's the difference between a City firefighter and a volunteer firefighter? Is a volunteer firefighter an employee or a volunteer? What about liability? Can the City be held liable for a volunteer firefighter's actions or inaction? Is the City required to compensate volunteer firefighters? Buy equipment? Supplies? The list of questions can be endless.

Over the years, the League has provided municipalities with a manual specific to volunteer fire departments which helps answer many of these questions. However, a lot of things have changed since the manual was last published in 2007. Gas prices, Super Bowl champions and social media to name a few. Laws and opinions governing volunteer fire departments have also changed. Thus, the latest edition of the "Volunteer Fire Department Manual" will be available this summer. This article, however, will focus on compensation for volunteer firefighters and what could turn a volunteer firefighter into an employee under the Fair Labor Standards Act.

#### Volunteer Fire Departments

Volunteer fire departments may be organized in different ways. They can be incorporated under Alabama law as a nonprofit organization or sanctioned by a legal subdivision of the state, such as a municipality. Ala. Code § 9-3-17 (1975). At least 80 percent of the volunteer fire department must be unsalaried. *Id.* Under section 11-43-140 of the Code of Alabama, municipalities are authorized to maintain and operate volunteer fire departments and "may do any and all things necessary to secure efficient service." § 11-43-140. Volunteer fire departments sanctioned by a municipality become a part of the municipal government. Ala. Op. Att'y Gen. No. 2001-059. (Jan. 05, 2001). A municipally

sanctioned volunteer fire department is not incorporated or governed by a separate board. *See* Ala. Op. Atty. Gen. No. 93-00014 (Oct. 06, 1992). The city council prescribes the rules and regulations to control and manage the fire department. *Id.* It should also be noted that the State Forestry Commission regulates the volunteer fire department for the purpose of retaining certification and may require participation in training programs and other activities. *Id.*

#### Compensation of Volunteer Firefighters

Municipalities are authorized to donate municipal funds to volunteer fire departments under section 9-3-18 of the Code of Alabama. § 9-3-17. However, they are not authorized to donate municipal funds to individual volunteer firefighters. Ala. Op. Att'y Gen. No. 91-00157 (Feb. 1, 1991). In a municipally sanctioned volunteer fire department, if the city chooses to provide compensation to the volunteer firefighters in the same manner as they compensate other firefighters who are full-time salaried employees, the volunteers may become city employees and, thus, subject to all rules and regulations concerning city employees. Opinion to Honorable William C. McPherson, Mayor, January 10, 1986. Municipalities may, however, enter into a contract with each volunteer firefighter for the purpose of providing a reasonable expense allowance for attending fires. *Id.* Where a contractual relationship exists, municipalities may also offer workers' compensation benefits and disability insurance to volunteer firefighters. § 25-5-50; Ala. Op. Att'y Gen. No. 79-00282 (Sept. 10, 1979)

#### Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) provides that a volunteer may only be paid expenses, reasonable benefits, or a nominal fee, or any combination thereof, without losing volunteer status. 29 C.F.R. § 553.104 (1987). Examples of permissible expenses or benefit payments are described as a payment for expenses, such as dry cleaning; an allowance for requirements such as uniforms; reimbursement for an

out-of-pocket expense such as transportation; a payment to provide materials such as supplies; or a payment for benefits, such as participation in a group insurance plan. *See* FLSA Opinion Letter 2006-28 (August 7, 2006). The FLSA and its regulations do not define what constitutes a “nominal fee.” Whether or not a fee is nominal must be considered in the context of any and all benefits and expenses provided for and the “economic reality” of the particular situation. *Id.* Because of all the factual considerations, questions and concerns about whether or not the fees paid to volunteer firefighters are nominal for purposes of the FLSA should be addressed to your municipal attorney. If the fee is not nominal then the individual does not qualify as a volunteer and therefore may be considered an employee for purposes of the FLSA.

**Economic Reality Test**

Some volunteer firefighters are paid a “nominal fee” in the form of an hourly salary. In this event, it can be hard to determine whether the firefighter is an employee or a volunteer. When analyzing whether an individual is an employee under the FLSA, courts will generally apply the economic reality test. *Goldberg v. Whitaker House Co-*

*op., Inc.*, 366 U.S. 28, 33 (1961). The economic reality test asks “whether the alleged employer (1) had the power to hire and fire the employees, (2) supervised and controlled employee work schedules or conditions of employment, (3) determined the rate and method of payment, and (4) maintained employment records.” *Villarreal v. Woodham*, 113 F.3d 202, 205 (11th Cir. 1997).

In *Freeman v. Key Largo Volunteer Fire and Rescue Department, Inc.*, Freeman, a volunteer firefighter, sued the Key Largo Volunteer Fire Department and the Fire District claiming he was not a volunteer, but a paid employee who had been underpaid according to the Fair Labor Standards Act. *Freeman v. Key Largo Volunteer Fire & Rescue Dep’t, Inc.*, 841 F. Supp. 2d 1274 (S.D. Fla. 2012), *aff’d*, 494 F. App’x 940 (11th Cir. 2012). Freeman alleged he was “paid more than a nominal amount” and claimed that he was not compensated for approximately \$7,381.43 in overtime hours and approximately \$39,686.50 in minimum wage benefits. *Id.*

The Court used the economic reality test to analyze Freeman’s claims. The Court held that Freeman was indeed *continued page 41*



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# Coach Nick Saban

Closing Session Featured Speaker, May 19, Tuscaloosa

As he begins his ninth season in Tuscaloosa, Coach Nick Saban's uncompromising dedication to excellence in every phase of the program has resulted in the school's 13th, 14th and 15th national championships and the foundation has been set to yield long-term success for the Crimson Tide. A six-time National Coach of the Year, Saban has achieved resounding success as a head coach and has earned a reputation as an outstanding tactician, leader, organizer and motivator. Those qualities have sparked impressive turnarounds at every stop of his career. Saban's consistent approach and disciplined leadership are the reasons his teams are known

for exhibiting grit, determination and resilience, often overcoming adversity to achieve victory.

Saban has compiled a 177-59-1 (.749) record as a college head coach and has gone 84-11 (.884) in the past seven seasons in Tuscaloosa, which includes a 49-7 mark in regular season conference play. In 2014, the Tide reached the 10-win milestone for the seventh consecutive season and won 11 or more games for the fourth straight year which set a conference record. With another SEC Championship win in 2014, Saban is now 9-1 all-time in conference or national championship games. He is the first coach to win back-to-back BCS national championships and has won four titles in his last nine years of coaching college football. Saban is one of three college coaches in the poll era since 1936 to win three national championships in four years, joining Frank Leahy of Notre Dame (1946-47, 1949) and Tom Osborne of Nebraska (1994-95, 1997). He is also the fourth coach in the poll era to win four national championships (Alabama's Paul "Bear" Bryant, John McKay of Southern California and Leahy).

Before arriving in Tuscaloosa, Saban's most recent college head coaching stint was a five-season run at LSU that produced a record of 48-16 (.750), one national championship (2003), two Southeastern Conference championships, three SEC Western Division championships, and a 3-2 record in bowl games, with two Sugar Bowl victories and a Peach Bowl win. LSU constructed a 28-12 (.700) record against SEC opponents under Saban's guidance. He was named the 2003 National Coach of the Year by the Associated Press and earned both the Paul W. "Bear" Bryant National Coach of the Year Award and the Eddie Robinson Coach of the Year Award by the Football Writers Association of America. Saban was named SEC Coach of the Year twice (by The Birmingham News in 2001 and by the Associated Press in 2003) while at LSU. Saban took over the Alabama program after serving two seasons at the helm of the Miami Dolphins.

In 1998, Saban and his wife, Terry, started the Nick's Kids Foundation, which they have continued in Tuscaloosa, a vibrant example of their continuing concern for disadvantaged children. Since the Sabans have arrived in Tuscaloosa, nearly \$5 million has been distributed to over 150 charities through the Nick's Kids. The Sabans also have played a big role in tornado relief efforts in Tuscaloosa and the surrounding areas. Immediately following the devastating storm on April 27, 2011, they visited shelters, where they paid for and served meals to those in need. Through Nick's Kids, the Sabans joined with Project Team Up and Habitat for Humanity in helping to rebuild 15 homes lost in the tornado. In receiving the 2008 Liberty Mutual Coach of the Year Award, Saban was awarded a \$50,000 gift at the A-Day Game. He designated the gift for Nick's Kids, as well as an additional \$20,000 gift for The University of Alabama scholarship fund. In June of 2008, the Sabans announced a \$1 million gift to benefit Alabama's first-generation scholarship program. The gift has a special meaning to the Sabans as both were first-generation graduates. For more information on Coach Nick Saban, visit [coachsaban.net](http://coachsaban.net). For information on Nick's Kids, visit [nickskidsfoundation.org](http://nickskidsfoundation.org).



## Joyce E. Brooks

Closing Session Keynote Speaker, May 19, Tuscaloosa

Joyce E. Brooks is an author, entrepreneur, mother, cancer survivor, artist, engineer and a dynamic speaker. She has over two decades of corporate experience and has given countless presentations on topics ranging from leadership and board management to surviving the corporate game. Joyce started her corporate career over two decades ago as an electrical engineer at Alabama Power Company. Within five years, she was being groomed for leadership – working in marketing, public relations, corporate services, community relations, economic and community development, customer service and serving as area manager for the company’s largest division. Her career was on the fast track; however, in September 2008, a breast cancer diagnosis forced Joyce to step back and reevaluate how she managed her time.

She realized her very best was being hindered by her overloaded schedule and lack of work-life balance. So when she was declared cancer free in 2009, she pressed the reset button and started implementing strategies to live a more balanced life. Joyce’s new approach led her to start writing, painting and spending quality time with family and friends. She was living a more balanced life when suddenly, last May, Joyce lost her husband and soul mate of 14 years and instantly became the head of a single parent household with two young boys. Over the past year, Joyce has yet again pressed the reset button, publishing her second, aptly named book, *It Ain’t Over!*, in the process.

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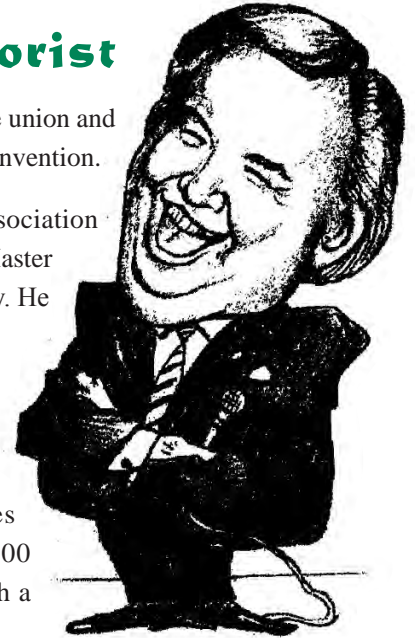
# Al Walker

## Humorist

Al has been sharing his thoughts and his brand of humor with audiences all over the world for more than 30 years. He has spoken in every state in the union and in seven foreign countries. This will be his third appearance at the League's annual convention.

Al has received every award and recognition given by the National Speakers Association including The Cavett (Ca'vet), which some refer to as the Oscar of speaking and the Master of Influence Award for his impact on his profession both nationally and internationally. He has also been inducted into the Speakers Hall of Fame.

In addition to his books, *Thinking Big & Living Large* and *The Sheep Thief*, Al has written articles on leadership, sales, customer service, personal development and communications that have appeared in professional publications throughout the world. He is actively involved in his community and his church and lives in Chapin, South Carolina with his wife Margaret. Even after losing almost 200 pounds (which Al likes to call his evil twin), he is still known as a big man with a big message. [For more about Al, visit alwalker.com](http://alwalker.com)



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# Legal Clearinghouse

Rob Johnston, Assistant General Counsel

**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. When trying to determine what Alabama law applies in a particular area or on a particular subject, it is often not enough to look at a single opinion or at a single provision of the Code of Alabama. A review of the Alabama Constitution, statutory law, local acts, administrative law, local ordinances and any relevant case-law may be necessary. 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.

On February 27, 2015, in the case of *Bynum v. City of Oneonta*, -- So.3d --; 2015 WL 836700 (Ala. 2015), the Alabama Supreme Court held unconstitutional Act 2009-564, amending Sections 28-2A-1 et seq., Code of Alabama 1975, relating to wet/dry referendums. The Act, which allowed municipalities with populations of 1,000 or more to hold referendum elections on whether or not to allow the sale of alcohol, specifically excluded three counties from its application. The Court held since the Act had no rational basis to distinguish between the three excluded counties and the other 64 counties in the state, it violated equal protection. The Court further held that the unconstitutional portion of the statute was not severable from the rest of the statute.

The Court's decision put over 30 municipalities who had already held wet/dry elections in reliance on Act 2009-564 at risk for significant revenue and economic development losses. In response to the decision in *Bynum*, the Alabama Legislature passed two bills, Act 2015-01 and Act 2015-02, both of which were signed into law on March 12, 2015. Act 2015-01 validates all the referendums held in reliance on the original Act, and Act 2015-02 authorizes municipalities, with a population greater than 1,000, to hold local alcohol sales referendums in all 67 counties.

## ALABAMA COURT DECISIONS

**Tort Liability:** The cap on damages for claims against a municipality did not limit the recovery on a claim against a municipal employee in his or her individual capacity. The recovery that was capped was the recovery

from a municipality in those limited situations in which a municipality could be held liable in a negligence action. *Morrow v. Caldwell*, 153 So.3d 764 (Ala.2014)

**Police:** Police roadblock that was conducted pursuant to a preexisting plan limiting the officer's discretion, was carried out in a neutral and objective manner. *Woolen v. State*, 154 So.3d 264 (Ala.2014)

**Open Meetings Act:** Former directors of a public television station lacked standing to bring an Open Meetings action against the Alabama Educational Television Commission. *Ex parte Alabama Educ. Television Com'n*, 151 So.3d 283 (Ala.2013)

**Search and Seizure:** Law enforcement officers had probable cause to believe that defendants were engaged in illegal activity of manufacturing methamphetamine, and exigent circumstance justified a warrantless entry and search of apartment based on odor consistent with methamphetamine manufacture. *State v. Clayton*, 155 So.3d 290 (Ala.2014)

**Zoning:** Property owner did not have a right to resume a discontinued use of the nonconforming use of property, and the city's denial of property owner's request to change the zoning classification of property from residential to business was not arbitrary or capricious. *City of Prattville v. S & M Concrete, LLC*, 151 So.3d 295 (Ala.Civ.App.2013)

**Taxation:** A trial court order granting summary judgment in favor of taxpayers was not a final order for purposes of appeal. *City of Birmingham v. Methvin*, 154 So.3d 138 (Ala.Civ.App.2014)

## UNITED STATES COURT DECISIONS AFFECTING ALABAMA

**Elections:** Alabama's ballot access laws did not violate First Amendment associational rights. *Stein v. Alabama Secretary of State*, 774 F.3d 689 (C.A.11 2014)

**First Amendment:** A police officer's protected speech regarding the police chief's misconduct was not a substantial motivating factor in the chief's recommendation for termination. *Polion v. City of Greensboro*, 26 F.Supp.3d 1197 (S.D.Ala.2014)

**Courts:** Alabama's prohibition against same-sex marriage was not narrowly tailored to fulfill state's legitimate interest in protecting ties between children and their biological parents and other biological kin, and thus violated same-sex couple's rights under Due Process and Equal



Protection Clauses. *Searcy v. Strange*, --- F.Supp.3d ----, 2015 WL 328728 (S.D.Ala.2015)

## DECISIONS FROM OTHER JURISDICTIONS

**First Amendment:** A city park district ordinance providing for nightly closure of park between 11:00 p.m. and 6:00 a.m. was not facially unconstitutional under free speech clause of the First Amendment. Members of the Occupy Chicago Movement were arrested under the ordinance after they failed to vacate the park at night. The ordinance could not be facially unconstitutional because those engaged in non-expressive conduct, such as playing softball, were also subject to park closing times. *City of Chicago v. Alexander* 24 N.E.3d 262 (Ill.App. 1 Dist.2014)

**Ordinances:** Assuming that the Eighth Amendment's prohibition of excessive fines applied to municipal ordinances, the city's fines under its weed control and vacant lot ordinances were not excessive. *Discount Inn, Inc. v. City of Chicago*, --- F.Supp.3d ----, 2014 WL 5803133 (N.D.Ill.2014)

**Firearms:** A city ordinance restricting the possession of large-capacity magazines did not impose severe restriction on law-abiding citizens' ability to defend themselves, and thus was subject to intermediate level of scrutiny under Second Amendment. The ordinance did not affect ability of law-abiding citizens to possess handguns, did not restrict possession of magazines in general, did not restrict number of magazines that individual could possess, and contained an exception that would allow possession of large-capacity magazine if a lawfully possessed firearm could not function with lower capacity magazine. *Fyock v. Sunnyvale*, --- F.3d ----, 2015 WL 897747 (C.A.9 Cal. 2015)

**FMLA:** An employer action with a reasonable tendency to interfere with, restrain, or deny the exercise of or attempt to exercise a Family and Medical Leave Act (FMLA) right may give rise to a valid FMLA interference claim even where the action fails to actually prevent such exercise or attempt. *Gordon v. U.S. Capitol Police*, 778 F.3d 158 (C.A.D.C.2015)

**Age Discrimination:** Employment decisions motivated by retirement eligibility, salary, or seniority do not constitute age discrimination under the Age Discrimination in Employment Act (ADEA), only if these factors, although usually correlated, are wholly independent from age. *Hilde v. City of Eveleth*, 777 F.3d 998 (C.A.8. Minn. 2015)

## ATTORNEY GENERAL'S OPINIONS

**Fire Protection:** Act 2013-403, a local act relating to Marshall County, authorizes the Revenue Commissioner of Marshall County to assess, bill and collect the fire protection fee established therein. AGO 2015-028

**Conflicts of Interest:** The towing company of a councilmember who is chairman of the police committee may be placed in rotation for dispatch by police if the councilmember does not participate in the discussion of the consideration of, or the vote on, the issue by the council or committee. AGO 2015-030

**Sales Tax:** The collection fees under section 11-51-203(b) of the Code of Alabama applies only to the collection fees on vehicles sold by dealers not licensed in Alabama or by licensed dealers who failed to collect sales taxes at the point of sale and should be collected in the amount specified in section 40-23-107. The collection of fees, generally, under section 11-51-200, et seq. of the Code should be in the graduated amount specified in section 11-51-203(c). AGO 2015-031

**Competitive Bid Law:** Any modification of a renewable contract for residential solid waste collection, transfer, and disposal that includes an increase in the amount charged for services, beyond that contemplated by the original contract, requires competitive bidding. AGO 2015-032

**Boards:** Pursuant to section 11-50-314(a) of the Code of Alabama, the utility board of a city may not borrow money in a manner that does not involve the issuance of interest-bearing bonds. AGO 2015-033

**Fire Protection:** The fire chief of the city is authorized to inspect and test fire hydrants to ensure proper serviceability and operation, provided that he or she does so subject to the direction of the State Fire Marshall. The utilities board of the city and the city should cooperate with each other to provide the most effective fire protection for a reasonable cost of its residents. Absent an agreement to the contrary, the utilities board for the city, as the owner of its fire hydrants, is responsible for paying for the repairs and maintenance of its fire hydrants. Absent an agreement to the contrary, the city, as the consumer of the water used in testing fire hydrants, is responsible for the cost of the water during testing. AGO 2015-034 ■



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## PASSPORT PRIZE PROGRAM at the 2015 Annual Convention EXPO

### How It Works

Passport Prize cards listing the names and booth numbers of participating vendors will be distributed to convention delegates during registration. **Only registered convention delegates – mayors, councilmembers, clerks, municipal personnel – are eligible to participate in this program. Spouses and guests are not eligible.** Participating vendors will have a customized stamp for use on Passport Prize cards. Once the vendor has determined that the delegate has spent sufficient time speaking with him/her, the vendor will stamp the area on the delegate's card that correlates with the vendor's name and booth number.

Delegates will take **completed** Passport Prize cards to ALM Expo Hall Central, a designated area in the Expo Hall, and submit them to ALM staff who will verify the eligibility of every card. Only one card is allowed per delegate and ALL SPACES ON THE CARD MUST BE STAMPED TO BE ELIGIBLE! **Eligible Passport Prize cards must be submitted prior to close of the EXPO Hall on Monday at 10:30 a.m.** Prize drawings will be at the close of the General Session Tuesday. If the Passport Prize card is not complete, it will not be accepted or entered into the drawing.

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# Expo Hall Information for the 2015 Annual Convention

## Times and Locations:

The 2015 Expo Hall will be located in the University of Alabama's **Hank Crisp Indoor Facility**. Exhibits will open Sunday evening, May 17, with a reception in the Expo Hall from 5:30 until 7:30 p.m. and on Monday, May 18 from 8:00 until 10:30 p.m. with **breakfast** in the Expo Hall. Delegates should bring their passport prize cards with them to the Expo Hall and have them stamped by participating vendors as they visit the 140+ exhibitors registered for our 80th Annual Convention! **NOTE:** Exhibitors listed below purchased exhibit space prior to the printing of this publication. A complete list of exhibitors is included in the registration packets.

**DOOR PRIZE WINNERS** will be posted at the exhibitor booths that are giving away prizes. If you registered for a door prize, please check with the exhibitor during the Monday breakfast in the Expo Hall to see if you won. **Delegates are responsible for checking with the exhibitor and picking up any prizes they may have won PRIOR to the close of the Expo Hall Monday at 10:30 a.m.**

## 2015 Expo Hall Exhibitors

**The exhibitors marked with an asterisk \* are also 2015 Convention Sponsors. For a complete list of sponsors, see page 37**

<b>Exhibitor</b>	<b>Booth</b>		
A T & T	201	Charter Communications *	114
Advanced Disposal Services	517	Cherokee Truck Equipment	510
Alabama 811 *	329	Civil Southeast, LLC *	606
Alabama Clean Fuels Coalition	434	Columbia Southern University	126
Alabama Council AIA - Disaster Relief Task Force	505	Croy Engineering, LLC	311
Alabama Green Distributing, LLC	525	CXT, Inc.	612
Alabama Mountain Lakes Tourist Association *	134	Dade Paper Company	122
Alabama Municipal Clerks Association	516	Data Equipment, Inc.	106
Alabama Municipal Insurance Corporation	221	Datamatic, Inc.	137
Alabama Municipal Revenue Officers Association	530	Dixie Decorations, Inc.	601
Alabama Power Company *	214	DMD Engineers	518
Alabama Recreation and Parks Association	503	Empower Retirement *	406
Alabama Restoration and Remediation - ARR *	118	FATS - Alabama League of Municipalities	234
Alliance Insurance Group	540	Fortiline Waterworks	428
American Municipal Services	136	Garland	420
Ameron Pole Products	501	GovDeals, Inc.	513
Andrews Technology	310	GraybaR	508
Arrow Disposal Service	130	Great Southern Recreation	209
ARSEA / APEAL	511	Hancock Bank	427
B&B Truck Crane Repair	409	Harris Local Government	205
Badger Meter	522	Holiday Designs, Inc.	213
BancorpSouth Equipment Finance	402	Holophane Lighting	438
Belgard Commercial Hardscapes	203	Huntsville Convention & Visitors Bureau	538
Berney Office Solutions	418	IMS Enterprises	103
Building Management Consultants	532	InCare Technologies	327
Carr, Riggs & Ingram, LLC *	105	Information Transport Solutions, Inc. *	338
CDG Engineers & Associates, Inc.	110	Ingram Equipment Company	435
CGI Communications	107	J. A. Dawson & Company	230
		Jackson Thornton	210

Jacksonville State University	414	Sensys America	326
Judicial Correction Services *	328	Sentell Engineering, Inc.	229
K & K Systems, Inc. *	603	Severn Trent Services, Inc.	401
Kellum, Wilson & Associates, P.C.	526	Sidwell	537
Landscape Workshop	228	Siemens Industry, Inc. *	101
Lathan Associates Architects *	305	Smokefree Alabama *	521
Loss Control Division of AMIC/MWCF	219	Southern Playgrounds, Inc.	301
Main Street Alabama	611	Southern Software, Inc.	129
Master Meter	227	Southland International Trucks, Inc.	429
Mauldin & Jenkins, LLC	121	Stryker Medical	405
McKee and Associates	113	Sunbelt Fire	410
Municipal Revenue Services *	604	Sweeping Corporation of America, Inc.	212
Municipal Workers Compensation Fund *	217	Syscon, Inc.	133
Municode/Municipal Code Corporation *	102	Tank Pro, Inc.	302
Musco Sports Lighting *	309	Taylor Power Systems	117
NAFECO *	312	Temple, Inc.	336
National Center for Sports Safety	504	Terracon Consultants, Inc.	303
National Water Services, LLC	437	The Barnhardt Group	304
nCourt	138	The Institute for Public Procurement	237
NexBillPay	602	The Kelley Group	112
Pavement Restorations of Alabama	535	The StressCrete Group	204
Pittsburg Tank & Tower Maintenance Co.	128	Thompson Tractor Company, Inc.	529
Playscapes of Alabama, LLC	123	Traffic Signs, Inc.	125
Polyengineering, Inc. *	422	Tyler Technologies	104
Portland Cement Association - Southeast Region	325	United Systems	403
Precision Concrete Cutting	509	Universal Concepts	430
Prestige Partners / Community Insurance	506	US Green Building Council - Alabama Chapter	520
Provident	211	Utility Service Company, Inc.	330
RDS (Revenue Discovery Systems) *	413	VC3 *	109
Red Sage Communications, Inc.	610	Volkert, Inc. *	313
Republic Services	120	Vortex Aquatic Structures	605
Robins and Morton *	226	Wade Ford, Inc.	425
Russell Management Group, LLC *	514	Ward Scott Architecture	225
Safe-T-Shelter	426	Warren Averett	235
Sain Engineering Associates, Inc.	436	Washington National Insurance Company	115
Sansom Equipment	139	Waste Pro USA *	412
Scenic Alabama	519	Water Company of America	411
Schneider Electric	202	Whitaker Contracting Corporation	306

## 2015 Expo Hall State and Federal Agencies

ADECA	609	Alabama Trails Commission	607
Alabama Bicentennial Commission	233	Center for Governmental Services	111
Alabama Correctional Industries	334	- Auburn University	
Alabama Dept. of Agriculture and Industries	135	DCNR - Alabama State Parks	127
Alabama Dept. of Environmental Management	512	Employer Support Guard and Reserves (ESGR)	119
Alabama Department of Revenue	404	National Weather Service	206
Alabama Industries for the Blind	528	Office of the Attorney General	536
Alabama Public Library Service	527	- Consumer Protection Section	
Alabama Surplus Property	608		



a volunteer and not an employee. *Id.* The Court found that under the Department-District contract, there was a clear distinction between volunteers and employees. *Id.* Volunteers were paid \$5.00 per hour while employees were paid between \$16.83 and \$20.04 per hour. *Id.* Freeman was paid \$5.00 per hour based on his status as a volunteer. *Id.* And the most Freeman could ever earn in a month was \$1,200 regardless of the number of hours he spent at the fire station or the number of emergency calls he responded to. *Id.*

Likewise, the Court found that the Department needed permission from the District to hire paid employees and the District could not hire employees without a request from the Department. *Id.* Also, Freeman's days and shifts varied depending on his availability and the Department's needs. *Id.* Neither the Department nor the District set his schedule. *Id.* The District also did not supervise Freeman or mandate standard operating guidelines for the volunteer firefighters. Lastly, the Department nor the District set Freeman's individual rate of pay. *Id.* Instead, each year, the

Department presented the District with a plan outlining the amount of money it would need to operate which required the District's approval. *Id.* Therefore, based on the results of the economic reality test, the Court held that Freeman was a volunteer and not an employee. *Id.*

### Conclusion

Municipalities should be very careful in how they classify and compensate volunteer firefighters. Nominal fees, general supervision and contractual relationships are just a few of the factors that should be considered when making these decisions. The issues associated with volunteer fire departments can be quite extensive, but as mentioned earlier, the updated "Volunteer Fire Department Manual" will be available this summer. Should you have any questions or need information concerning volunteer fire departments, please contact the League's Legal Department. We are more than happy to help you navigate the vast and intriguing world of volunteer fire departments. ■

**Monday, May 18 is**  
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# 2015 Convention Quick Guide

Tuscaloosa, Alabama • May 16-19

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All information subject to change. CMO credits can be earned.  
See convention program for details.

## Saturday, May 16

9:00 a.m. - 5:00 p.m. Registration: Bryant Conference Center  
8:00 a.m. - 2:45 p.m. Municipal Clerks Conference: Hotel Capstone  
11:00 a.m. **Resolutions Committee Meeting:** Bryant Conference Center  
1:00 p.m. AMIC Annual Meeting, Bryant Conference Center  
3:00 p.m. - 5:00 p.m. **OPENING SESSION:** Bryant Conference Center  
Governor Bentley (invited), ALM President's Address, ACE Awards  
5:30 p.m. - 6:30 p.m. ABC LEO Reception: Bryant Museum  
8:00 p.m. City of Tuscaloosa Dessert Reception: "Spotlights and Sweet Bites" - Tuscaloosa Amphitheater  
*(In case of inclement weather, this event will be moved to Tuscaloosa River Market, 1900 Jack Warner Pkwy, Tuscaloosa)*

## Sunday, May 17

7:30 a.m. Annual Municipal Golf Outing – Ol' Colony Golf Complex, 401 Old Colony Road, Tuscaloosa  
8 a.m., 9:30 a.m. or 11:30 a.m. Church of the Highlands: Bryant Conference Center  
1:00 p.m. - 5:00 p.m. Registration: Bryant Conference Center  
2:00 p.m. - 3:15 p.m. **Concurrent Sessions:** Bryant Conference Center and Hotel Capstone  
What Community Development Programs Can Do for Your Municipality; What to Do When the  
Feds Call – Is Your Municipality Compliant?; Grants 101 – How to Acquire Federal Funding for  
Local Projects; Council/Manager Government Relationships  
3:30 p.m. - 4:45 p.m. **Concurrent Sessions:** Bryant Conference Center and Hotel Capstone  
Attracting and Retaining Retail Businesses; Handling Police and Public Interaction in a Post-  
Ferguson Environment; Your Housing Authority and What It Can Do for You; Council/Manager  
Government Relationships  
5:30 p.m. - 7:30 p.m. **Exhibitors Showcase and Reception in the Expo Hall \***  
University of Alabama Hank Crisp Indoor Facility

## Monday, May 18

8:00 a.m. - 5:00 p.m. Registration: Bryant Conference Center  
8:00 a.m. - 10:30 a.m. **Breakfast in the Expo Hall** (All convention registrants, spouses/guests and municipal clerks) \*  
University of Alabama Hank Crisp Indoor Facility  
8:30 a.m. - 5:00 p.m. Alabama Association of Public Personnel Administrators, Bryant Conference Center  
11:00 a.m. - 3:15 p.m. **Roundtables by Population** (Lunch provided): Bryant Conference Center and Hotel Capstone  
3:45 p.m. - 5:30 p.m. **ANNUAL BUSINESS SESSION:** Bryant Conference Center  
6:00 p.m. Reception: Coleman Coliseum  
7:15 p.m. **President's Banquet** followed by **AI Walker, Humorist:** Coleman Coliseum

## Tuesday, May 19

8:00 a.m. - 12:00 p.m. Registration: Bryant Conference Center  
8:30 a.m. - 10:00 a.m. **Ask Your Attorney Session:** Bryant Conference Center  
10:15 a.m. - 12:00 p.m. **CLOSING GENERAL SESSION:** Bryant Conference Center  
**Coach Nick Saban; Joyce E. Brooks** – Leadership Survival Skills for Overworked Civic  
Leaders; Passport Prize Drawings \*  
12:00 p.m. Adjourn

**\* PASSPORT PRIZE PROGRAM:** The League will once again offer this popular program – a fun opportunity for our members and vendors during the 2015 EXPO. Our Passport Prize Program is uniquely designed to give convention delegates the opportunity to speak more directly with participating vendors during convention EXPO hours (May 17 and 18) as well as the chance to win a prize during the Tuesday morning closing general session. **Delegates MUST be present to win!** See convention program for additional details.



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