

The Alabama Municipal JOURNAL

July/August 2016

Volume 74, Number 1



2016 Annual Convention





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The Alabama Municipal JOURNAL

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On the Cover:

The League had nearly 1,000 registrants for its 81st Annual Convention in Huntsville May 14-17. Delegates had many educational opportunities throughout the convention, as well as time to network and discuss ideas with colleagues from around the state.

Active Members (449)

Abbeville, Adamsville, Addison, Akron, Alabaster, Albertville, Alexander City, Aliceville, Allgood, Altoona, Andalusia, Anderson, Anniston, Arab, Ardmore, Argo, Arion, Arley, Ashford, Ashland, Ashville, Athens, Atmore, Attalla, Auburn, Autaugaville, Avon, Babbie, Baileytown, Bakerhill, Banks, Bay Minette, Bayou La Batre, Beatrice, Beaverton, Belk, Benton, Bery, Bessemer, Billingsley, Birmingham, Black, Blountsville, Blue Springs, Boaz, Boligee, Bon Air, Brantley, Brent, Brewton, Bridgeport, Brighton, Brilliant, Brookside, Brookwood, Brundidge, Butler, Calera, Camden, Camp Hill, Carbon Hill, Carrollton, Castleberry, Cedar Bluff, Center Point, Centre, Centreville, Chatoom, Chelsea, Cherokee, Chickasaw, Childersburg, Citronelle, Clanton, Clay, Clayhatchee, Clayton, Cleveland, Chio, Coaling, Coffee Springs, Coffeetown, Coker, Collinsville, Colony, Columbia, Columbiana, Coosada, Cordova, Cottonwood, County Line, Courtland, Cowarts, Creola, Crossville, Cuba, Cullman, Cusseta, Dadeville, Daleville, Daphne, Dauphin Island, Daviston, Dayton, Deatsville, Decatur, Demopolis, Detroit, Dodge City, Dora, Dothan, Double Springs, Douglas, Dozier, Dutton, East Brewton, Eclectic, Edwardsville, Elba, Elberta, Eldridge, Elkmont, Elmore, Emelle, Enterprise, Epes, Eufaula, Eutaw, Eva, Evergreen, Excel, Fairfield, Fairhope, Fairview, Falkville, Faunsdale, Fayette, Five Points, Flomaton, Florala, Florence, Foley, Forkland, Fort Deposit, Fort Payne, Franklin, Fredonia, Frisco City, Fruithurst, Fulton, Fultondale, Fyffe, Gadsden, Gainesville, Gantt, Garden City, Gardendale, Gaylesville, Geiger, Geneva, Georgiana, Geraldine, Gilbertown, Glen Allen, Glencoe, Glenwood, Goldville, Good Hope, Goodwater, Gordo, Gordon, Gordonville, Goshen, Grant, Graysville, Greensboro, Greenville, Grimes, Grove Hill, Guin, Gulf Shores, Guntersville, Gurley, Hackleburg, Haleyville, Hamilton, Hammondville, Hanceville, Harpersville, Hartford, Hartselle, Hayden, Hayneville, Headland, Heath, Heflin, Helena, Henagar, Highland Lake, Hillsboro, Hobson City, Hodges, Hokes Bluff, Holly Pond, Hollywood, Homewood, Hoover, Hueytown, Huntsville, Hurtsboro, Hytop, Ider, Indian Springs, Irondale, Jackson, Jacksons' Gap, Jacksonville, Jasper, Jemison, Kansas, Kellyton, Kennedy, Killen, Kimberly, Kinsey, Kinston, La Fayette, Lake View, Lanett, Langston, Leeds, Leesburg, Leighton, Lester, Level Plains, Lexington, Lincoln, Linden, Lineville, Lipscomb, Lisman, Littleville, Livingston, Loachapoka, Lockhart, Locust Fork, Louisville, Lowndesboro, Loxley, Luverne, Lynn, Madison, Madrid, Magnolia Springs, Malvern, Maplesville, Margaret, Marion, Maytown, McIntosh, McKenzie, Mentone, Midfield, Midland City, Midway, Millbrook, Millport, Millry, Mobile, Monroeville, Montevallo, Montgomery, Moody, Mooresville, Morris, Mosses, Moulton, Moundville, Mount Vernon, Mountain Brook, Mulga, Munford, Muscle Shoals, Myrtlewood, Napier Field, Natural Bridge, Nauvoo, Nectar, Needham, New Brockton, New Hope, New Site, Newbern, Newton, Newville, North Courtland, North Johns, Northport, Notasulga, Oak Grove, Oak Hill, Oakman, Odenville, Ohatchee, Oneonta, Onycha, Opelika, Opp, Orange Beach, Orrville, Owens Cross Roads, Oxford, Ozark, Paint Rock, Parrish, Pelham, Pell City, Pennington, Perdido Beach, Phenix City, Phil Campbell, Pickensville, Piedmont, Pike Road, Pinckard, Pine Apple, Pine Hill, Pine Ridge, Pinson, Pisgah, Pleasant Grove, Pleasant Groves, Pollard, Powell, Prattville, Priceville, Prichard, Providence, Ragland, Rainbow City, Rainsville, Ranburne, Red Bay, Red Level, Reece City, Reform, Rehobeth, Repton, River Falls, Riverside, Riverview, Roanoke, Robertsdale, Rockford, Rogersville, Rosa, Russellville, Rutledge, Saint Florian, Samson, Sand Rock, Sanford, Saraland, Sardis City, Satsuma, Scottsboro, Section, Selma, Semmes, Sheffield, Shiloh, Shorter, Silas, Silverhill, Sipsey, Skyline, Slocomb, Smiths Station, Snead, Somerville, South Vinemont, Southside, Spanish Fort, Springville, Steele, Stevenson, Sulligent, Sumiton, Summerdale, Susan Moore, Sweet Water, Sylacauga, Sylvan Springs, Sylvania, Talladega, Talladega Springs, Tallassee, Tarrant, Taylor, Thomaston, Thomasville, Thorsby, Town Creek, Toxey, Trafford, Triana, Trinity, Troy, Trussville, Tuscaloosa, Tuscumbia, Tuskegee, Twin, Union, Union Grove, Union Springs, Uniontown, Valley, Valley Grande, Valley Head, Vance, Vernon, Vestavia Hills, Vina, Vincent, Vredenburgh, Wadley, Walnut Grove, Warrior, Waterloo, Waverly, Weaver, Webb, Wedowee, West Blocton, West Jefferson, West Point, Westover, Wetumpka, White Hall, Wilsonville, Wilton, Winfield, Woodland, Woodstock, Woodville, Yellow Bluff, York



Celebrating Our Past and Charting Our Future

**Statewide Kickoff Planned for March 3, 2017
Stay tuned for details - www.alabama200.org**

In 2013, the Alabama Legislature created the Alabama Bicentennial Commission to form and direct Alabama200. Our 200th anniversary is an unprecedented opportunity to experience and explore the state of Alabama and celebrate every community throughout our state's 67 counties. It encourages us to remember the people who created our state and to nurture the generations who will carry us forward. It is an opportunity to chart a vibrant, prosperous future for the state with history as our guide. The mission of Alabama200 is to support, create, and execute events and activities that commemorate the stories of our people, place, and path to statehood. Between 2017 and 2019, Alabama200 will engage residents and visitors in educational programs, community activities and statewide initiatives that teach, inspire and entertain. **The Alabama League of Municipalities is pleased to be involved with this historic endeavor and encourages our cities and towns to take advantage of this unique opportunity by forming an official **Community Celebration Committee** (see p. 8 for details).** Official celebration committees will be eligible to apply for limited grant funding to support Bicentennial endeavors in their communities. Carrie Banks, the League's Communications Director, has served on the Commission's Advisory Committee and as Co-chair of the Local Activities Committee since 2014. The League's membership passed a resolution in support of the Bicentennial this past May during its Annual Convention (see p. 23, Resolution 39). **For more information, visit alabama200.org.** ■



*Members of the Alabama Bicentennial Commission and/or Advisory Committee. Front row: Patricia Ford, Director, State Black Archives Research Center & Museum; Priscilla Hancock Cooper, Vice President of Institutional Programs, Birmingham Civil Rights Institute; Tami Reist (Commission, Advisory and Local Activities Committee Co-chair), Director, Alabama Mountain Lakes Tourist Association; Carrie Banks (Advisory and Local Activities Committee Co-chair), Communications Director, Alabama League of Municipalities; Hilary Claybourne, President, CCINC Innovative Strategies; Sen. Arthur Orr, Bicentennial Commission Chair. Middle row: Jay Lamar, Executive Director, Alabama200; Al Head (Advisory and Statewide Initiatives Committee Co-chair), Director, Alabama State Council on the Arts; Donna Baker, (Advisory and Statewide Initiatives Committee Co-chair), Editor, Alabama Heritage magazine; Rep. Mike Ball; Bart Williams, Executive Director, EarlyWorks Family of Museums. Back row: Ed Bridges (Advisory), former Director, Alabama Department of Archives and History; Steve Murray (Commission, Advisory and Education Committee Co-chair), Director, Alabama Department of Archives and History; and Lee Sentell, Commission Co-chair, Director, Alabama Tourism Department. Not pictured: Commission members Joel Anderson, Chairman, Anderson Media and Cartledge Blackwell, Architectural Historian, City of Mobile. **For more information, visit alabama200.org.***

The President's Report

By Mayor Phil Segraves, Guin



We Serve in Unparalleled Times

President's Acceptance Address, May 16

To the members of the Alabama League of Municipalities, I am humbled and honored to represent you as President. I accept this position of responsibility with conviction and dedication, just as those sitting here that have come before me. What a great legacy they have left to follow!

Speaking of legacy, what a *privilege* it has been for me to work with Councilmember and the first black female to serve as President of the Alabama League of Municipalities, Ms. Sadie Britt. Please join me as we again thank Sadie for a job well done!!

Also, at this time I would like to thank some special people for their support. First of all, my family – my wife Kay; my children, son Jamey Segraves and daughter Whitney Webb, along with my four perfect grandchildren. As each of you know, the office of Mayor and Councilmember takes a lot of time away from home and, yes, your family also receives the complaints that come with the job. I thank them and appreciate their support

A big thank you to my City Council – they are great to work with. All of them were not able to be here tonight, but will my members who are present please stand.

I am also blessed to have a great City Clerk, Norma Nelson, who has been in that position for 50 years as of June 6, 2016.



2016-2017 League President Mayor Phil Segraves of Guin delivers his acceptance speech on May 16 in Huntsville.

Another big thank you to Pam Spencer, Assistant City Clerk, who keeps my schedule along with so many duties, and does a great job. Add Terri Dennis and Kati Gilreath – all these ladies multi-task and are invaluable to me.

As Mayor, I am fortunate to have a great group of City employees. They do a wonderful job, which, in turn, makes my job easier. I thank each of you that have given me words of encouragement; it means so much to receive that support.

Again, thank you League Past Presidents for your confidence and support.

I look forward to working with Mayor Howard Rubenstein of Saraland. Congratulations on being elected as Vice-President of our League. It will be my pleasure to work with you. Now we must do our job and get re-elected to municipal office this summer!!

I think Alabama has the best League in the nation and that did not happen by accident – it starts at the top. A huge thank you to Executive Director Ken Smith and the League staff. They all do an outstanding job every day. What a valuable asset for our membership.

Have you had a good time this convention in the Rocket City, Huntsville, Alabama? We all owe a debt of gratitude to Mayor Tommy Battle and the City Council of Huntsville for a grand time. Thank you for your hospitality and for hosting this year's convention.

I stand before you tonight honored to represent you. I also want to give you hope that you, too, have the opportunity to stand here regardless of the size city you represent.

I am Mayor of Guin, a small city of 2500 people located in Northwest Alabama, one hour and fifteen minutes west of Birmingham, an hour south of Muscle Shoals and an hour north of Tuscaloosa – not too far from the State of Mississippi. I am the first Mayor from my City and from Marion County to be President of the League. So maybe I can give each of you a little hope as well.

I, as I believe the vast majority of you, ran for office to make a positive difference in your community. As most of us approach a new election cycle in 2016 we now reflect on our accomplishments and our failures. Based on historical data from the League, for whatever reason, 35 percent of us will not be here next year. Now is the time each of us will do some



ALM Immediate Past President Councilwoman Sadie Britt of Lincoln passes the gavel to Mayor Phil Segraves of Guin.

soul searching as we approach this election year – to retire or seek another term.

We all serve in unparalleled times. Our people demand more from elected officials and more city services – all from strained and stretched budgets. As elected officials, we wrestle with unfunded mandates from state and federal government. Our police officers are under attack like never before and innocent citizens are being shot in the workplace, in church and in public gatherings. Bin Laden has been replaced with terrorist groups known as ISIS and others that want to destroy our way of life and take away our freedom. The war on terror has been brought to our door steps.

Pressures of keeping our citizens safe are the greatest in my lifetime. Scandal and the rumor of scandals seem to be at every level of government. Adding new issues such as transgender bathrooms to the challenges of recruiting new business, retail and industry makes the problems of dogs barking, mobile homes, weeds and picking up garbage seem like a piece of cake.

Why would anyone in their right mind want to do what we do? Again, I think the vast majority of us want to make a difference in our communities and we accept the challenges before us. We are the government closest to the people.

America and Alabama are searching for leaders they can respect – who care and will listen to solve problems. We are the face they see and the voice they can reach. We live with them; we work with them; and we shop with them – we are city government. They often think we can do more than we can, but

the opportunities to serve our people are numerous and it can be gratifying to know we helped make a difference.

What each of us needs to understand is that we are in POLITICS – that what happens in Washington, DC, in Montgomery and in each county seat *does* affect how we govern at the local level.

It is crucial that as local leaders we become united and engaged – to be informed so we can protect our cities. The League is invaluable in representing our views and what is best for our cities. Ken Smith, Greg Cochran and Hal Bloom – you need to know them, they are our voice and they lobby for *us*!! They become stronger when we unite behind them. I challenge all of us to do a better job connecting with them so they can do their best for us.

I also challenge you to take advantage of the education the League offers through the CMO Program to make all of us the best we can be. The League of Municipalities exists for *us* – through education, information, cooperation and bringing us together as one voice comprised of 462 cities – big and small, rural and urban.

Our League will remain strong as long as we as elected officials seek to improve ourselves and our cities. The League will guide and provide the tools to help us accomplish our goals. Crucial to our success is communications. That highway runs both ways – between us and the League. Carrie Banks does a great job keeping us informed through e-mail blasts, social media, etc. We all need to take advantage of information. It will only make you and your city better!!

In closing, I know our job is tough – especially in the times we currently serve. I find encouragement in a particular Bible verse as well as in a quote I have framed in my office that I read often. I want to share them you.

First:

Isaiah 40: 30 & 31: “Even youths grow tired and weary, and young men stumble and fall, but those who hope in the Lord will renew their strength, they will soar on wings like eagles, they will run and not grow weary, they will walk and not be faint.”

Man will let you down; God is the Solid Rock.

Second:

“The credit belongs to the man who is actually in the arena ... who strives valiantly, who knows the great devotions and spends himself in worthy causes, who at best, knows the triumph of high achievement and who at worst, if he fails, fails while daring greatly so that his place shall never be with those cold and timid souls who know neither victory nor defeat.” ~ President Theodore Roosevelt.

I know each of you are in the arena. You serve a cause bigger than yourselves to improve the quality of life for others in your city.

Thank you again for the honor to serve as your President. I wish each of you the very best in the upcoming elections. May each of us seek God, His guidance and His blessings for you, your community, our Great State and our Great Nation!

Thank You!! ■

Municipal Overview

By Ken Smith, Executive Director



Director's Report Annual Convention, May 16, 2016

I am pleased to have this opportunity to report some of the highlights of activities by the Alabama League of Municipalities during the 2015-2016 year.

Appreciation

It was a privilege to hold the League's 2016 Annual Convention in Huntsville for the first time since the massive tornado outbreak in 2011 forced us to postpone the event. Mayor Tommy Battle, the Huntsville City Council, the staff of the City of Huntsville, the Von Braun Civic Center, host hotels, and the Convention and Visitor's Bureau did an outstanding job working with your League staff to hold a fantastic Convention, and we thank them for their efforts. Attendance at the Convention was 939, plus approximately 400 exhibitors representing over 130 businesses, governmental agencies and associations.

I'd like to thank our President, Sadie Britt of Lincoln, and our Vice President, Phil Segraves of Guin, for their outstanding leadership, assistance and guidance throughout the past year. They have served your interests well. I also have to express my deep appreciation to your staff in Montgomery. They constantly exceed my expectations and are always willing to go the extra mile to serve you. It is the relationships we share, and the way each person pitches in – regardless of the job to be done, or which department it falls into – that make us successful. We truly could not do it if we didn't work together. Your staff is passionate about their jobs and they work very hard to serve you. I am proud to be a part of the League staff and work alongside them. I hope you share my pride in our accomplishments. I'd like to thank each of them for the work they continue to do on your behalf:

Communication Department

Director – Carrie Banks
Graphic Designer/Web Master – Karl Franklin

Finance Department

Director – Steve Martin
President, MIS – Richard Buttenshaw
Accounting Manager – Faith Ann Gunn
Finance Dept. Asst./Librarian – Rachel Wagner

Legal Department

General Counsel – Lori Lein
Assistant General Counsel – Rob Johnston
Assistant General Counsel – Teneé Frazier
Legal Services Administrator – Sharon Carr

Legislative Department

Director, Advocacy and Pub. Affairs – Greg Cochran

Member Services Department

Director – Theresa Cook
Training and Professional Dev. Admin. – Krystle Bell
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League Researcher – Twanna Walton
Member Service Assistant – Jennifer Frakes

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Director – Chuck Stephenson
IS Tech/Video Production – Ken Gabehart
IS Specialist – Rob Stephenson
Senior Software Developer – Nathan Baker

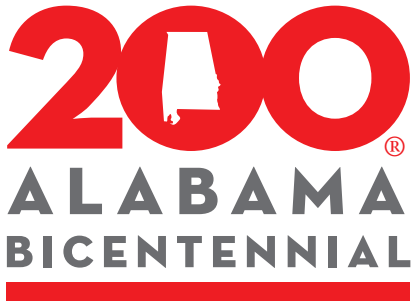
Unity

This is an election year for most municipalities in Alabama. The municipal officials who are reelected will face many challenges, including developing a working relationship with newly elected officials. Municipalities – in fact, all governments – work best when there is consistency and agreement. Not in an environment of divisiveness and conflict. I hope new officials will work together to find common ground. While it is unreasonable to expect municipal officials to agree on every issue coming before them, a spirit of cooperation and unity is going to be necessary to face the difficulties we see coming.

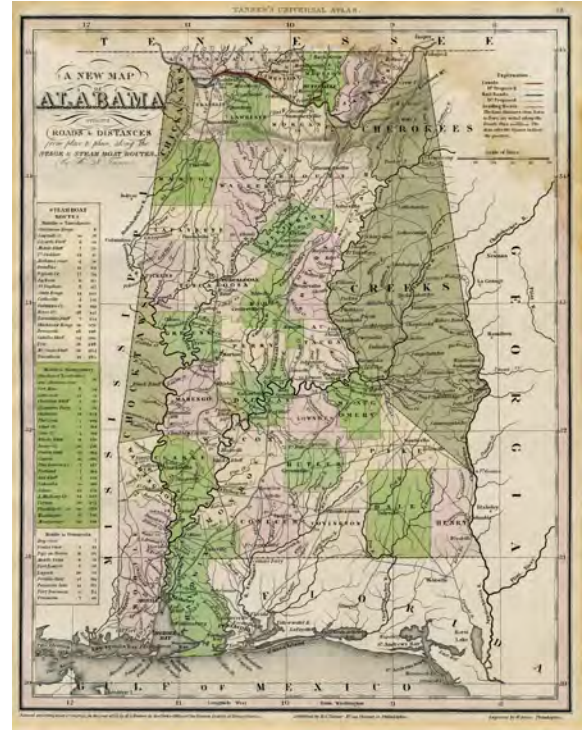
As representatives of municipal interests, we must seek to find those issues that unite us, and put aside those that divide us. We must acknowledge our different opinions, but work together in the best interests of municipal government, working to create a balanced environment that allows businesses to grow and thrive and that improves the quality of life for municipal citizens.

continued on page 16

Grant Applications Opening Soon for Bicentennial Community Celebration Committees! **Form Your Committee Today!**



Alabama's Bicentennial, which will be celebrated 2017-2019, is a unique opportunity for our municipalities to participate in a very specific historical milestone. The Bicentennial Commission and the Alabama League of Municipalities encourages every city and town to be part of the Bicentennial process by forming a **Community Celebration Committee**.



Options are endless!

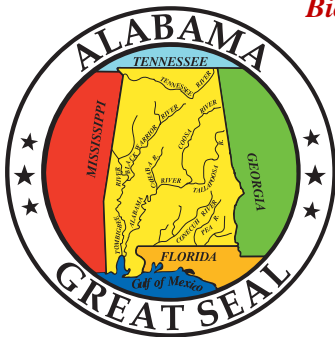
Some communities may decide to take on a special project for the Bicentennial, such as a cemetery restoration, painting a mural on a downtown building or renovating a historic structure. If your community has an annual festival, your Celebration Committee could use the ALABAMA 200 branding to broaden your festival by incorporating the history of the festival, the history of your community and highlighting some of the elements that make your community unique and historically significant. It's also another way to market your event and area to visitors. **Official Bicentennial Celebration Committees can apply for limited grant funding, which will be awarded beginning in October.**

How do we form an official Celebration Committee?

In order to apply for grant funding or to receive ALABAMA 200 promotional and branding materials from the

Bicentennial Commission, your municipality must designate an official Community Celebration Community that is approved via special resolution by the Mayor and Council.

Download the necessary resolution at alabama200.org under the "Get Involved" tab at the top – click on the "Community Resources" link. A copy of your resolution, as well as the contact information for the Chair of your Community Celebration Committee, must then be submitted to the Commission, which is forming a database to enable the Commission to send relevant information to the correct people and to keep a current list of Bicentennial projects and activities.



Community Celebration Committees can be composed of *anyone* from your community, especially people from historical, educational, cultural and/or civic and community organizations such as schools, libraries, history/heritage groups, tourism/economic development organizations, etc. We encourage you to engage your community leaders, activists and historians in this process.

Mail or email a copy of your resolution as well as your committee chair person's contact information to: Jay Lamar, Alabama Bicentennial Commission, 401 Adams Street, Suite 108, Montgomery, AL 36104 or jay.lamar@bicentennial.alabama.gov.

Alabama200.org

The Legal Viewpoint

By Lori Lein, General Counsel



Public Employees, Public Property and the Political Process

Since the early days of our country, the political activity of public employees and the use of public property for political or campaign purposes has been a concern to government officials. Thomas Jefferson was among the first to give voice to concerns about this issue. Jefferson stated, as part of an Executive Order, “the right of any officer (federal employee) to give his vote at elections as a qualified citizen... it is expected that he will not attempt to influence the votes of others nor take any part in the business of electioneering, that being deemed inconsistent with the spirit of the Constitution...” See U. S. Office of Special Counsel, Political Activity and the Federal Employee (Rev. 2005).

Every municipal election cycle, we get numerous calls at the League asking about the political activity of public employees and the use of public property for political or campaign purposes. This article summarizes the rights and restrictions applicable to public employees participating in the political process as well as those that apply to the use of public property for political purposes.

Political Activity of Government Employees

In Alabama, public employees were given the right to fully participate in political activities with the passage of the “Equality of Citizenship Act” in 1983. Acts 1983, No. 83-497. This Act gave city employees the right to participate in county and state elections, county employees the right to participate in city and state elections and state employees the right to participate in county and city elections. Simply put, when this Act was first passed it provided that public employees could participate in election and campaign activities so long as it was at a different level of government from the one they were employed with. This provision was amended in 1995 by Acts 1995, No. 95-378, to allow public employees to participate in the political process at any level of government, regardless of their employment. These provisions are now codified at Section 17-1-4, Code of Alabama 1975.

Section 17-1-4, Code of Alabama 1975, provides that no city employee, whether classified or unclassified, shall be denied the right to participate in county and state political activities to the same extent as any other citizen of the state, including the endorsing of candidates and contributing to campaigns of his

or her choosing. The law also provides that all employees of any city, county, or state have the right to join local political clubs and organizations, and state or national political parties. Section 17-1-4(a)(4). Further, public employees have the right to publicly support issues of public welfare, circulate petitions calling for or in support of referendums, and contribute freely to those of his or her choosing. Section 17-1-4(a)(5). And finally, Section 17-1-4(c) provides that when off duty, out of uniform, and acting as a private citizen, no law enforcement officer, firefighter, or peace officer shall be prohibited from engaging in city, county, or state political activity or denied the right to refrain from engaging in political activity so long as there is compliance with this section. As such, the law is clear that public employees cannot be denied their right to engage in political activities.

Another protection public employees have is Section 17-17-5(c), Code of Alabama 1975. This provision of state law provides that it shall also be unlawful for any officer or employee to coerce or attempt to coerce any subordinate employee to work in any capacity in any political campaign or cause. Any person who violates this section shall be guilty of the crime of trading in public office and upon conviction thereof, shall be fined or sentenced, or both, as provided by Section 13A-10-63. It goes on to provide that it is also unlawful for any officer or employee to solicit any type of political campaign contributions from other employees who work for the officer or employee in a subordinate capacity.

In addition to state law allowing public employees to engage in political activity as they choose, a public employee has a First Amendment right under the United States Constitution to be free from coercion or retaliation by a superior regardless of their participation in the political process. Supervisors and employers may not coerce employees to campaign nor can they retaliate or discharge an employee based solely on their political beliefs and activities. If the First Amendment protects a public employee from discharge based on what he or she says, then it also protects them from discharge based solely on what he or she believes. See *Branti v. Finkel*, 445 U.S. 507 (1980); but see *Elrod v. Burns*, 427 U.S. 347 (1976) (a State provides a compelling interest in infringing First Amendment rights when it can show that party affiliation is an appropriate requirement

continued on page 51



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Clouds on the IT Horizon

By Chuck Stephenson, Director of Information Technology, ALM

The cloud is something we hear about constantly nowadays. In fact, according to an April 2016 marketing analysis by Cisco, within three years more than four-fifths of all data center traffic, 86 percent, will be based in the cloud with most of that action going to public cloud computing (56 percent – up from 30 percent in 2014). So ...what is the “cloud”? Should you be using it? What are the benefits? What are the drawbacks? All of these are legitimate questions. Let’s explore further.

What is the “cloud”?

The cloud is a generic term that refers to data that is accessible via an Internet connection from anywhere as long as the person trying to access the data has been given access. (Basically “cloud” was first used by IT professionals to make the process sound more mysterious than it really is...) There are different types of cloud deployments.

- 1. Private cloud:** This type of cloud environment is used solely for a single organization. It can be hosted internally (on your own servers and network) or externally (on a third-party’s servers and network.) A private cloud can also be managed internally or via a third-party provider. These types of cloud infrastructures are generally more expensive to operate – from initial expenditures to future costs – due to the hardware refresh that will have to occur periodically.
- 2. Public cloud:** A public cloud is an environment that allows services to be provided to external customers by public cloud service providers. These services can include storage, applications, online server infrastructure and other resources. The three largest public cloud providers are Amazon Web Services (AWS), Microsoft and Google. These providers own and operate their equipment in multiple locations (data centers) and require a subscription or purchase to gain access to their services.
- 3. Hybrid cloud:** This is a cloud environment made up of two or more clouds such as a private and public, or one of the lesser used types of clouds such as a “community cloud” (a cloud environment that shares infrastructure equipment and costs between several organizations). This combination allows the individual clouds to remain distinct entities but be bound together for the benefits of multiple types of cloud deployments.

Should I be using the cloud?

Actually, you probably already are in some ways. For example, email services such as Gmail, Outlook.com and Yahoo Mail are all forms of cloud computing to some degree. Also, many of us have purchased newer versions of Microsoft Office recently (whether it was part of a new computer or you bought a separate upgrade). Included in most of the new versions sold in the past few years was a product called OneDrive, a cloud storage product that uses Microsoft’s public cloud. In addition, if you are a member of Amazon Prime, a premium service offered by Amazon, you also have access to Amazon Prime Photos – another example of a public cloud.

What are the benefits of the cloud?

The cloud has many benefits. One of the biggest is file replication. The three largest providers have multiple data centers that replicate data to multiple locations multiple times a day. This has *major* disaster recovery implications. If your location was for some reason destroyed or unattainable, your data would still exist and be accessible. In addition, having access to your data from any location with an Internet connection can be a tremendous asset – enabling you to work from any location without having to utilize elaborate software. Cloud environments also allows for greater collaboration, making it much easier to share files between colleagues. Many cloud services have built-in collaboration elements that require documents to be “checked out” from the document library. This is documented in the web interface that is displayed when you log into your cloud service. Once the document has been “checked in” you can then send the new information to other people in the organization for them to add their data.

What are the drawbacks of using the cloud?

As stated previously, a private cloud deployment is generally not cost effective for small businesses (or small municipalities, personal networks, etc.). Public cloud environments are easier on the wallet, but your data is then hosted by a third-party, which means that if they have an issue arise, your access to your data could be degraded or not available at all until the issue is resolved. There is a silver lining in that, however – the third party is also responsible for resolving the issue, and they likely have many more resources available to devote to that. Questions may also arise regarding ownership of data that is stored on third-party cloud environments. Most contracts state clearly enough that the

data is owned by you, but as with any contract, careful review is always the best practice.

Closing Thoughts

There are, in my opinion, more benefits than not to implementing one of the cloud deployments listed in this brief article. The disaster recovery benefits alone are more than enough reason. Yes, there are possible drawbacks, so – as with anything done

in business, life, etc. – weighing the pros and cons as they relate to your organization is a must. However, cloud computing is not going away. In fact, as the recent Cisco analysis pointed out, the “cloud” will likely continue to grow as providers add more services at cheaper costs. The implications for smaller entities are huge and the ability to have all the servers necessary to do business hosted in another location is changing the way companies operate. There are definitely clouds on the IT horizon! ■

Terms of the Trade

- **Infrastructure (IT)** refers to the hardware, software, network resources and services necessary for the existence, operation, and management of an organizations IT environment.
- **Data** – information that is produced or stored by a computer.
- **Server** – a computer program or device on a network that provides files, services, and other functionality for other computers on the network.
- **Network** – a communications platform that allows computers, servers, and other devices to exchange data.
- **Data Center** – a facility that centralizes an organization’s IT equipment and operations. Where an organization manages, stores, and circulates its data.
- **Disaster Recovery** – a set of policies and procedures to enable the recovery or continuation of vital IT infrastructure and systems following a man-made or natural disaster.

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President's Address

Councilwoman Sadie Britt • Lincoln
Opening Session • May 14, 2016

Mayor Segraves, Mayor Battle, Ms. Smith, Mr. Oakley, municipal colleagues and guests, thank you so much for joining us in Huntsville for the League's 81st annual convention!

We last met in Huntsville five years ago. Three days before our convention was to begin, Alabama was slammed with a record-breaking 62 tornadoes that devastated many areas of our state. Within just a few hours on April 27, 2011, this epic weather outbreak became one of the most lethal and destructive natural disasters in Alabama's history, killing more than 240 people and causing an estimated \$1.5 billion in property damage. Several communities were nearly wiped from the map.

Thanks to the leadership of Governor Bentley; the swift engagement of numerous mutual aid teams; and the resilience and generosity of our neighbors, our state not only recovered from this tremendous tragedy, but set an example for others on how to overcome unprecedented destruction and loss. Extraordinary times call for unity and our state certainly unified quickly to recover, repair and rebuild.

The City of Huntsville, which was also dealing with the significant aftermath of the tornadoes, worked diligently with the League to reschedule our convention. Despite the tragedies that spring, we were able to move forward with our annual convention that summer.

Mayor Battle, I want to personally thank you, the Huntsville City Council and your staff for working closely with the League to not only make this convention a reality but for your past collaboration with and support of our fine organization. We're all looking forward to the Dessert Reception this evening as well as the opportunity to spend several days learning and networking with our colleagues here in the Rocket City.

I'd also like to take a moment to salute Alabama Power for their generous Keystone sponsorship of this year's convention and for their continued support of not only the League but the State of Alabama. Thank you, Alabama Power!!!

A special thanks goes to Mayor Phil Segraves for representing us as our League Vice President this past year. He is a dedicated public servant and has been actively involved with the League for many years. I'm honored to also serve with Phil on the Board of Directors for the League's Municipal Workers Compensation Fund. We are fortunate to have him in a leadership role with our organization!



I also want to commend the League staff and their efforts on our behalf. Not only do they manage this convention, which is one of the largest in the state, our staff works tirelessly year-round for us and for our municipalities.

I've had the unique opportunity to interact closely with several of our senior staff members during my tenure as League vice president and president and I've been especially impressed with their professionalism, expertise and absolute dedication to our organization. I appreciate everything they've done for me over the past two years and I can tell you without hesitation that we are represented by outstanding people. Please join me in giving *all* the League staff a grateful round of applause!

If you will indulge me for a moment, I'd like to speak to you directly from my heart. I love this organization and what it represents because I truly love serving my community. So, naturally, it has been an honor to work with Ken Smith and the League staff on behalf of all of you and your municipalities.

However, this year has been particularly moving for me on a very personal level. Having served as your first African-American female president, I understand the historic nature of my standing in front of you today. I am profoundly grateful that diversity – particularly diversity of thought – is embraced by our League. As municipal officials we represent *everyone*.

The Alabama League of Municipalities follows the same philosophy. Thank you very much for your support and confidence in me!

Our League has protected and championed municipal interests in every legislative session of the Alabama Legislature since 1935, diligently safeguarding our cities and towns from unfunded mandates as the state's General Fund budget crisis continues to be the Legislature's greatest challenge.

... this year has been particularly moving for me on a very personal level. Having served as your first African-American female president, I understand the historic nature of my standing in front of you today. I am profoundly grateful that diversity – particularly diversity of thought – is embraced by our League. As municipal officials we represent everyone. The Alabama League of Municipalities follows the same philosophy.

Our staff monitors every bill and works closely with constituent groups, state representatives and a coalition of contract lobbyists representing many municipalities who meet weekly during each Session to develop strategies and discuss issues being considered by the Legislature.

In addition, we're kept informed at every turn through the weekly *State House Advocate* that's emailed to us every Friday afternoon during the Session as well as through the League's website where legislative information is updated regularly. If you're not signed up to receive the *State House Advocate*, please subscribe immediately by clicking on the designated link on the homepage of our website

The 2016 Regular Session of the Alabama Legislature *exploded* out of the gate on February 2nd. Nearly 650 bills were introduced the first 10 days.

That number grew to 1,004 before the extremely contentious session concluded on May 4th. Of those, 281 were sent to the Governor, including two of the League's five legislative priorities: the critical state match for SRF funding and repealing the municipal commission form of government – an early form of government that is no longer being used in Alabama.

A third legislative priority to extend the state's extremely successful Historic Tax Credits was derailed during the final

few days, even though it received bipartisan support and has made a real and tangible difference in Alabama. We'll need to redouble our efforts next year to ensure this vital economic development legislation is successful.

I'm sure it will come as no surprise to you that our staff's efforts were largely spent vigorously defending our local authority and our ability to maintain healthy, solvent communities for our constituents and their families.

Thanks to Greg Cochran, our Director of Advocacy and Public Affairs, and his team of League staff members and more than 20 lobbyists representing municipalities from all corners of the state, several particularly harmful legislative attempts were defeated, including a bill to preempt our ability to collect pharmaceutical business licenses for over-the-counter gross receipt sales.

Had this bill passed, the collective financial loss to our municipalities would have been in the millions of dollars annually.

It took tremendous effort on their part, as well as the swift and unified voices of the League's membership – *all of us* – to overcome or amend damaging legislation. *For now.*

There's no doubt our municipalities and our local authority will be targeted again in the next session; however, for the moment, please join me in thanking our exceptional staff for their ongoing legislative efforts on our behalf!

Of course, the League doesn't work in isolation. As municipal officials, our participation has always played an important role in our legislative success. None better than we can articulate the concerns of our communities. Therefore, when we unify to seek solutions to problems – when we collectively assemble to achieve the goals of our municipalities – we are an extremely compelling force. *Advocacy* is critical in representing our constituents; it's a legacy we **MUST** continue as we strive to keep our cities and towns solvent.

Unfortunately, the significant General Fund budget shortfalls are taking a toll on Alabama, which means our cities and towns remain vulnerable.

Therefore, it is more important than ever that we work with our League to uphold municipal rights while guarding against legislation that would hinder our ability to maintain critical services in our communities.

Of course, 2016 is an election year. A number of Alabama's municipalities will be testing new leadership beginning November 7th. For those of you who have chosen not to seek reelection, I applaud your service and wish you well in life outside city hall. Even though this is your farewell convention, I encourage you to take full advantage of the many opportunities to find possible solutions to issues facing your community; benefit from some final face time with your peers; wrap up loose ends; and thank the League staff for their support.

For those of you who *have* chosen to re-enter the election fray, I commend your enthusiasm and tenacity and wish you well during the election cycle. This year's convention not only provides you with exposure to key municipal vendors and state agencies, important educational seminars and dedicated time for networking and idea exchanges, your participation further demonstrates your commitment to learn and work on behalf of your constituents and the good of your community.

I'll close my remarks today by revisiting some thoughts I shared with you during my acceptance speech last year in Tuscaloosa. Every municipal leadership experience teaches a valuable lesson about the necessity of having unity of purpose for a community to be progressive in its mission. Our mission as elected officials should be to do everything in our power to make our cities and towns better places to live, work and raise our children.

Leaders are usually the first line of attack when efforts are launched to undermine a community. However, a city whose council is united is a strong city. A city whose council and mayor work as a *team* is an efficient and progressive city because the leaders understand the importance of their mission – to improve the quality of life for the *entire* community.

Ladies and Gentlemen, it goes without saying that we are *extremely fortunate* to have an organization such as the Alabama League of Municipalities to protect our interests at the Legislature; to provide us with timely, important information; to educate us through structured training programs; to give us sound legal advice regarding the many challenges we face daily; and to encourage and promote unity. Throughout its long history, the League has accomplished many great things on behalf of Alabama's municipalities. Our *united* efforts will ensure that this list of achievements continues to grow.

It has been an absolute honor to work so closely with so many of you over the past two years. Thank you for your insight, your support and your enthusiasm. I've grown not only as an elected official, but as a person. It's also been a true privilege to build close personal relationships with our League staff. They, too, have supported me throughout my tenure and I am truly grateful.

I also humbly thank Mayor Bud Kitchin, the members of the Lincoln City Council as well as the city's staff. They enthusiastically encouraged my service to you and have always been very strong supporters of our League.

Again, I thank all of you for the privilege of serving as your League president. May God bless you, your communities and our Alabama League of Municipalities! ■



Mayor Tommy Battle welcomed delegates and guests to Huntsville, the host city, during the 2016 Opening Session.



During the President's Banquet on May 16, Mayor Phil Segraves of Guin, League President 2016-17, presented immediate Past President Councilwoman Sadie Britt of Lincoln with a certificate of appreciation and a gift for her service. Councilwoman Britt was the League's first African American female president in the League's 81-year history.

Municipal Intercept Services (MIS)

In 2014, the League's Executive Committee authorized the creation of a program to allow municipalities to off-set their debts against individual income tax returns. This program enables municipal entities to submit debts to the Alabama Department of Revenue. If an individual receives a refund on their state income taxes, the debt will be deducted from the refund and sent to the municipality.

MIS has been very successful so far. In what is essentially just four months of operation, more than \$176,000 has been returned to eligible municipal entities in Alabama. This is revenue that otherwise would have likely gone uncollected. It's important to realize that only 63 agencies have submitted debts through this program. We believe that over 600 entities are eligible to submit debts through MIS, so you can see the significant revenue municipal entities are owed, and what can be recovered by MIS. Even better, we've discovered that many debtors whose debts are off-set against their refunds have paid off their remaining debts. While MIS does not receive a fee when this happens, it is a welcome side benefit to those using the MIS program.

MIS is not a collection agency and it shouldn't be treated that way. It is simply a portal to the Department of Revenue.

You must first finalize a debt before it can be sent to MIS for submission to ADOR. But if other steps you've taken to collect an unpaid debt have failed, I hope you'll look to see whether MIS can help you.

Legislative

The League had a successful 2016 Legislative Session, although it was a very difficult session for your lobbying team. The League was able to pass two priority measures: funding for the clean water and drinking water revolving loan programs and the elimination of the commission form of government, an outdated form of government no longer used in Alabama. We were also successful in defeating the many negative legislative bills that were introduced that could have devastated municipalities in Alabama.

I want to thank the many legislators who worked with us during the session as well. Those who sponsored bills or who went to the mat to express their concern were very helpful and we are grateful for their assistance. I also need to thank the lobbyists for municipalities around the state. They have worked closely with League lobbyists to develop strategies

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Dr. Howard Rubenstein, Mayor of Saraland Elected Vice President of the Alabama League of Municipalities



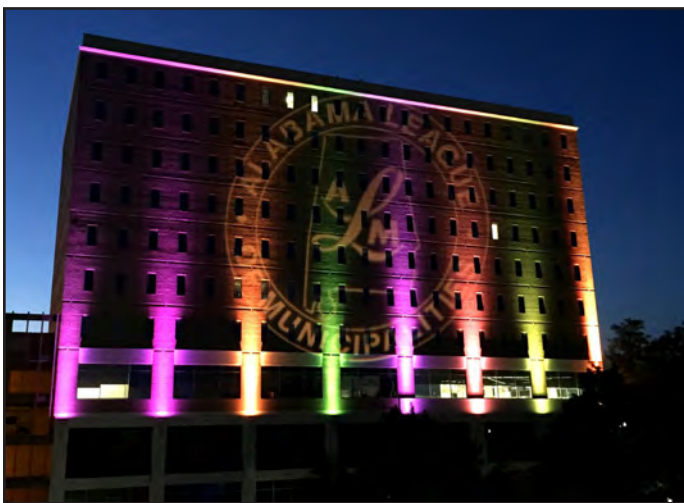
On May 16, Mayor of Saraland Dr. Howard Rubenstein was elected by his municipal colleagues to serve as Vice President of the Alabama League of Municipalities for 2016-2017. He was elected and took office during the League's annual convention, which was held in Huntsville May 14-17.

League Executive Director Ken Smith looks forward to working with Mayor Rubenstein over the next year. "Howard has been actively involved with the League for many years," Smith said. "He has served on a number of League committees, including our Executive Committee, and his municipal knowledge and leadership skills have been an asset to our organization. He will serve us well as Vice President." Mayor Rubenstein also serves on the Board of Directors for the Alabama Municipal Funding Corporation (AMFund), an entity created by the League in 2006 to assist Alabama's municipalities with refinancing existing debt and funding local projects and purchases through cost-effective financing.

Dr. Rubenstein began his municipal service in 1996 as a Councilmember. Following a 2004 change in the form of government, he was chosen as Saraland's first Council President and then reelected to that position in 2008. He has served as the City's liaison to the Saraland Board of Education since its inception. In January 2011, during his

fourth term on the Council, Dr. Rubenstein transitioned into the position of Mayor.

He has completed the League's Basic, Advanced and Emeritus Certified Municipal Official (CMO) programs. CMO Emeritus is awarded to officials who have acquired a minimum of 120 credit hours of Continuing CMO Education through a series of one-day programs designed especially for mayors and councilmembers who voluntarily wish to receive formal training in municipal government. Emeritus status also requires earning a total of 15 points, which can be achieved by participating on ALM policy committees and attending specific ALM and National League of Cities (NLC) events. Through these programs, Dr. Rubenstein has received formal classroom training in subjects such as council meeting procedures; parliamentary procedure; the Open Meetings Law; public records; ordinance drafting; conflicts of interest; the State Ethics Law; duties of the mayor and council; tort liability; the competitive bid law; zoning and planning; annexation; municipal regulatory powers; municipal revenues and expenditures; personnel actions; and leadership development. ■



The Huntsville/Madison County Convention & Visitors Bureau prepared a very special welcome for ALM delegates and guests attending the League's 81st Annual Convention – a projection of the ALM logo on a downtown building!



Past Presidents Councilwoman Sadie Britt of Lincoln and Mayor Wally Burns of Southside recognized ALM Director Ken Smith during the Monday evening President's Banquet for 30 years of service to the League.

around legislative developments. Working together, we can keep our cities and towns strong, and strong cities and towns mean a strong Alabama.

If you are not receiving the League legislative publication, the *Statehouse Advocate*, I encourage you to sign up for it. This weekly publication, published each legislative session, is your tool to developments at the Statehouse. I want to thank each of you who responded to League requests for assistance and who reached out to your legislators to express your feelings on legislation. You've made a difference. I strongly urge those of you who haven't acted to get involved. We have to have you communicate with your state representatives. I hope you will stay motivated, energized and engaged.

We *must* remain engaged in the legislative process throughout the year. Remind members of the Legislature that municipal governments have local demands on their budgets and are providers of critical services to their constituents. Take the time to contact your legislators. Encourage them to visit city hall and meet your staff. Discuss your local budget needs and concerns with them. Get their commitment to work against legislative efforts that negatively impact your local finances and authority. Please stay in touch with them throughout the year. And be sure to thank them when they stand by those commitments.

IT Department

In 2016, Chuck Stephenson was promoted to IT Director and Rob Sellers was hired as our Information Systems Specialist.

The IT Department completed several projects in 2015, including the implementation of the Municipal Intercept Services program, which was designed, developed and implemented in-house by League staff. This includes all programming and infrastructure. We completed a major upgrade to our accounting software and the underlying infrastructure needed to run that system. This allowed us to consolidate our accounting files to decrease space in off-site backup, saving League money and resources each month. We upgraded our Internet gateway to triple our connection speed. This allows us to have greater capacity to serve the growing customer bases assessing our systems for MIS and the Municipal Workers Compensation Fund, which are housed in the League building. Finally, the IT staff had another year of 100% up time. They maintained all systems, backups and connections without a single downtime incident, providing a secure, highly available computer/serve infrastructure to the League staff and our members.

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Minutes of the General Business Session May 16, 2016 • Huntsville

The Annual Business Session of the Convention of the Alabama League of Municipalities was called to order at 3:45 p.m., May 16, 2016, by President Sadie Britt, at the Von Braun Convention Center in Huntsville, Alabama. President Britt welcomed the attendees and expressed her appreciation for the honor of serving as President during the past year.

President Britt then called on Mayor Phil Segraves of Guin, Vice President of the Municipal Workers' Compensation Fund, Inc. (MWCF), for an annual report. Mayor Billy Joe Driver of Clanton, Chair of the Alabama Municipal Insurance Corporation (AMIC), gave AMIC's annual report. Mayor Wally Burns of Southside, Chair of the Alabama Municipal Funding Corporation (AMFund) was called upon to make the AMFund annual report.

The president then called upon Ken Smith, Executive Director of the Alabama League of Municipalities, for his annual report. Mr. Smith expressed his thanks to all for being present in Huntsville and to Mayor Battle, the City Council of Huntsville and their staffs, for their hard work in making the Huntsville Convention a huge success. Mr. Smith noted that League membership was now at 449 cities and towns and discussed ways members can better participate as part of the League team. Copies of his report and the League's written Annual Report are attached to these minutes.

The President then called upon Lori Lein, League General Counsel, who read the rules for voting during the League Business Session. Following this, the President called upon Councilmember Donald "Dink" Myers of Guntersville, Chair of the Resolutions Committee, for the Committee's report. Councilmember Myers reported that the Resolutions Committee met on Saturday, May 14, and recommended that the League's *Policies and Goals for 2016* be adopted with certain amendments.

Councilmember Tayna Rains, Dutton, moved that HP 3.13 be deleted from the *Policies and Goals*. The motion was seconded by Councilmember Stan Cooks, Union Springs. Following discussion, the motion was defeated.

Councilmember Tayna Rains, Dutton, moved that HP 3.13 be amended to delete language referring to the support of the Human Development Committee and replace it with language indicating League support. The motion was seconded

by Councilmember Tammi Holley, Roanoke. Following discussion, the motion passed.

Mayor Johnny Ford, Tuskegee, moved adoption of the *Policies and Goals for 2016*, as amended. Mayor Sheldon Day, Thomasville, seconded the motion, which passed.

The *Policies and Goals for 2016*, as amended, was declared adopted.

Councilmember Myers then presented the resolutions for adoption. He pointed out that members were given summaries of 43 resolutions recommended by the Resolutions Committee. Councilmember Charlie Johnson, Luverne, moved adoption of Resolutions 1 through 36. The motion was seconded by Councilmember Michael Gay, Millbrook. The motion was adopted unanimously.

The President then called on General Counsel Lori Lein to read Resolutions 37 through 40. Councilmember Cynthia Pearson, Brundidge, moved adoption of Resolutions 37 through 40. Mayor Fletcher Fountain, Fort Deposit, seconded the motion, which passed unanimously.

The President then called on Ken Smith, Executive Director, to read Resolutions No. 41 through 43.

Mayor Bud Kitchin, Lincoln, moved adoption of Resolution 41, commending President Sadie Britt, for her service as League President for 2015 – 2016. Mayor Icie Wriley, Millport, seconded the motion. The motion passed unanimously.

Mayor Ronnie Marks, Athens, moved adoption of Resolution No. 42, memorializing former League President Dan Williams of Athens. Mayor Jerome Antone, Georgiana, seconded the motion. The motion passed unanimously.

Councilmember Tammi Holley, Roanoke, moved adoption of Resolution No. 43, memorializing active and former officials who have passed away since the last League convention, and moved to leave the motion open to include any additional names that were received by the end of the Closing General Session the next day. Councilmember Marva Gipson, Aliceville, seconded the motion, which passed unanimously. (Resolutions adopted can be found on page 21 of this issue of the *Journal*.)

President Britt next presented the report of the Nominating Committee. President Britt noted that the Nominating Committee had a tough assignment choosing officers for the next year from an abundance of very qualified

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Legal Department

Over the past year, the Legal Department has responded to over 6,000 legal inquiries by telephone and e-mail alone. The Legal Department, in conjunction with the Alabama Association of Municipal Attorneys (AAMA) and the Alabama Municipal Judges Association (AMJA), conducted two successful training programs for attorneys, prosecutors and judges.

The Legal Department drafted numerous articles, summaries of court decisions, Attorney General's Opinions and Ethics Rulings and FAQ's for the *Alabama Municipal Journal*. The Legal Department also was instrumental in coordinating with the Governmental Affairs Department on the League's legislative efforts. Because 2016 is an election year, it will be a very active year for your Legal Department. The number of legal inquiries increases significantly in election years. Training seminars, questions from concerned city clerks and so on will keep this Department very busy. This will be followed by orientation seminars and questions from new officials, in addition to their regular responsibilities. As always, our attorneys will be working to serve your needs.

Member Services Department

League membership stands at 449, representing all but a handful of citizens in Alabama who live in incorporated cities and towns. The League derives its strength from our members. We will continue to work in their interests. Other accomplishments of your Member Services Department this year include:

- Conducting a very successful 2015 Convention in Tuscaloosa, a location that had not been used since 1961;
- Boosting attendance at the 2015 policy committee meetings;
- Hosting CMO Summer Training Seminars attended by a large number of municipal officials, including active participation in Roundtable discussions;
- Planned and successfully held the first Municipal Leadership Institute with exhibitors. This event also included the CMO graduation;
- Successful CMO Legislative Advocacy Day;
- Changed the Policy Committee meetings to the spring of future years.

Communications Department

The Communications Department continues to maintain high standards of excellence that are the envy of many of our sister Leagues. The Communications Department maintains five functional, aesthetically inviting websites for the League and our affiliate programs. The Department produces publications for the Loss Control Division, two weekly e-newsletters, daily FaceBook updates and materials for numerous meetings and conferences. The Communications Department worked closely with the IT Department and the MIS program to develop

the website and materials for the MIS program. Excellent collaboration combined with unique skills and abilities is what makes our two-person department superior to many others across the country that have more employees.

Finances, Property and Equipment

The League's finances for the current 2015-2016 budget year are expected to be sufficient to meet the Executive Committee's budget that was adopted last July. The League's Finance Department does an outstanding job of making sure member resources are used in a cost-effective and beneficial manner. The entire League staff continues to work to be good stewards of the funds you entrust to us.

Loss Control

In 2002, the Alabama Municipal Insurance Corporation (AMIC) and the Municipal Workers Compensation Fund (MWCF) created a joint Loss Control Division allowing both programs to provide additional staff and expanded services at a much reduced cost to their members. Our Loss Control Division has had another successful year helping municipalities and their entities reduce their risks and liability exposure. Loss Control has 11 dedicated staff members and offers exclusive, state-of-the-art training such as the SkidCar defensive driving course and the Firearms Training System (FATS). Both of these programs were designed to create greater awareness of on-going liability issues as well as teach member participants to eliminate or mitigate their losses through specialized training.

Loss Control also conducts numerous training seminars and on-site visits each year to better inform members of their exposure. They also maintain a video library of safety videos and provide on-line training through LocalGovU. In 2016, Loss Control successfully hosted the South Eastern Loss Control Conference in Alabama, which was attended by risk management specialists from 12 Southeastern states. In addition, the Loss Control Division works closely with the Police Chief Association to facilitate a high level of training for police chiefs in Alabama.

League Affiliates

The League has a number of programs available to assist our members with their needs at cost-effective rates.

In addition to MIS, which has already been discussed, the Alabama Municipal Insurance Corporation (AMIC) continues to provide all lines of automobile insurance, commercial general liability, police professional liability, public officials' errors and omissions coverage, bonds, property, inland marine and other liability coverage. Coverage is available to municipalities as well as other incorporated municipal entities such as utility boards and industrial development boards. AMIC includes co-volunteer liability for fire and police volunteers protecting

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League Resolutions Adopted at ALM's 2016 Convention

Resolutions 1-36 thank the various individuals, organizations, businesses and agencies for their participation in the 2016 Annual Convention and are listed here as summaries. Full text is provided for substantive resolutions 37-43.

1. Thanks Mayor Tommy Battle and members of the Huntsville City Council and their staffs for assistance in planning the convention and for their hospitality during convention.
2. Thanks the City of Huntsville for planning and sponsoring the Saturday night Welcome Reception.
3. Thanks Alabama Power Co. for their Keystone Sponsorship.
4. Thanks the companies that sponsored the 2016 convention.
5. Thanks the companies that sponsored Saturday Break Service at Embassy Suites.
6. Thanks the Municipal Workers Compensation Fund (MWCF) for sponsoring Break Services at the Von Braun Center.
7. Thanks Municipal Revenue Service for sponsoring the President's Banquet.
8. Thanks Sharleen Smith, Opening Session keynote speaker.
9. Thanks Alabama's Congressmen and Congresswomen for their work for Alabama's municipalities in Congress.
10. Thanks the leadership of the Alabama House of Representatives as well as the House members who sponsored League legislation for their help during the Regular Session.
11. Thanks the leadership of the Alabama Senate as well as Senate members who sponsored League legislation for their help during the Regular Session.
12. Thanks the municipal lobbyists group for supporting League legislation and providing assistance to the League during the legislative process.
13. Thanks Ken Smith and League staff for their work.
14. Thanks League staff members for organizing and planning the Sunday Spouses/Guests Gathering.
15. Thanks the participants in the Monday general and concurrent sessions.
16. Thanks the officials who presided over programs and made presentations during the convention.
17. Thanks ABC-LEO for hosting a Saturday evening reception.
18. Thanks Huntsville Fire & Rescue Color Guard for presentation of colors during the Opening Session.
19. Thanks the Blue Notes for singing the National Anthem during Opening Session
20. Thanks the six attorneys for their participation in the Ask Your Attorney session on Tuesday morning.
21. Thanks Jim Hunt, keynote speaker, Closing Session.
22. Thanks those who gave invocations during the convention.
23. Thanks the cities and towns that participated in the Municipal Flag Showcase.
24. Thanks the exhibitors for their participation during the convention.

continued next page



25. Thanks the state and federal agencies that had GRID booths.
26. Thanks participants in the AAPP Program.
27. Thanks participants in the Municipal Clerks Program.
28. Thanks Mayor Phil Seagraves of Guin for his service as League Vice President.
29. Thanks the members of the 2015-2016 Executive Committee for their expertise, advice and assistance regarding League operations.
30. Thanks the members of the 2015-2016 standing committee chairs and vice chairs for their work on the Polices and Goals.
31. Thanks members of the Board of Directors of the Municipal Workers Compensation Fund.
32. Thanks members of the Board of Directors of the Alabama Municipal Insurance Corporation.
33. Thanks members of the Board of Directors of the Alabama Municipal Funding Corporation, Inc.
34. Thanks municipal clerks for their outstanding work and for their program during this convention.
35. Thanks city managers and city administrators for their work and for their participation in the convention program.
36. Thanks state and federal departments and agencies for their assistance to municipalities.

RESOLUTION NO. 37

WHEREAS, the existing motor fuel tax revenues are declining and haven't been raised since 1992; and

WHEREAS, the annual potential shortfall of State revenue for transportation infrastructure is estimated at \$350 million; and

WHEREAS, efforts are being made to have the Alabama Legislature enact an additional excise tax to alleviate the loss of potential revenue;

NOW, THEREFORE, BE IT RESOLVED by the delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 16th day of May, 2016, that they do request the Alabama Legislature find funding mechanisms to protect Alabama's transportation infrastructure that do not in any way preempt or exempt municipal governments from raising local revenue from the sale of motor fuels to fund local transportation infrastructure.

BE IT FURTHER RESOLVED that the delegates of the Alabama League of Municipalities formally request the Alabama Legislature and Alabama Department of Transportation distribute funds to municipal governments rather than through county governments to address municipal infrastructure needs.

RESOLUTION NO. 38

WHEREAS, the Marketplace Fairness Act has been under consideration by the United States Congress since 2013; and

WHEREAS, this legislation would give states the authority to enforce local and state taxes that are already in place and owed by out-of-state online retailers; and

WHEREAS, this legislation would require retailers to collect and remit sales taxes to states and local governments for out-of-state online sales; and

WHEREAS, all businesses, regardless of their physical location, should be required to collect and remit state and local sales tax; and

WHEREAS, the playing field, as it currently stands, favors out-of-state, internet retailers that exploit a pre-internet loophole allowing them to evade collecting state sales taxes even though they sell the same products in the same communities; and

WHEREAS, as it currently stands, stores with a local retailer must collect sales taxes while online stores do not, thereby enabling online stores to undercut local retail prices; and

WHEREAS, this legislation is not a new tax or a tax increase, but rather enables states to collect taxes that are already due; and

WHEREAS, this legislation would generate more sales, pay more sales tax to the state treasury, encourage more local retailers, create jobs for local workers and infuse more money into local economies throughout the State of Alabama; and

WHEREAS, in an effort to avoid the loss of hundreds of millions of dollars each year in uncollected sales



taxes from online purchases Alabama implemented new sales tax reporting requirements that became effective in January 2016;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 16th day of May, 2016, that we do hereby thank Senator Richard Shelby and Senator Jeff Sessions for continuing to support the Marketplace Fairness endeavor and that we urge Alabama's members of the House of Representatives to also work for and vote in favor of passage of the Marketplace Fairness Act or companion legislation; and

BE IT FURTHER RESOLVED that the Alabama League of Municipalities calls upon federal policy makers to enact legislation requiring the collection and remittance of state and local sales taxes allowing all retailers to compete in a true free market and give every business an equal opportunity to compete, innovate and create jobs.

RESOLUTION NO. 39

WHEREAS, the United States Congress created the Alabama Territory from the eastern half of the Mississippi Territory on March 3, 1817; and,

WHEREAS, by 1819, the birth and growth of cities, towns, and communities in the Alabama Territory ensured that the population of the Territory had developed sufficiently to achieve the minimum number of inhabitants required by Congress to qualify for Statehood; and,

WHEREAS, the United States Congress and President James Monroe approved Statehood for the Alabama Territory on December 14, 1819 making it the nation's 22nd state; and,

WHEREAS, the Alabama Legislature approved a resolution in 2013 establishing the Alabama Bicentennial Commission to mark the 200th anniversary of Statehood; and,

WHEREAS, constitutional officers and other officials appointed Commission members to organize and execute a Bicentennial celebration intended to improve the education and understanding of all Alabamians and visitors regarding the state's history and heritage; and to create and promote lasting initiatives designed to benefit the State and its citizens; and,

WHEREAS, in support of Alabama's Bicentennial commemoration efforts, the Alabama League of Municipalities' Communications Director Carrie Banks was appointed as the Co-Chair for the Commission's Local Activities Committee and as a member of the Commission's Advisory Committee; and

WHEREAS, the Bicentennial period of reflection and commemoration, 2017 to 2019, has been divided into three thematic years to acknowledge distinctly: the environment, both natural and constructed, including especially the

cities, towns, and communities which compose the State; the people, regardless of race, culture, or background; and the history, both ancient and recent, of the State of Alabama; and,

WHEREAS, commemorations and celebrations will enable and encourage Alabamians of all ages and backgrounds, as well as visitors from around the United States and beyond, to experience Alabama's rich and diverse cultural, historic, and natural resources, thereby stimulating the economy of Alabama through local economic growth; and,

WHEREAS, full participation and contributory efforts by the localities of the State through their various councils, committees, and congregations, are paramount to the success of this historic endeavor;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 16th day of May, 2016, that we respectfully encourage our cities and towns to participate in Alabama's Bicentennial by forming their own local Bicentennial Celebration Committees to highlight the unique histories of their communities while uplifting the state during this very specific historical milestone.

RESOLUTION NO. 40

WHEREAS, after two years working with the Alabama Supreme Court, Brenda Flowers Smith joined the Opinions Division of the Office of the Attorney General as an Assistant Attorney General in 1987 where she researched and drafted hundreds of opinions interpreting state and local laws affecting the operation of public agencies and entities throughout Alabama; and

WHEREAS, in August of 2004 Brenda was appointed to serve as Chief of the Opinions Division and in 2002 and 2006 was awarded the "Attorney General's Award for Excellence as a Solicitor;" and

WHEREAS, Brenda served six Attorneys General, Don Siegelman, Jimmy Evans, Jeff Sessions, Bill Pryor, Troy King and Luther Strange, during her esteemed career; and

WHEREAS, over three decades, Brenda has given freely of her time and expertise to support Alabama's municipal officials and employees by participating in the activities of the Alabama League of Municipalities and

WHEREAS, Brenda has provided legal guidance on issues affecting the operation of municipalities as well as guidance on elections laws, including enforcement of laws prohibiting election fraud and ensuring compliance with the Fair Campaign Practices Act;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in

Convention assembled in Huntsville, Alabama, on this the 16th day of May, 2016, that they do thank Brenda Flowers Smith for her dedication, enthusiasm and hard work throughout her many years of public service to the State of Alabama and wish her much success in all her future endeavors.

RESOLUTION NO. 41

WHEREAS, Sadie Britt, Councilwoman of Lincoln, Alabama, has served as President of the Alabama League of Municipalities for the past year; and

WHEREAS, Councilwoman Britt’s diligent attention to duty and outstanding leadership on behalf of the League and its members has led to the growth and well-being of the League especially during the past year; and

WHEREAS, the members of the League shall always be most grateful for Councilwoman Britt’s years of unselfish service and untiring efforts to promote the programs, projects and philosophy of the League;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on

this the 16th day of May, 2016, that they do recognize and commend Councilwoman Britt for her service as a municipal official in the State of Alabama and as a leader of our state organization and that they do wish her well in all of her future endeavors.

RESOLUTION NO. 42

WHEREAS, Representative Dan Williams passed away on July 1, 2015, at age 73 after more than three decades of outstanding and commendable public service; and

WHEREAS, Representative Williams served on the Athens City Council from 1984 until 1992 and then served as Mayor of Athens from 1992 until 2010; and

WHEREAS Representative Williams was an active member of the Alabama League of Municipalities, serving on numerous committees and as League President from 2003-2004; and

WHEREAS, Representative Williams served for several terms on the board of directors of the Municipal Workers Compensation Fund, Inc.; and

WHEREAS, Representative Williams was a member of the Alabama State Legislature from 2010 until his death in

> Pumper > Aerial > Rescue > Tanker > Quick Attack

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Telescoping 150w Akron LED Flood Lights

Harrison PTO/HYD 8.0 MAS Generator

Whelen Scene Light and Light Package

Rear Vision Camera & GPS System

16" Front Bumper Extension with Center Storage Well

980 Gallons Water
20 Gallons Foam

Predator Panther MFD Cab
with 10" Raised Roof
Cummins ISL9, 450 HP Engine

FoamPro 1600 Foam System

Hale QFlo Plus-125
1250 GPM Pump

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2015 and consistently demonstrated leadership through a willingness to be fair and work with both political parties for the good of the State and;

WHEREAS, Representative Williams was a long-time advocate of municipal government and its critical role in the success and wellbeing of Alabama's cities and towns and is remembered as one of Limestone County's most respected and beloved public servants;

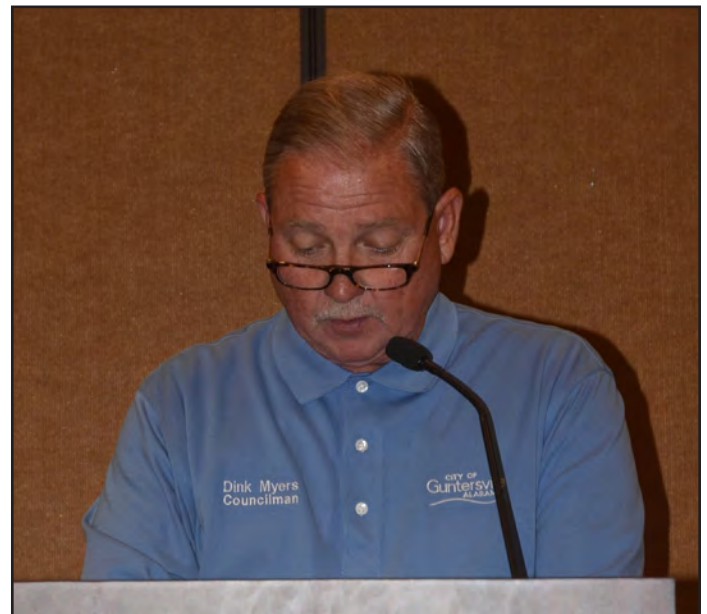
NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 16th day of May, 2016, that they do memorialize Representative Williams and pay tribute to the many years of dedicated service he gave to the City of Athens, the Alabama League of Municipalities and the State of Alabama. His devotion to local and state government and his friendship will be missed by his colleagues throughout Alabama.

RESOLUTION NO. 43

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Huntsville, Alabama, on this the 16th day of May, 2016, that they memorialize the following persons who have died in office since our last convention, namely: James Lewis, councilmember, Greenville; Edward Mackey, mayor, Leesburg; Sam Rayburn, councilmember, Millbrook; Oscar Crawley, mayor, Lanett; Shirley Middleton, councilmember, Harpersville; Leon Hatcher, councilmember, Camp Hill; Bill Littles, councilmember, Brewton; Jim Holland, councilmember, Muscle Shoals; Grace D. Megginson, councilmember, Thomasville; Robert Clark, councilmember, River Falls; Hugh White, councilmember, Pollard; Donald E. Coleman, councilmember, Oak Grove; Thomas B. Williams, councilmember, Collinsville; Paul Jenkins, councilmember, Pennington; Jimmy Gill, councilmember, Athens; Larry Newman, councilmember, Blountsville; Charles Davis, councilmember, Woodstock; Alan Revis, councilmember, Wilsonville; Julia A. Wells, councilmember, McIntosh; and Derrick Biggs, mayor, Forkland.

BE IT FURTHER RESOLVED that the following former officials be memorialized: Harry A. Mason, former mayor, Pine Hill; Benny Barrow, former mayor, Andalusia; Rep. Dan Williams, League Past President (2003-2004) and former mayor, Athens; Terry Robinson, former councilmember, North Courtland; Russell Chandler, former councilmember, Tallassee; J.A. Brown, Jr., former councilmember,

Montevallo; Henry Wright, former councilmember, Centre; Wayne Tuggle, former mayor, Graysville; James "Jimmy" W. Grant, former mayor, Dothan; Kenneth Messer, former mayor, Coffee Springs; Leala (Teena) Aycock, former mayor, Coffee Springs; Jack Allen, former councilmember, Decatur; John A. Hughes, Jr., former mayor, Hartford; Delbert Shelton, former councilmember, Scottsboro; William E. Batson, former mayor, Florence; Ed Rainey, former councilmember, Monroeville; Cora Smith, former councilmember, Brighton; Billy B. Hayes, former councilmember, Clanton; Jerry L. Smith, former mayor, Jacksonville; Jimmy A. Greene, former councilmember, Louisville; Hilliard Fletcher, former councilmember, Tuscaloosa; E.B. "Boozer" Pinkerton, former councilmember, Guin; Eugene Hardrick, former mayor, Margaret; Bill Ratliff, former councilmember, Coosada; John Storey, former councilmember, Phenix City; Howard Gamble, former mayor, Sheffield; Douglas Pittman, former councilmember, New Brockton; William "Bill" Ford, former councilmember, Roanoke; Tommy Kelly, former councilmember, Attalla; Harold Chandler, former mayor, Rogersville; Neil Corbin Crump, former councilmember, Albertville; James "Jack" Dennis, former councilmember, Clanton; Henry Shirley, former councilmember, Gordo; Helen Fassina, former councilmember, Fultondale; James Albert Peck, former councilmember, Killen; Olean Bean, former councilmember, River Falls; and Mary Gonzales, former councilmember, Millport. ■



Councilmember Dink Myers of Guntersville presiding over the Resolutions Committee Meeting on May 14, 2016.



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candidates. She reported the Nominating Committee met and recommended the following persons:

President: Phil Seagraves, Mayor, Guin

Vice President: Howard Rubenstein, Mayor, Saraland

Executive Director: Ken Smith

Chair and Vice Chair of League Policy Committees:

State and Federal Legislation Committee:

Chair: Councilmember Jesse Matthews, Bessemer;

Vice Chair: Mayor Gary Fuller, Opelika

Finance, Administration and Intergovernmental Relations Committee: Chair: Councilmember Charles Black, Priceville; Vice Chair: Mayor Claude “Bud” Kitchin, Lincoln

Energy, Environment and Natural Resources Committee: Chair: Mayor Leigh Dollar, Guntersville ; Vice Chair: Councilmember Lawrence Haygood, Tuskegee

Community and Economic Development Committee: Chair: Councilmember Jocelyn Tubbs-Turner, Marion; Vice Chair: Mayor Charles Gilchrist, Glencoe

Transportation, Public Safety and Communication Committee: Chair: Mayor Gena Robbins, York; Vice Chair: Councilmember George Johnson, Tuscumbia

Human Development Committee: Chair: Councilmember Marva Gipson, Aliceville; Vice Chair: Councilmember Bridgette Jordan-Smith, Vincent

FOR EXECUTIVE COMMITTEE

First Congressional District:

Mayor Jim Staff, Atmore

Councilmember Adam Bourne, Chickasaw

Mayor Tim Kant, Fairhope

Mayor G. Richard Long, Jackson

Councilmember Thomas Williams, Satsuma

Second Congressional District:

Mayor Billy Blackwell, Ozark

Mayor Bill Gillespie, Prattville

Mayor Fred McNab, Pinckard

Councilmember Darrell Wilson, Tallassee

Mayor Jason Reeves, Troy

Third Congressional District:

Mayor Barry Moody, LaFayette

Councilmember Billy Pearson, Lincoln

Mayor Todd Strange, Montgomery

Councilmember Mack Arthur Bell, Roanoke

Mayor Alberta McCrory, Hobson City

Fourth Congressional District:

Mayor Jimmy Madison, Berry

Mayor Ray Nelson, Fayette

Councilmember Deverick Williams, Gadsden

Councilmember Donald Pennington, Littleville

Mayor Terry John Calhoun, Rainbow City

Fifth Congressional District:

Mayor William “Ronnie” Marks, Athens

Mayor Don Kyle, Decatur

Mayor Tommy Battle, Huntsville

Mayor Troy Trulock, Madison

Councilmember Tommy Perry, Priceville

Sixth Congressional District:

Mayor Dennis Stripling, Brent

Mayor Tom Henderson, Center Point

Councilmember Bobby Cook, Clanton

Councilmember Cris Nelson, Helena

Councilmember Karyl Rice, Pelham

Seventh Congressional District:

Mayor Mike Grayson, Demopolis

Mayor Roberta Jordan, Pine Hill

Mayor George Evans, Selma

Councilmember Harrison Taylor, Tuscaloosa

Mayor Loxcil Tuck, Tarrant

Ex Officio Members (Active Past Presidents)

Mayor Billy Joe Driver, Clanton

Councilmember Sadie Britt, Lincoln

Mayor David Bradford, Muscle Shoals

Mayor Leon Smith, Oxford

Councilmember Harold Swearingen, Pine Hill

Mayor Melvin Duran, Priceville

Mayor Charles Murphy, Robertsedale

Mayor Bobby Payne, Tallassee

Mayor Johnny Ford, Tuskegee

Mayor Walt Maddox, Tuscaloosa

Mayor Wally Burns, Southside

Mayor Gena Robbins, York, moved adoption of the Nominating Committee Report as presented. Councilmember Michael Gay, Millbrook, seconded the motion, which passed unanimously. The President declared all officers elected.

Mayor Tommy Battle, Huntsville, was called upon to present the report of the Site Selection Committee. He stated that the League Convention would be held in future years as follows: May 20 – 23, 2017, Birmingham; May 19 – 22, 2018, Montgomery; May 4 – 7, 2019, Mobile; May 16 – 19, 2020, Tuscaloosa; and May 22 – 25, 2021, Huntsville. Mayor Battle moved adoption of the report, which was seconded by Mayor Hoyt Sanders, Pinson. There being no further business, the meeting was adjourned.

Ken Smith
Acting Secretary

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.

ALABAMA COURT DECISIONS

Bingo: Bingo games, within the meaning of an amendment to the state constitution's prohibition against lotteries, which amendment authorized bingo games for "for prizes or money by nonprofit organizations for charitable, education, or lawful purposes," did not include electronic bingo machines. The court held that "bingo" was limited to the traditional game of bingo as characterized with at least six elements of the game identified in *Barber v. Cornerstone Community Outreach, Inc.*, State v. \$223,405.86, ---So.3d--(Ala.2016)

Employees: Evidence supported finding that unemployment compensation claimant had been discharged for misconduct, and thus was ineligible to receive unemployment benefits. *Town of Elberta v. Alabama Dept. of Labor*, 185 So.3d 474 (Ala.Civ.App. 2015)

UNITED STATES COURT DECISIONS AFFECTING ALABAMA

Courts: A city in Alabama is considered to be a citizen of Alabama for diversity jurisdiction purposes. *Jernigan v. City of Eufaula*, 123 F.Supp.3d 1322 (M.D. Ala. 2015)

Tort Liability: Officers who shot and killed domestic violence suspect who was carrying a pistol were entitled to qualified immunity. *Acre v. Chambers*, 129 F.Supp.3d 1295 (M.D. Ala. 2015)

Americans with Disabilities Act: School board was not liable for disability discrimination based on actual notice of possibility of, or actual knowledge of, discrimination of

child with physical disabilities and cognitive impairments. *J.S. v. Houston County Bd. of Educ.*, 120 F.Supp.3d 1287 (M.D. Ala. 2015)

DECISIONS FROM OTHER JURISDICTIONS

First Amendment: The act of tattooing is an artistic expression protected by the First Amendment. The city failed to meet its burden of demonstrating that a ban on tattoo establishments served a significant governmental interest of protecting its historic district from deterioration. *Buehrle v. City of Key West*, 813 F.3d 973 (C.A. 11 Fla. 2015)

Discrimination: A transgender high school student could bring a Title IX claim challenging the school board's restroom policy that required students to use the restroom consistent with their birth sex, rather than their gender identity. *G.G. v. Gloucester County School Bd.*, --- F.3d --- 2016 WL 1567467 (C.A. 4 Va. 2016)

Tort Liability: Even if a city police officer, who was responding to a report that a minor child had a bruise on her head caused by her mother striking the child several times on the head and face, briefly put his foot in a home's front door to prevent the mother from ending a knock-and-talk, the officer did not violate the mother's clearly established rights. Thus, the officer was entitled to qualified immunity, in the mother's Section 1983 action asserting a Fourth Amendment violation. *Smith v. City of Wyoming*, --- F.3d ---, 2016 WL 1533998 (C.A. 6 Ohio 2016)

Voting Rights Act: A city's redistricting plan did not dilute the voting power of the city's African-American citizens. *Fairley v. Hattiesburg, Miss.*, 122 F.Supp.3d 553 (S.D. Miss. 2015)

ATTORNEY GENERAL'S OPINIONS

Capital Improvement: A town may use capital improvement funds to replace the sewer line from the town all building that connects to the town's sewer line located on Main Street. The town may use capital improvement funds to replace the sewer line from the town hall building that connects to the town's sewer line located on Main Street. AGO 2016-029

Ordinances: Possession of an "e-cigarette" or electronic cigarette is possession of an alternative nicotine product under Section 28-11-13(a) if the municipality



has adopted the offense as a municipal ordinance violation. AGO 2016-031

Planning Commission: The term “administrative officials of the municipality,” as used in Section 11-52-3(a) of the Code of Alabama, may include employees who oversee a key municipal function or area but who do not supervise other people. City Planning Commission members are not required to be residents of the city under state law. AGO 2016-034

Ambulances: The County E-911 Board has the authority to designate the areas of the county to which a particular ambulance service provider may be dispatched, except for municipalities that have agreements with a provider. The Board must honor the agreements between the municipalities and ambulance service provider for services provided within the municipalities. AGO 2016-035

ETHICS OPINIONS

Conflict of Interest: A municipal board of education member who is employed by a business under contract with the municipal board of education may not vote, attempt to influence or in any manner participate in either an ongoing contract between the board and the employer, or any new contracts or other business interactions between the board and the employer. Any contract entered into between a public official and his or her employer, which is paid in whole or in part out of state, county or municipal funds, must be filed with the Alabama Ethics Commission within ten (10) days of the contract having been entered into. AO 2016-10

Conflict of Interest: While the Ethics Law recognizes that public officials and public employees should not be denied the opportunity available to all other citizens to acquire and retain private economic and other interests, they may not do so when their public responsibilities conflict with their private interests. AO 2016-11 ■

F.A.Q.

Your Frequently Asked (Legal) Questions Answered
by Assistant General Counsel Teneé Frazier

Elections – Election Officials – Poll Workers:

Can a City Councilmember serve as a poll worker at a local municipal election?

No. Section 11-46-27 of the Code of Alabama, 1975 prohibits municipal officers and employees from serving as election officials. Further, kindred of any candidate or of his or her spouse to the second degree are also prohibited from serving as election officials. Kindred to the second degree includes parents, grandparents, siblings, children, aunts and uncles, and nieces and nephews. Section 11-46-27, Code of Alabama 1975. ■





2016 Annual Convention





Twenty-seven Alabama municipalities have taken steps to protect residents from heart disease and lung cancer by enacting comprehensive smokefree protections.



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2016 Distinguished Service Awards

Each year during its Annual Convention, the League presents Distinguished Service Awards to mayors, councilmembers, municipal clerks, municipal administrative assistants, city managers, city administrators, municipal attorneys, municipal judges and League employees who have completed 20, 30 and 40 years of service in municipal government. A total of 40 awards were announced during the President's Banquet on May 16th in Huntsville. Pictured here and on the following pages are the recipients of the 2016 Distinguished Service Awards. Not pictured – **20 Years:** Councilmember Jeddo Bell, Greenville; Councilmember Linda Crowe, Moody; Municipal Clerk Lora Johnson; Municipal Clerk Sharon Kay Jones, Attalla; Mayor Owen Lowery, Ranburne; Councilmember Jan Magouirk, Berry; Councilmember Bobbie Sue McCraw, Glen Allen; Mayor V. L. "Sonny" Poser, Jasper; Municipal Attorney Kenneth R. Raines, Robertsdale; Municipal Clerk Marjorie H. Sheffield, Pine Hill; Councilmember Harrison Taylor, Tuscaloosa; Mayor Floyd "Butch" Vaught, Langston; **30 Years:** Municipal Judge Julian B. Brackin, Robertsdale; Assistant Municipal Clerk Elaine Coan, Muscle Shoals; Municipal Clerk Deborah Daniel, Lanett; Mayor John E. Koniar, Foley; Municipal Attorney, Municipal Judge, and Municipal Prosecutor Steven A. Thomas, Carbon Hill, Arley, and Addison; Municipal Prosecutor Charlie D. Waldrep, Pelham; **40 Years:** Municipal Clerk Jacqueline Danner, Ariton; Mayor James T. Ramage, III, Brundidge.

20 Year Distinguished Service Award Recipients



20 Years: Assistant Municipal Attorney Michael M. Fliegel, Birmingham



20 Years: Councilmember Hermon T. Graham, Florence



20 Years: Councilmember Robert Lewis Herron, Thomasville



20 Years: Councilmember Tammi Holley, Roanoke



20 Years: Municipal Clerk Penny Isbell, Pell City



20 Years: Mayor Paul Jennings, Argo



20 Years: Councilmember Don A. Mack Sr., Centreville



20 Years: Councilmember Webb Nall, Atmore



20 Years: Mayor S. Earl Niven, Chelsea



20 Years: Mayor Bernard L. Sullivan, Brantley



30 Years: Municipal Clerk Kathy Chambless, Jasper



30 Years: Municipal Judge J. Tilden Dillard, Priceville



30 Years: Councilmember Robert W. Echols, Jr., Gadsden



30 Years: Municipal Clerk Angelia Filmore, Daleville



30 Years: Councilmember Marva Gipson, Aliceville



30 Years: Municipal Attorney Herman Marks, Decatur



30 Years: Councilmember John McGee, Killen



30 Years: Municipal Clerk Debra Orange, Clanton



30 Years: Councilmember Tommy Perry, Priceville



40 Years: Municipal Attorney Guy F. Gunter III, Opelika

These photos are also available on Facebook!

Have you enjoyed the photos we have included in this issue of the *Journal*? Many of them were posted in real time during the Annual Convention as well as in four specific Facebook convention photo albums: **2016 Round Table Discussions, 2016 Distinguished Service Awards, 2016 Convention Snapshots 1 and 2016 Convention Snapshots 2.**

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2016 Annual Convention







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2016 Regular Session Recap

Greg Cochran • Director of Advocacy and Public Affairs • ALM

We survived a contested Legislative Session.

This was an *extremely* challenging legislative session. This seems to be the trend – special interest groups and citizens unhappy with circumstances at home seeking redress via the Legislature. I can't remember a time from past sessions when we've faced more adversity over isolated local issues with the proposed remedies being the enacting of statewide legislation. Throughout the 2016 Regular Session we *continually* defended municipal government authorities in extended battles from several fronts including: business license exemptions, business license preemptions, police jurisdiction enforcement, preemptions of sales tax auditing and collections authority, preemptions of business license auditing authority, municipal court cost diversions, right of way preemption authority, unfunded mandates, historic monuments and gasoline tax preemptions.

That being said, however, by all accounts this was a *successful* legislative session for municipal governments. We were ultimately triumphant in defending your municipal authority over business licenses, sales and use taxes, auditing and collections, retention of court costs fees and administration of police jurisdictions. However, it was a long and difficult challenge that had us concerned and fully engaged until midnight on May 4th when the Legislature adjourned the 2016 Regular Session. Then, after the session concluded, many of our members sharpened their focus on contacting Governor Bentley over the medical equipment and hospice providers' business license preemption bill passed by the House in the final hour. Governor Bentley heard their concerns and graciously exercised his veto authority.

Ironically, because of these successes, we expect the 2017 Session will be equally challenging.

Takeaways from this session:

WE must work *diligently* during the fall to change the dialog on Goat Hill if we want to change the attitudes of those making decisions in Montgomery. I urge you to join the League's efforts to ensure that local government is involved in the conversations at the state level by making critical connections with our legislators and by repeatedly emphasizing to them that vibrant cities and towns are vital to the well-being of our State's future.

I recently read something by Dr. Kevin Elko, an author, renowned performance consultant and motivational speaker, that I would encourage you to follow in your dealings with

our State Legislature: "the culture phrase that I am using at the Alabama Crimson Tide has become very popular: *Get Stuff Done*. People and organizations that win have this culture: *Get Stuff Done*."

Don't hesitate or put off having conversations with your legislators until the session begins – start having them now *Get Stuff Done*. Don't allow special interests to set the tone of the dialog. Don't allow our friends in the legislature to be persuaded by those arguments without hearing the facts from us. *Get Stuff Done*.

ALM plans to meet with legislative leaders this summer and fall to convey our positions on important issues impacting the operation of municipal government. We will be calling you to join us in those meetings to provide the local perspective and reinforce that local decisions should be left to local officials. We will work closely with you to change the dialog in Montgomery by initiating critical conversations, managing expectations and finding workable solutions to municipal issues.

As always, I appreciate your trust in me and your League staff to represent *you* – our membership and the stewards of the communities in which we live. I also greatly appreciate your engagement in the legislative process.

continued next page



The League thanks Rep. Jack Williams (left) and Sen. Cam Ward (not pictured) for sponsoring ALM legislation repealing the municipal commission form of government from the Alabama Code. ACT# 2016-295. Many thanks to Gov. Bentley for his support! Also pictured: Greg Cochran, ALM Director of Advocacy and Public Affairs and Lori Lein, ALM General Counsel. Photo by Jamie Martin, Director of Photography, Governor's staff.

Outcomes of the League's 2016 Legislative Package

General Fund Budget by Rep. Clouse and Senator Pittman included funding for the Clean Water and Drinking Water SRF programs. ACT#2016-116

Repeal of the Municipal Commission Form of Government by Rep. Williams and Senator Ward removing this outdated form of municipal government from the Alabama Code. ACT# 2016-295

Jurisdictional Consolidation by Rep. Williams would create a procedure for municipalities to incorporate land lying totally within their incorporated jurisdictions that is not currently. **Outlook:** ALM will continue to work with special interest groups opposed to this legislation to find a workable solution.

Historical Tax Credits by Rep. Gaston and Senator Waggoner would provide a credit against state income taxes for developers who make qualifying improvements to historical property. The current historic tax credit authority approved by the Legislature three years ago has reached its cap. This proposed legislation will seek to have the tax credit cap raised allowing more projects to qualify. **Outlook:** ALM will continue to advocate with the renewal of this vital program.

Civil Fines for Parking Ordinance Violations by Rep. England and Senator Waggoner. This proposed legislation will clarify the authority of municipalities to enforce civil penalties for parking violations. **Outlook:** ALM will continue to advocate for the passage of this legislation.

Bills of Interest to Municipal Governments enacted during the 2016 Session

HB7 by Rep. Hill (M) – ACT#2016-101 – requires Insurance Service Contracts defining the term “road hazard” to be covered by a service contract

HB34 by Rep. McCutcheon – ACT#2016-102 – creates the Alabama Renewal Act providing tax credits for the State’s port facilities.

HB36 by Rep. South – ACT#2016-188 – creates the Small Business Tax credits for qualified business owners.

HB41 by Rep. Chesteen – ACT#2016-139 - repeals the Alabama Ahead Act requirement for school tablets/computers be pen-enabled.

HB45 by Rep. Weaver – ACT#2016-140 establishing the Unborn Infants Dignity of Life Act requiring the humane disposition of bodily remains.

HB69 by Rep. Tuggle – ACT#2016-222 authorizing



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Community Development Districts for the sale of alcohol to include marinas.

HB88 by Rep. Moore (B) – ACT#2016-190 altering the maximum weight of concrete mixing truck for operation within 50 miles of their home base.

HB117 by Rep. Poole – ACT#2016-199 establishes the Public Education debt service appropriation for FY2017

HB121 by Rep. Poole – ACT#2016-198 appropriates the Public Education employee compensation increase

HB170 by Rep. Patterson – ACT#2016-298 amending Competitive bid law, providing for length of time contracts for goods or services, excepting voice or wireless communications services, may be let, specify requirements for purchases from a sole source, permit purchases from vendor under general services administration contract and services from a competitive bid nationwide cooperative purchasing program.

HB174 by Rep. Faulkner – ACT#2106-18 establishing the Alabama Uniform Minimum Wage and Right to Work Act, counties and municipalities prohibited from enacting employment benefits or wage not required by state or federal law, includes independent contractors, regulation of labor relations reserved to state.

HB176 by Rep. Daniels – ACT#2016-97 allowing

for Breweries and Brew Pubs to sell alcohol for off-site consumption.

HB294 by Rep. Mooney – ACT#2016-193 allowing for nonmedical persons to administer Epinephrine and providing for civil immunity under certain conditions.

Special Session Outlook

Governor Bentley may consider calling the Legislature back into a special session in late summer or early fall should lawmakers reach an agreement on the additional funding of Medicaid and possible distribution of the BP lawsuit funds. ■

STAY INFORMED!

The *State House Advocate* is the League's legislative e-newsletter that's distributed on Friday afternoons during the Session. It highlights current legislative activities and contains legislative alerts and information about the upcoming legislative week as well as links to bills, status reports and important legislative websites. To subscribe: www.alalm.org, click on the link that reads "Sign Up for E-Newsletters HERE" (below the main menu) and fill out the form . It's FREE!

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Announces 2016 Star Awards

The Alabama Communities of Excellence (ACE) presented the 2016 ACE Star Awards at the Alabama Communities of Excellence (ACE) Annual Community Reunion June 17th in Clanton, Alabama at the Alabama Power Company – Clanton Conference Center. The ACE Star Awards recognize individuals who have performed above and beyond the call of duty and embody the principles of the ACE Program, a comprehensive development program designed to assist Alabama’s smaller communities in their efforts to plan, grow and prosper. The 2016 ACE Star Award recipients are (pictured left to right):

Mike Easterwood, Exceptional ACE Leadership (Auburn University – Government and Economic Development Institute) – Mr. Easterwood has diligently delivered valuable sources of information for ACE to ACE communities for many years. He has served as Captain and Co-Captain to ACE communities and guided them through the comprehensive three-phase process. He is currently serving his third term as President of the Associates Council and liaison to the Board, and has consistently proven his leadership skills and talents through his service to ACE. Mr. Easterwood is a Senior Outreach Associate with Auburn University’s Government and Economic Development Institute (GEDI), an ACE Partner.

Carrie Banks, Outstanding ACE Volunteer (Alabama League of Municipalities) – Ms. Banks has volunteered countless hours to the promotion and marketing of the Alabama Communities of Excellence. Using her knowledge, talent, and personal style, she has developed a number of professional marketing and promotional pieces for ACE. Ms. Banks is the Communications Director with the Alabama League of Municipalities, an ACE Partner.

The Honorable Yancey E. Lovelace, Outstanding ACE Mayor (Brewton) – Brewton was designated an ACE community in 2006. Mayor Lovelace has been an advocate of improving the City of Brewton with his goals closely aligning with those of ACE. His work with the city has improved the quality of life for residents and visitors to the City of Brewton.

Nathan Willingham, Outstanding ACE Team Captain (Northwest AL Council of Local Governments) – As Team Captain, Mr. Willingham brings a wealth of knowledge, and his dedication and hard work has been exemplary as Red Bay continues through the ACE process. Mr. Willingham works with NACOLG’s Department of Planning and Transportation.

Herman Lehman, Outstanding ACE Local Coordinator (Montevallo) – The City of Montevallo was designated an ACE community in 2012. Mr. Lehman has devoted many hours to leading Montevallo in the position of ACE Local Coordinator. He is the City Clerk and is an outstanding correspondent of the ACE mission to promote Montevallo in all areas of community life. Mr. Lehman provides strong citizen leadership for Montevallo.

These “rising stars” bring outstanding leadership and a passion for small-town Alabama to all that they do. They are recognized for their commitment to making their communities better places and for their support of the ACE process. ACE offers communities a “one stop shopping” experience by centralizing community development programs and tools in one organization.

ACE is a nonprofit organization created in 2002 for the purpose of utilizing the collective expertise of its partner organizations. Throughout the ACE process, ACE Partners work with each community to successfully achieve specific goals. The ACE Program would not be possible without the funding, hard work and participation of the ACE Partner organizations. Thirty-two communities have previously been certified as Alabama Communities of Excellence and are located throughout Alabama. For additional information about the Alabama Communities of Excellence Program, visit alabamacommunitiesofexcellence.org. ■





Steve Martin Honored for 25 Years of Service



During the Municipal Workers Compensation Fund's April board meeting, Steve Martin (above center) was recognized by MWCF Board President Mayor Phil Segraves of Guin (above center) for 25 years of exemplary service as MWCF's Operations Manager. On July 1, 2016, this role shifted to Richard Buttenshaw as Steve stepped down from MWCF to focus solely on financial duties for the Alabama League of Municipalities.

Richard Buttenshaw Named MWCF Operations Manager

After serving in the role of Assistant Operations Manager since December 2014, Richard Buttenshaw was named Operations Manager for the Municipal Workers Compensation Fund (MWCF) July 1, 2016. Richard succeeds Steve Martin, who has stepped down after 25 years to serve solely as the Finance Director for the Alabama League of Municipalities.

Prior to moving into MWCF operations, Richard served as AMIC/MWCF's South Alabama Loss Control Representative for 11 years. He earned his Associate in Risk Management for Public Entities (ARM-P) in 2005 and was subsequently honored with an ARM-P Award for Academic Excellence in 2007. He also received his Certified Insurance Counselor (CIC) designation through The National Alliance in 2007. In 2010, he graduated 2nd in the Basic Claims Adjuster course offered through the Southern Farm Bureau Tech in Jackson, Mississippi, and in 2013, he achieved the prestigious Certified Safety Professional (CSP) designation from the Board of Certified Safety Professionals, a nationally accredited non-profit corporation that establishes standards for and verifies minimum competency in professional safety practice. Richard also took the lead for several important advancements in the Loss Control Division, including a dedicated Loss Control website (losscontrol.org), a specialized internal app used by each Loss Control Representative during their site report process and an innovative, online professional development/training program via LocalGovU with courses on a variety of risk management and safety topics.



Richard has worked closely with Steve for the past 18 months and looks forward to his new role with MWCF. ■



2016 Annual Convention



their personal liability and is one of the few insurers to cover multi-jurisdictional law enforcement activities, such as federally funded drug task forces.

The Municipal Workers Compensation Fund (MWCF) was established by the Alabama League of Municipalities in 1976 and is the second oldest League insurance pool in the nation. With nearly 600 participating municipal entities – including 80% of the Alabama League’s membership – MWCF is a member-owned, group self-insurance pool that provides a direct means for cities and towns to save on workers compensation costs. Any municipality or separate legal entity created under the powers of the municipality (such as a utility board or housing authority) or any state agency organized under statutory authority of the State of Alabama is eligible for membership.

The Alabama Municipal Funding Authority, or AMFund, is available to meet your financing needs. AMFund has adapted to the market changes since its creation in 2006 by creating new programs that allow partnerships with the banking community to offer private placement financing for general obligation and revenue projects, along with debt refinancing. So, even in this downturn in the bond market, AMFund has adapted its program to meet the needs of our members, offering competitive rates, low cost and timely issuance and flexible use.

The League’s oldest affiliate program was created in the 1940’s to collect delinquent insurance license taxes. This program has captured a great deal of uncollected revenue for League members over the years. The League continues to endorse a number of outside programs to benefit our members such as the Cable Television Franchise Management Service, the Model City Ordinance Review Program, the U.S. Communities purchasing

program, and CGI Streaming Video program. If you need any of these services, I encourage you to contact the League or the endorsed providers.

NLC Activities

The Alabama League continues to be well represented at **NLC meetings and activities**. Numerous Alabama officials represent Alabama’s municipalities on the NLC Board and on numerous NLC committees.

- NLC Board Member: Dejerilyn King Henderson, Councilmember, Troy
- Advisory Council Member: Jesse Matthews, Councilmember, Bessemer

Policy/Steering Committee Appointees

Community and Economic Development: Jesse Matthews, Councilmember, Bessemer; Ben Reed, Councilmember, Gadsden; and Velma Johnson, Councilmember, Midfield.

Energy, Environment & Natural Resources: Cynthia Donald, Councilmember, Bessemer and Billy Pearson, Councilmember, Lincoln.

Finance, Admin. & Intergovernmental Relations: Deverick Williams, Councilmember, Gadsden and Claude “Bud” Kitchin, Mayor, Lincoln.

Public Safety & Crime Prevention: Cleophus King, Councilmember, Bessemer.

Transportation and Infrastructure: John Lake, Councilmember, Daphne

If you are interested in becoming involved in NLC, please let me know and I’ll be happy to pass your interest along to NLC. ■





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Alabama Council American Institute of Architects
Alabama Department of Agriculture and Industries
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Congratulations to our Passport Prize Winners!

**The Passport Prize Program continues to be a Convention favorite.
The following delegates went home with a very nice prize:**

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Stanley Allred, Councilmember, Millport
- **FitBit ChargeHR**
Harold Crouch, Mayor, Chatom
- **Propel Altitude 2.0 Quadcopter with HD Camera**
Charles Glover, Councilmember, Killen
- **40" Vizio LED Smart HDTV**
Ken Doss, Councilmember, Hartselle
- **Two \$500 AmEx Gift Cards**
Dana Courtney, Clerk, Pinckard
Geneva Watts, Councilmember, Uniontown



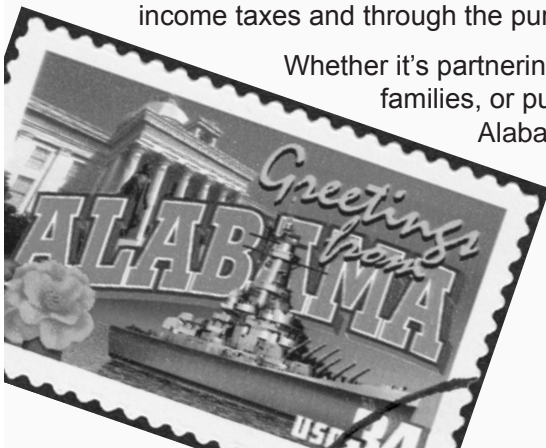
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for the effective performance of the public office involved). The rule that the First Amendment forbids public employers from discharging or threatening to discharge employees solely for non-support of the political party in power extends to decisions on hiring, promotion, transfer and recall after layoff. *See Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990).

There is no doubt that employees do not give up their right to participate in political activities just because they work for a municipality. But what happens when a municipal employee decides he or she wants to run for office? Section 17-1-4(b) provides the following:

Notwithstanding Section 17-17-5, any employee of a county or a city, whether in the classified or unclassified service, who qualifies to seek a political office with the governmental entity with which he or she is employed, shall be required to take an unpaid leave of absence from his or her employment, or use accrued overtime leave, or use accrued vacation time with the county or city from the date he or she qualifies to run for office until the date on which the election results are certified or the employee is no longer a candidate or there are no other candidates on the ballot. For purposes of this subsection, the term “employing authority” means the county commission for county employees or the city council for city employees. Any employee who violates this subsection shall forfeit his or her employment position. In no event shall this subsection apply to elected officials.

Therefore, to be a candidate in an election in the municipality where an employee works, the employee must take an unpaid leave of absence or use personal leave or compensatory time from the date he or she files qualifying papers to run for office. For municipal elections, qualification of candidates begins on July 5, 2016 and goes through July 19, 2016. The employee/candidate’s leave of absence would begin on the date he or she formally qualifies. Keep in mind that persons running for municipal office can begin campaigning long before they actually qualify to run. Employees running for municipal office may very well have “announced” that they are running and begin campaigning before they are required to take a leave of absence. Again, keep in mind that they are only required to take a leave of absence if they are running for office in the municipality where they work. For example, the public works director of the City of Luverne could run for Mayor of Luverne but she must take a leave of absence from her job as public works director. The same would not be true if she is running for County Commissioner for Crenshaw County. While she wouldn’t have to take a leave of absence from the City of Luverne to run for County Commissioner, the public works director can only engage in political activities while she is on approved leave, off duty, and on personal time, before or after work, and on holidays. See AGO 2005-187. Employees who violate this provision must be dismissed. See Section 17-1-4 (a)

(5), Code of Alabama 1975. Unpaid reserve officers do not have to take a leave of absence to run for municipal office unless the council establishes a policy requiring this. AGO 1997-00034. A personnel policy that allows employees during an unpaid leave to continue their health insurance coverage, provided they pay the premiums, would permit an employee taking time off to run for office to do the same. AGO 1998-00090.

No discussion of the political rights of public employees would be complete without referencing the Hatch Act. The Hatch Act is a federal law covering federal employees and officers and employees of a state or local agency if their principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States government or a federal agency. Generally, this law does not restrict activity in nonpartisan elections. Municipal elections are nonpartisan. Additional information and advisory opinions on the application of the Hatch Act may be obtained from the U.S. Office of Special Counsel office.

Finally, with regard to employees and their right to vote, employers, whether public or private, must provide employees with the opportunity to vote in elections. Section 17-1-5, Code of Alabama 1975, provides that every employee in the state shall, upon reasonable notice to his or her employer, be permitted by his or her employer to take necessary time off from his or her employment to vote in any municipal, county, state, or federal political party primary or election for which the employee is qualified and registered to vote on the day on which the primary or election is held. The time off cannot exceed one hour. If the employee’s work schedule commences at least two hours after the opening of the polls or ends at least one hour prior to the closing of the polls, then the employer is not required to grant time off for voting. Further, the employer may specify the hours during which the employee may be allowed off to vote.

Use of Public Funds or Property for Campaign Activities

As mentioned in the example above regarding the public works director for the City of Luverne running for County Commissioner, one restriction on a public employee’s right to participate in the political process, whether they are a candidate or not, is that they can only engage in political activity on their own time. They are also prohibited from using any public resources. State law provides that “no person in the employment of the State of Alabama, a county, a city, a local school board, or any other governmental agency, whether classified or unclassified, shall use any state, county, city, local school board, or other governmental agency funds, property, or time, for any political activities.” See Section 17-17-5(a), Code of Alabama 1975. Public employees may not use public property for political activities, nor may they use their official positions to influence voters. AGO 93-00108.

In addition to requiring public employees to use their own time and resources for any political activities, Alabama law also prohibits them from arranging, by salary deduction or otherwise, for any payments to a political action committee or for the payment of dues to a membership organization which uses any portion of the dues for political activity. Section 17-17-5(b)(1). Political activity for these purposes is limited to the following:

- a. Making contributions to or contracting with any entity which engages in any form of political communication, including communications which mention the name of a political candidate.
- b. Engaging in or paying for public opinion polling.
- c. Engaging in or paying for any form of political communication, including communications which mention the name of a political candidate.
- d. Engaging in or paying for any type of political advertising in any medium.
- e. Phone calling for any political purpose.
- f. Distributing political literature of any type.
- g. Providing any type of in-kind help or support to or for a political candidate.

Id. If a public employee wishes to have membership dues paid by salary deduction, they must provide to their public

employer a certification from the membership organization stating that none of the membership dues will be used for political activity. Further, at the end of each calendar year, any organization which has arranged for public employees to have membership dues deducted from their salary must provide to the public employer a detailed breakdown of the expenditure of membership dues.

Municipal officers, in addition to employees, are also restricted in the use of public property or funds by the Alabama Ethics Law. There have been numerous opinions of the Ethics Commission over the years relating to the use of public property and funds by public officers and employees. For example, a municipal planning commission director may run for a seat on the city school board, but he must campaign on his own time and may not use public property to aid his campaign. If elected, the director may perform school board business only on his own time. If the director's spouse works for the school system, he may vote on an across-the-board pay raise that affects all school employees the same, but he may not participate in the discussion of any matter that will affect his spouse in a manner different from the rest of the class to which she belongs. AO No. 96-45. A public official may not use a public vehicle to attend a campaign function, nor may

continued on page 54

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ADEM: Disposal of Vegetative Waste by Open Burning

The Alabama Department of Environmental Management (ADEM) is pleased to provide information to local governments on the legality of open burning of vegetative waste. First, vegetative waste is defined very narrowly: it is vegetative material from land clearing, from yard maintenance (leaves and limbs) and from similar activities. Any other types of waste, such as domestic garbage, industrial waste, treated wood, mattresses, furniture, shingles, etc. cannot be burned. Second, all vegetative waste must be burned at the site where it is generated; streams of vegetative waste cannot be taken to another site to be burned. It is this restriction that prohibits local governments, landscapers, and others from being allowed to open burn at a central location on a long-term basis. Third, burning of vegetative waste by individuals on their own property is severely restricted. Among other conditions, open burning of vegetative waste must occur at least 500 feet from an occupied dwelling. This restriction limits burning in urban and semi-urban areas. Fourth and last, vegetative burning which would otherwise be legal under the two previous paragraphs is prohibited from May 1 to November 1 of each year in the following Counties: Baldwin, DeKalb, Etowah, Jefferson, Lawrence, Madison, Mobile, Montgomery, Morgan, Shelby, Russell and Talladega. This burn ban was established to minimize air quality impacts in critical months. Illegal open burning can result in ADEM's imposing a fine to the responsible party. Questions regarding open burning may be directed to ADEM at (334) 271-7879 or 7869.



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the vehicle be used in matters related to the campaign. The vehicle may be used to attend political party functions when the official is attending in his or her official capacity. AO No. 97-86. A Parks & Recreation Department Director may run for a seat on the County Commission; provided, all campaign activities be conducted on his own time, whether after hours or on annual leave; and, that no public equipment, facilities, time, materials, human labor or other public property under his discretion or control be used to assist him in either running his campaign or in performing the duties of County Commissioner, if elected to that seat. AO No. 99-57

During the election cycle, the League also gets calls asking about the use of public property and facilities by candidates, regardless of whether or not they are also public employees. Often candidates will want to hold a forum to talk about their campaign and they would like to use city meeting facilities. Or, they may wish to display campaign materials on public buildings, rights of ways or bulletin boards. Article 4 of Chapter 12 of Title 36 of the Code of Alabama 1975 governs the use of state property for campaign activities and in a nutshell provides that it is unlawful for any state owned property to be used for the advancement of any candidate for office and that political materials may not be displayed on buildings that are

owned, rented or leased by the state. While there is no similar provision for property owned by municipalities, it appears that municipalities may adopt ordinances to control the placing of political advertising on municipal property.

Based on opinions of the Attorney General, it is the opinion of the League that common or public areas of public buildings and grounds can be used for holding press conferences or videotaping political advertising, provided that access to these areas is available to all candidates on an equal basis, subject to reasonable restrictions. Any areas in public buildings that are not open for equal access to all candidates, such as individual offices, should not be used by any candidate, including public officials and employees. AGO 1998-00211.

Conclusion

It is important for public employees and employers, and candidates running for public office, to be mindful during the election process of the rights and restrictions that apply to public employees and the use of public property. Hopefully this article will help answer some of the questions that will arise between now and the 2016 municipal elections on August 23, 2016. For further information on municipal elections issues please contact the League of Municipalities. ■



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