

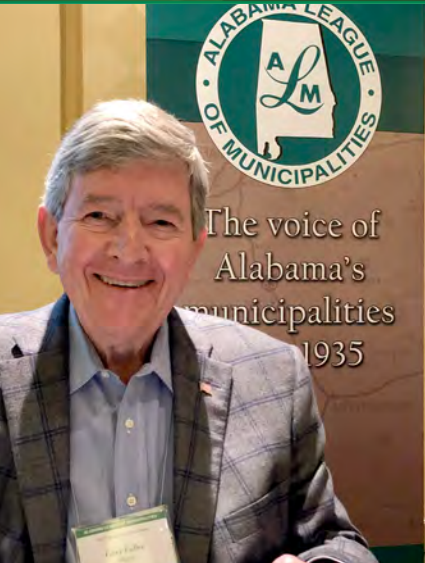
The Alabama Municipal JOURNAL

July/August 2019

Volume 77, Number 1



2019 Annual Convention • #ALMCon19



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#LiveLocallyAlabama

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On the Cover:

More than 1,000 municipal officials, clerks, staff, vendors and guests attended ALM's Annual Convention in Mobile May 4-7. Delegates had many educational opportunities throughout the convention, as well as time to network and discuss ideas with colleagues from around the state. #ALMCon19

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Thank you, Gov. Ivey!

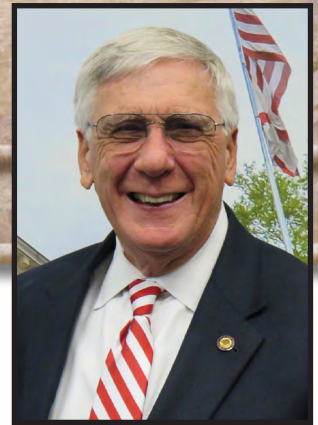
On May 10th, ALM Deputy Director Greg Cochran presented Gov. Kay Ivey with framed covers of the *Alabama Municipal Journal* to thank her "for her leadership and commitment to the people of Alabama." We appreciate Gov. Ivey and her administration working closely with the League as we strive to protect and strengthen Alabama's cities and towns and improve the quality of life for all our citizens. *Photo by Hal Yeager, Director of Photography, Governor's Office*



ALM was fortunate to be joined at #ALMCon19 by 20 past presidents, former ALM Executive Director Perry Roquemore, current ALM President Mayor Ronnie Marks of Athens and current ALM Vice President Mayor Leigh Dollar of Guntersville. Pictured left to right: Mayor Ronnie Marks, Athens; former mayor Jim Byard Jr., Prattville; former mayor Ted Jennings, Brewton; former mayor Steve Means, Gadsden; former mayor Bobby Payne, Tallassee; Mayor Melvin Duran, Priceville; Councilwoman Sadie Britt, Lincoln; former mayor Johnny Ford, Tuskegee; Mayor Billy Joe Driver, Clanton; Mayor Howard Rubenstein, Saraland; Council President Jesse Matthews, Bessemer; Mayor Wally Burns, Southside; former mayor Bobby Hayes, Pelham; former mayor Phil Segraves, Guin; Mayor Leigh Dollar, Guntersville; Mayor Lew Watson, Lincoln; former mayor Roy Dobbs, Berry; former councilmember Thomas Moore, Demopolis; former mayor and current councilmember Harold Swearingen, Pine Hill; Mayor David Bradford, Muscle Shoals; former executive director Perry Roquemore; Mayor Walt Maddox, Tuscaloosa; and Mayor Charles Murphy, Robertsdale.

The President's Report

Mayor Ronnie Marks, Athens



We Change our Communities, our State and this Country at the Grassroots Level

President's Acceptance Address • May 6

Good evening. Thank each of you for being here tonight. For the past several years, I have sat in the League conference room and often times found myself looking at the pictures around the wall of the men and women who have served as League President and thought about the hundreds of years of service these individuals have given to the League and to their communities. That does not count the number of municipal members who have served on committees and all the hours of work they have done and continue to do. Special thanks for all who have served and continue to serve.

Why do we do this? We do this because we want to “make a difference”. I firmly believe that we change our communities, our state and this country at our grassroots level – the local level where each of you serve.

I am reminded of the real-life story of a lady who came to City Hall without an appointment and demanded to see the mayor. The receptionist kept offering alternate members of the staff for the lady to see, but the visitor only became more irate, finally demanding: “I want to see the mayor, and I will not see no one lower than the mayor.” At that point, I said to my loyal constituent: “Ma’am, there is no one lower than the mayor. What can I help you with?”



2019-2020 League President Ronnie Marks, mayor of Athens, delivers his acceptance speech in Mobile.

When someone works for a city, whether his or her job is to be mayor, engineer or in maintenance, it requires a “servant’s” approach – a desire to be a helper. Again, that’s what we do!

I consider being a mayor or council member to be the best job in American politics. It is the job that is closest to the people; to serve our citizens who walk the streets of our towns, who shop local, who have children attending our schools, our churches and our sports programs. It is where we get to work on major industrial announcements such as the recent announcement of Mazda-Toyota, or Toyota Boshoku, in our North Alabama area; where we get chewed out for missing the pot hole in the street; or moving the abandoned car; or we forgot to pick up garbage at a particular residence; and what are we doing to enforce the dog ordinance; or who is taking care of the ducks at the “duck pond.” That is what we do – you do – every day. *And we know how to get stuff done!*

It is where we all meet and greet and *impact* the real lives of real people on a day-to-day basis.

I’m often asked about politics at the local level, and one of my comments continues to be: “It’s great, but if you have a deep-seated need to be loved and admired every day, you should not be in politics. Maybe you should work at a pet shop.” So, again, thanks to all our elected colleagues for what you do!

Special thanks to the members of the Alabama League of Municipalities for having the trust in me to serve as League President for 2019-2020. I am honored to represent you as President.

Please join me in thanking Council President Jesse Mathews for his service as our League President this past year and for his many years of dedicated service to the Bessemer community! It has been a pleasure serving with Jesse, and I know that he will continue to be an advisor for me and an active leader with our League.

Another shout out to Mayor Sandy Stimpson and to all the Mobile employees and volunteers who have worked so hard to make our conventions such a success. Mobile has been an outstanding host.

Also, please join me in congratulating incoming Vice President Mayor Leigh Dollar of Guntersville. Mayor Dollar has served in committee leadership roles with the League and



2019-2020 League President Mayor Ronnie Marks of Athens accepts the gavel from 2018-2019 League President Council President Jesse Matthews of Bessemer during the 2019 Business Session on May 6 in Mobile.

will be an excellent League ambassador. I look forward to working with Mayor Dollar as we continue to represent each of you to accomplish the goals and objectives of our League of Municipalities and our communities.

Special thanks to my home town of Athens, to the City Council and our Administrative staff who make my job so much easier and allow me to take the time away to work with colleagues across the state.

Special thanks to my family, especially my wife Sandra, who has supported me for more than 20 years in elected office; 10 years as a city council member, 10 years as a board member of our local hospital; and currently 9 years as mayor.

To the League staff, thank you for the hard work that each of you do every day to serve and to represent each of our cities and towns. You provide us with educational opportunities, keep us apprised of critical legislative issues, serve as a clearinghouse for information and answer our often-complicated legal questions.

From Director Ken Smith to Deputy Director Greg Cochran and the essential responsibilities he and Kayla have protecting us on the legislative front, to Lori and our excellent legal staff, to Carrie and her department for their vital role with public relations and strategic messaging, especially during the age of social media opportunities and challenges, as well as all our financial, technology and administrative staff members who work hard every day to represent all of our 463 cities and towns across the great State of Alabama – *thank you*.

I'd also like to thank League staff members Theresa Cook and Cindy Price for working closely with the City of Mobile to make this convention a successful reality!

We are fortunate to have the Alabama League of Municipalities standing with us and *we* need this partnership now more than any time in our history. Every day in Alabama's

municipalities, we approach real problems with real solutions which do not require the seal of approval from Republican or Democrat parties. Our progress reins over partisanship, and our people soar above party. This was especially evident leading up to the 2019 Regular Session, which actually began with a Special Session to address Alabama's crumbling infrastructure. Because the League does not have a PAC and, therefore, doesn't give campaign contributions to candidates, our legislative influence is tied directly to our advocacy efforts and the relationships we and our staff have diligently cultivated over many years.

When Gov. Kay Ivey asked Deputy Director Greg Cochran to meet with her staff, ALDOT, the counties and legislative leaders in a series of closed-door meetings to negotiate a distribution formula for increasing the state's gas tax, this was a direct and profound example of our organization's influence. Had an agreement not been made during those intense meetings prior to the Special Session, a gas tax would not have passed. Period.

Folks, it took *local governments* working with state leadership to make this critical legislation a reality. That says something. It also tells us that we can never afford to become complacent. Without our relationships and strategic advocacy campaigns, we would not be able to pass important legislation or hold off the numerous unfunded mandates that are introduced every year. We must continue to support our staff and respond immediately when we are asked to reach out to our legislative delegations. They do the heavy lifting, but we are the foundation.

In closing, as we all know, there are some politicians who seek an elected job predominantly because they want to "be" in office. They desire the status and attention. There are others in office because they want to "do" something with their position. It is my desire that we work together to be "doers" and leave our communities and State better today than yesterday. I am confident that you want to be the "doer" in your community, so I call on each of us to work together to be the "doers" who make a difference.

The job of building our cities and towns is never done. This is not a marathon or a sprint. It is a relay race. As we take the baton from our predecessors, with their cumulative strengths and obstacles, we then run with all our might, hopefully building a stronger community for our citizens and our future – knowing that, someday, we will pass the baton on to the next leader.

Again, I am honored to accept the position as President of the League and request your support as we travel this road together and work to make our communities and state a better place. Please don't hesitate to call on me or our League staff if we can be of assistance. We are here to represent our cities and towns and to serve to achieve the goals and objectives of our League of Municipalities!

Thank you for being here tonight, safe travels, and may God Bless each of you and the Great State of Alabama! ■

Municipal Overview

By Ken Smith, Executive Director



Director's Report Annual Convention, May 6, 2019

Let me begin by giving a hearty thanks to our hosts, Mayor Sandy Stimpson and the city council and staff here in the City of Mobile. They've truly done an outstanding job rolling out the red carpet and making us feel welcome here in the Port City. I know you've enjoyed yourselves, and they have been extremely helpful to the League staff. Please give them a round of applause.

I also want to take a moment to thank your President, Council President Jesse Matthews from Bessemer. Jesse has truly served the best interests of the League and our membership, giving freely of with his time and efforts and he has been an outstanding ambassador at several conferences on your behalf. Thank you, Jesse.

It has been a fantastic year working alongside Jesse and your Vice President, Mayor Ronnie Marks from Athens. I have had to call on both of these gentlemen numerous times and they have always been quick to respond and to provide wise input and guidance. I want to thank them both for their leadership and support and, most of all, for their continued friendship. Please join me in thanking them for their hard work.

I'm pleased to announce that our attendance figures for the Convention remain high. This year 875 officials and spouses preregistered to attend. This does not include last minute registrations and walk-ups. I thank all of you for attending. This event is about you and your needs, and hopefully we've met your expectations and entertained, educated and helped prepare you for the challenges you face as a municipal official.

In addition, approximately 350 exhibitors, representing over 130 companies and state and federal agencies exhibited in our Municipal Marketplace. We thank them for being here. We could not put on such a successful event without them. This gives us a total attendance of almost 1,300. This is roughly a 10% increase over recent conventions.

Remember – you are not just the future leaders of this state – you are today's leaders. And attending League training events, like the Convention, is the best place I can think of to learn how to better serve your constituents.

When I gave my report last year in Montgomery, I defined the year that has just passed as a transition year for the League. We were looking at the completion of our first strategic plan and considering rearranging staff to meet the needs of that plan. I anticipated numerous steps would need to be taken to put us

in position to address the plan. While we've made several key adjustments, we have many more that we hope to put in place between now and the municipal elections that will take place in 2020.

As a result, you've seen a much more visible League over the past year, especially from our legislative advocacy. You've seen more usage of social media. You've seen more webinar and remote training opportunities. We've redesigned our website and made many other changes that we hope will prepare the League to meet the expressed desires of our members.

This year, I believe, will demonstrate that the League has turned a very important corner.

There are different types of organizations. Some focus solely on legislative advocacy and, of course, we were founded for that purpose, so it will always remain a key component of what we do. Over the past few years, we taken several steps to strengthen our legislative advocacy – hired an additional lobbyist, registered all of our attorneys as lobbyists, held dinners for our leadership to meet and discuss local concerns with legislators from their district, created Live Locally Alabama, a separate website designed to promote the benefits of municipal government, and we've worked hard to increase the visibility of the League and our members. We believe these changes are paying positive benefits even in an era of legislative financial over-reaching and preemption of municipal authority.

Some organizations exist solely to promote members and their goods or services. Through Live Locally Alabama, presentations at leadership meetings and at other public gatherings, the League works to explain how municipal government exists to help citizens. You'll see more of this leading up to and following the 2020 elections.

Other organizations simply gather information for their members and distribute it to them through newsletters and websites. Our staff works tirelessly to sort through relevant material and provide you with access to data we consider important to you. Some organizations are regulatory bodies, providing training for their members and certifying their professional status. Through our Certified Municipal Officials program, your Executive Committee has defined training standards municipal officials in Alabama must meet to be recognized as CMO-certified officials.

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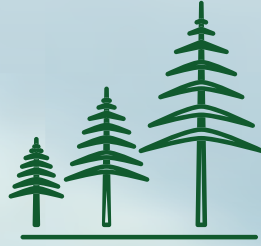
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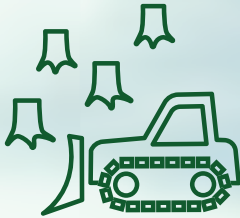
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President's Address

Council President Jesse Matthews • Bessemer
Opening Session • May 4, 2019

Director Sentell, Mayor Marks, Mayor Stimpson, Executive Director Anthony, municipal colleagues and guests, thank you for joining us in Mobile today for the League's 84th annual convention!

We last met in Mobile five years ago. Since that time, our Port City has made significant strides, not only for the local economy but for the entire state. Long recognized as a prime port location, funding from the successful Rebuild Alabama infrastructure initiative will supply the necessary state match for the Alabama State Port Authority's \$400 million ship channel project.

That's a *tremendous* win for all of Alabama! The opportunities are countless! Mayor Stimpson, I congratulate you on your city's success and want to personally thank you, the Mobile City Council and your staff for working closely with the League to make this convention a reality. We're all looking forward to the City's Welcome Reception this evening as well as the opportunity to spend several days learning and networking with our colleagues.

Special thanks also goes to Mayor Ronnie Marks 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 throughout his tenure in elected office. Mayor Marks also serves us as a member of the Board of Directors for our Alabama Municipal Insurance Corporation. We are fortunate to have him in multiple leadership roles!

I especially want to recognize our League staff. All of you sitting here know the efforts the staff puts forth on our behalf – from planning and managing this convention to year-round CMO training, legal inquires and an abundance of unique services, our staff continually works for us AND our municipalities. They are exceptional.

Without their professionalism, expertise and dedication to our mission, we would not be here today. We would not be one of the most respected organizations in Alabama. And we most certainly would not have the political relationships and influence necessary to pass an infrastructure bill that will

greatly impact the future of our children and grandchildren!

The legislative strides made on our behalf are nothing short of historic. I feel certain there's no way you missed the media coverage surrounding the gas tax increase that passed with overwhelming bipartisan support during the Special Session called by Governor Ivey on the opening day of the 2019 Regular Session. It was a heavy lift at least two years in the making that included multiple task force meetings with many stakeholders; support from legislative leadership; and crucial conversations with newly elected legislators.

What you may not realize is just how important the League's role was in passing this critical legislation. Before a final bill was presented to members of the Legislature, our chief lobbyist, Deputy Director Greg Cochran, spent *many* hours on lockdown at Governor Ivey's office negotiating on our behalf with the counties, ALDOT, the Governor's staff

and legislative leadership. Had it not been for an agreement reached in those closed-door meetings that were limited to only ONE representative from our organization and one from counties, the bill would not have survived. Passing Governor Ivey's Rebuild Alabama plan was an impressive victory for our municipalities and for Alabama!

Please join me in applauding Gov. Ivey and our Legislature for their leadership and thanking Greg Cochran and our staff for their efforts in moving our state forward!

Of course, the Regular Session will not conclude until next month, and you will hear much more about our advocacy efforts throughout this convention; however, I would be remiss if I didn't recognize *you* – our members – for your efforts in this process. Protecting and improving our cities and towns was why we were elected to office. Advocating on behalf of our communities with our state representatives during the legislative session and throughout the year is part of that process. So *thank you* for your participation and your dedication! It absolutely matters.

I encourage you to attend the Monday morning General

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Historic Session for Municipal Government

Infrastructure funding, firefighter cancer benefits, RV/campground lodgings taxes and the defeat of bills that would prohibit local authority and implement unfunded mandates

Kayla Bass, Public Affairs Associate & Greg Cochran, Deputy Director • ALM

The 2019 Regular Legislative Session is officially over – and it was one for the historical record! The Alabama House and Senate adjourned Friday evening, May 31st, sine die. It was a historical session for three distinct reasons. First, it was the first legislative session for 33 new members. Second, Governor Ivey called the Special Session for infrastructure funding immediately after her State of the State address on the first day of the Regular Session during which the Legislature adopted a 10-cent motor fuel tax to be implemented over the next three years; funding for the Port of Mobile; and revised the Joint Permanent Transportation Committee. This all took place in five legislative days – the shortest period of time legislative proposals can be enacted – with a more than 80 percent approval rating. Third, the Legislature had *surpluses* in both the Education Trust Fund and General Fund budgets for the first time since the Great Recession.

The House and Senate started the session working on several high-profile issues including abortion, implementing a state lottery, approving fantasy sports wagering, revisions to unemployment compensation laws, the use of medical marijuana and the repeal of Common Core. Some of these issues didn't make it through the process to be enacted, but all were heavily debated and considered. There were many legislative proposals introduced and considered affecting municipal governments and their citizens. The League's advocacy/communications team engaged on 339 general bills of interest, 29 bills providing tax exemptions and preemptions and reported 192 local bills of interest to our members.



ALM Deputy Director Greg Cochran and Public Affairs Associate Kayla Bass presented Rep. Bill Pool, who sponsored the infrastructure legislation in the House, with a framed cover of the Alabama Municipal Journal following passage of Gov. Ivey's Rebuild Alabama initiative.

Partners in Advocacy

We met weekly with several individuals who worked with us throughout the legislative session on behalf of municipal governments to coordinate messaging, advocacy strategies and share vital information to ensure our successes. These folks worked tirelessly in representing your interests at the Alabama State House and we are extremely appreciative of their efforts: Hal Bloom, Allen Sanderson, Martin Christie, Maeci Walker, Greg Jones, Steve Raby, Beth Marietta Lyons, Earl Hilliard, Jr., David Dorton, Caitlin Williams, Beth Chapman, Mark Gains, Blake Hardwich, Britton Bonner, John Guthrie, Jeff and Debra Miller, Dax Swatek, Phillip Bryan, Josh Blades, Dave Stewart, Mike Cole, Daryl Perkins, Stephanie Norrell, Charles Long, Marcus Paramore and Jon Hand.

We also recognize the work of our legal team and thank them in assisting us during the legislative session. They provide us with legal resources as well as drafting proposals and amendments throughout the year. Thank you, Ken Smith, Lori Lein, Rob Johnston, Teneé Frazier and Sharon Carr.

Recap of the Special Session

Governor Ivey called a Special Session of the Alabama Legislature to focus on infrastructure funding immediately following her State of the State address after the first day of the Regular Session. The Legislature promptly considered three bills to address the lack of adequate funding for our local and state infrastructure, accountability and transparency measures and additional funding for the Port of Mobile:

- HB1 strengthens the powers of the Permanent Joint Transportation Committee
- HB2 established a new 10-cent motor fuel tax to be implemented over the next three years
- HB3 established funding for the enhancement of the Port of Mobile

Each bill created additional revenues and economic opportunity for our municipalities across Alabama. We appreciate the commitment and leadership of Governor Kay Ivey, Speaker Mac McCutcheon, Senate Pro Tem Del Marsh, Rep. Bill Poole and Sen. Clyde Chambliss to enact this legislation in five legislative days – passing the Senate 28-6 and the House 84-20.

Bills of Interest to Municipal Governments

ACT 2019-361 by Rep. Pettus and Sen. Gudger Fire Fighter Cancer Benefit requires each municipality to provide full time, certified fire fighters with a cancer supplemental benefit policy to provide out-of-pocket expense coverage and disability pay. The fire chiefs and League staff worked countless days structuring this

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As you're beginning to see, the League does not fit into any of these specific categories. We don't exist to serve just one function. We fall into a smaller category of associations that provides a broader set of services by using their resources to address member needs in whatever form they arise.

Last year, I pointed out that, in my opinion, the League was built on four important pillars: finances, services, staff and membership. These pillars are the four legs of the stool that supports the League. I'd like to examine each of these and provide a few details about the League's current status. Let's start with membership. This year, your League of Municipalities reached another milestone. For the first time in our history, our membership reached 453 cities and towns. This is the largest membership the League has ever had, up from 447 in 2011, the year I became Executive Director. Only 10 smaller municipalities remain unaffiliated with the League. Our target, of course, is full membership. And your League staff strives to satisfy membership needs so that we can make the League a mandatory item on every municipal budget.

But as important as those membership numbers are, it's even more important to have an engaged membership. Member engagement means different things to different people. It can be defined in terms of website visits, likes or follows on social media, email opens or any other benchmark you select to quantify the relationship between an organization and its members. But these are only part of the equation. What's missing from these definitions is member *involvement*. Member engagement works and works well when our members become involved and stay involved.

How do you engage with the League? If you're new to the process, I'd suggest joining a policy committee. The League's five standing committees perform an essential function by helping us find our unified voice as an organization. These committees are composed of members from across the state and from municipalities of all population ranges. Members volunteer to serve on these committees. The committees meet annually to hear from state and federal experts about issues that fall within their area of interest. Committee members then debate and determine what positions the League should take on those and other related issues. The document they develop is then approved by the voting delegates at the League Convention each May. These statements reflect the hard work of each committee, which is made up of a diverse group of municipal officials and is confirmed by the approval of the broad League membership who each select their own voting delegate. It would be hard to find a more objective way to find our unified voice.

Establishing our members' shared goals, though, is just the first step of member involvement in the policy process. The next, and most significant step is supporting and working together to achieve those goals. You are our best lobbyists and your voice and actions matter. Stay informed. Read League publications. Commit to make contacts and to discuss your stance on issues with policymakers. They may not know the



Ken Smith gives the Director's Report during the Business Session of the 2019 Annual Convention on May 6.

impact of legislation or regulatory actions unless you tell them. Your involvement makes a difference.

Although the 2019 Regular Session is well under way, we still have a lot of heavy lifting between now and when the legislature finally leaves Montgomery. This has been a very difficult and exceptionally busy year legislatively. Many proposals we've defeated over the past few years have resurfaced and many issues we've been watching other states deal with have suddenly popped up in Alabama. Newly elected legislators are being asked to support or introduce anti-local government legislation and we have a tremendously difficult job ahead of us to limit the damage this session. We will be much more successful if we work to find common ground and maintain a cooperative spirit among our membership. The more we separate, the more vulnerable we all become. We depend on you to help us accomplish this by staying in contact with your legislators, and to impact your legislators. Please help us by staying involved and active in our advocacy efforts.

Another way to become involved in League activities is through participation in League training and networking opportunities. Our Certified Municipal Officials program offers numerous ways for members to grow in their roles by learning from experts and each other. League staff and officers strive to make these events more convenient and beneficial to you. Your participation also helps us improve our understanding of your needs. Through sharing information and collaboration, we expand our ability to help each other.

The goal of shared services is also woven into the various affiliate programs the League has developed to assist our members. In the forties, the League developed a program for the collection of delinquent insurance license fees; in the seventies, we developed a program to provide workers compensation insurance; in the eighties, we developed a program to provide property and casualty liability insurance. In the early 2000s, we created a bond pooling program.

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Mayor Leigh Dollar of Guntersville

Elected Vice President of the Alabama League of Municipalities

On May 6, Guntersville Mayor Leigh Dollar was elected by her municipal colleagues to serve as Vice President of the Alabama League of Municipalities for 2019-2020, making her just the fifth woman elected to this position in the League's 84-year history.

League Executive Director Ken Smith looks forward to working with Mayor Dollar over the next year. "Leigh has been actively involved with the League since she was first elected to office," Smith said. "She has served on a number of League committees and most recently was the Vice Chair of our Committee on Community and Economic Development. Her municipal knowledge and leadership skills have been an asset to our organization; she will serve us well as Vice President."

Mayor Dollar 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. She has completed the League's Basic and Advanced Certified Municipal Official (CMO) programs and is currently working on her CMO Emeritus designation.

Mayor Dollar, who is a CPA with her own accounting firm, began her municipal service in 2012. "I always knew I wanted to run for mayor since high school," she said. "It was no secret to anyone in town. The incumbent mayor decided he wasn't going to seek re-election, so I seized the opportunity." ■



Most recently, we have created a debt set-off program, the Municipal Intercept Service, which works with the Alabama Department of Revenue to off-set delinquent debts owed to municipal entities from individual State tax refunds. This is a process that has been in place for many years for a few State agencies but until 2014, was not possible for municipalities or counties. We structured MIS so that it is available *at no cost* to our members. To date, MIS has returned over 5 million dollars to League members and has become a model for other state municipal Leagues who are in the process of creating similar programs. And keep in mind, MIS is the only entity that can provide you with this service in Alabama.

I urge you to examine the services these programs offer and use them. They were created to meet a specific membership need, hoping that by focusing solely on municipal concerns and goals, the needs of League members are better represented than they are by private companies.

In addition to League-developed programs, your Executive Committee, from time to time, endorses existing organizations that they feel provide a unique service to our members. We don't endorse many of these programs. The most recent addition is a company called Sophicity, which offers an IT product called IT-in-a-Box. IT-in-a-Box offers members some of the most needed and desired IT services for a single, monthly fee. For the last year, the League and Sophicity have conducted a pilot program testing the effectiveness and benefits of this service. We, and our members, were impressed. In fact, we were so impressed that we selected Sophicity to redesign and host the League's own website. We are excited about this collaboration with Sophicity. You have seen them at several events this Convention, and you'll see them even more in the future. When your IT needs arise, I hope you'll explore what Sophicity offers.

I urge you to stay in touch with the League. We're here to serve you. There are many opportunities for engagement with the League as your statewide municipal association. Our purpose is to help you do your job at the local level as effectively as possible. Take advantage of the services we provide and join us as we all strive to strengthen the municipalities that make Alabama great.

Turning to finances, as I'm sure everyone in this room realizes, if your finances are not in order, you will not be able to accomplish anything. In my report last year, I noted that the League's reserves had reached a very stable position, reaching a goal that was set several years ago by your Executive Committee. Having greater financial stability allows us more freedom to explore potential solutions to needs without risking our financial foundation.

I can already give you an example of what this change allows us to do. I'd hoped that we would have a new membership directory in place by this Convention, but due to some timing issues, we were not able to make the change. I am pleased to tell you, though, that have just contracted with one of the most-



Ken Smith with Clarence Anthony, Executive Director of the National League of Cities, who spoke during Opening Session.

used and powerful programs available to manage membership information. This system will, we believe, allow us to unify several of existing databases and combine several services we currently provide through several different software programs. Implementation and use of this program will, we believe, revolutionize our ability to interact with each of you. This is not an inexpensive program. Over the years, we've looked at it several times, but the cost simply exceeded our ability. Building our reserves like we have allows us to make this move, one that will pay dividends for the League and our membership for many years to come.

Setting a goal for our reserves was an extremely forward-thinking approach by your Executive Committee and I thank them for their support and patience as we've worked to meet this significant milestone. To be honest, we probably could have gotten here sooner. But to do that would have required Draconian measures I wasn't comfortable with. I didn't want our services to suffer, and I didn't want to reduce staff salaries or benefits. The League is only as successful as our staff and they deserve our support. I'm pleased to note that we've gotten here without reductions in employee salaries and benefits. We've been able to provide raises each year and have even increased benefits, making the League an attractive workplace. The longevity of our staff attests to that.

We are still not a rich organization, but we are a strong organization.

Fortunately, the League was not in any serious financial danger. But there were several trends that needed to be reversed and places where we needed more stability to support future

growth and development. And I'm pleased to be able to announce that we've met the goals your Executive Committee set for us. We could not have gotten here without buy-in from your staff and leadership, and I thank them for their efforts.

So, the first two pillars – finances and membership are at record levels. What about our services and staff? League services remain strong. In 2014, I defined our core services as "Advocacy, Assistance and Education." I still believe these three little words explain our service goals as well as any others. The League is a service organization. We turn to you for advice on the services we should provide and how we should use your resources.

I've already mentioned the adoption of our first strategic plan. This plan is now the blueprint that provides us direction to meet member expectations. I've discussed the details of the plan in several publications and presentations, so in the interests of time, I'm not going to rehash that today. Just know that the League staff plans to add new training programs, a mentorship program and offer other new services as a direct result of your input. Thank you for helping us develop that plan.

Finally, I'd like to turn to the fourth pillar on which the League is built – and the one I feel is the most important and the one I'm proudest of – our staff. Our individual staff members and the expertise they offer you is our greatest asset, and they work very hard to meet your needs. With a phone call or email, you

can find answers to your most vexing questions. While you may feel that your situation is unique, we find that in most instances our staff has previously researched and resolved many similar issues. I encourage you to tap into our wealth of knowledge next time you are confronted with a challenge.

We have been blessed with an outstanding staff at the League. They truly make my job much easier and our accomplishments would not be possible without their leadership and dedication. Most of our staff members are here with us in Mobile. I would like for those in attendance at this business session to stand and be recognized for their hard work. If there are any of them that you haven't met, I hope you will use the opportunity presented by this convention to introduce yourself. Please join me in thanking the League staff for a job well done.

I'm proud of the work we do at the League. It is important work, and I'm gratified to know that we do it for important people like you who work so diligently for the betterment of the State of Alabama and the nation by improving your community.

Never forget just how important you are. Never.

From the start of the League in 1935, our mission has been to help you better perform your jobs, and to demonstrate the value of Alabama's cities and towns. We will continue to focus on that mission as we move forward. God bless each of you and this wonderful organization we represent. It's an honor to serve you. Thank you. ■

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Session that will be held in this room for an in-depth legislative report from Greg Cochran and Kayla Bass, our Public Affairs Associate. They will give you detailed information on where we stand in the Regular Session and what remains to be done to see us through.

For 84 years, our League been the voice of Alabama's municipalities. It was created as our lobbying organization to protect and champion municipal interests and to ensure we always have not only representation but a *significant presence* in the legislative process.

Over the past eight decades, the League has morphed into an advocacy powerhouse that also provides many outstanding professional services and invaluable resources – diligently safeguarding our cities and towns through legal guidance, educational training and specific programs including AMIC, MWCF, AMFund and MIS. Even so, we must always guard against complacency. Status quo is failure. Remaining relevant requires not only awareness but *action*. Recognizing that the future is not certain, your Executive Committee adopted a five-year strategic plan at its November meeting after a formal year-long process that closely examined our strengths and weaknesses to determine how the League can remain responsive to our membership while maintaining our relevance. Since the plan was adopted, the League has experienced success and growth in several areas, including:

- significantly increased statewide media presence leading up to and during the legislative session;
- our first ever Media Day held at League headquarters;
- expanded social media reach and activity;
- participation in press conferences held by Governor Ivey; and
- active engagement from executive committee members who wrote op-eds in support of legislative priorities.

The strategic plan will also aid your staff and Executive Committee as we set priorities, continue to focus our resources and address future staffing and logistical needs.

I'll close my remarks today by reminding you to *use the League's resources* – especially our Live Locally Alabama campaign, which is a **FREE** service to you! If you're not familiar with Live Locally, visit the website at livelocallyalabama.org! Also, stay *involved* with the League –

- join a policy committee;
- attend the Municipal Leadership Institute this fall and the Advocacy seminar in the spring;
- sign up for our webinars throughout the year;
- read the *Journal* and the League's e-newsletters and e-blasts; and
- participate in the Monday Morning Huddle conference calls during the legislative session!

Be proactive! Take the time to follow the League on Facebook, Twitter and Instagram. It's a great way to stay

current on the League's activities on our behalf.

Beyond that, learn to communicate with your citizens through the platforms most of them are now using! Consider launching an official Facebook page for your municipality if you don't already have one. It will help you shape your city's narrative as well as provide yet another opportunity to share positive and useful information with your citizens.

You should keep in mind that if your municipality doesn't set up an official page, a citizen or organization may decide to do it themselves – independent of the municipality and those responsible for managing your city or town.

Be proactive.

Ladies and Gentlemen, it goes without saying that we are *extremely fortunate* to be here today as a unified presence representing Alabama's cities and towns. Our Alabama League of Municipalities continues to diligently safeguard our interests at the Legislature; provide us with critical information; educate us through formal training; offer sound legal advice; and bring us together in the spirit of unity and collaboration.

It has been an honor to work closely with many of you throughout my year as your president. Thank you for your guidance, your support and your enthusiasm. I also thank our staff for their support. It's been a privilege to work with them throughout the year. I also humbly thank my mayor and colleagues on the Bessemer Council as well as the City's staff. They are strong supporters of the League and have always encouraged my participation. 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! ■



League President Mayor Ronnie Marks of Athens; League Vice President Mayor Leigh Dollar of Guntersville; and League Immediate Past President Council President Jesse Matthews of Bessemer following the Annual Business Session on May 6th.

Minutes of the General Business Session May 6, 2019 • Mobile

The Annual Business Session of the Convention of the Alabama League of Municipalities was called to order at 3:45 p.m., May 6, 2019, by President Jesse Matthews, at the Arthur R. Outlaw Convention Center in Mobile, Alabama. President Matthews welcomed the attendees.

President Matthews then called on Mayor Tom Henderson of Center Point, President of the Municipal Workers' Compensation Fund, Inc. (MWCF), for an annual report. Mayor Billy Joe Driver, Clanton, Chair of the Alabama Municipal Insurance Corporation (AMIC) Board, 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. Richard Buttenshaw, President of Municipal Intercept Services (MIS), gave the MIS 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 Mobile and to Mayor Sandy Stimpson, the City Council of Mobile and their staffs, for their hard work in making the Mobile Convention a huge success. Mr. Smith noted that attendance for the Convention was up ten percent. He stated that League membership now stands at 453 cities and towns and provided an overview of the past year and a look forward to anticipated issues confronting the League. A copy of his report is 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 Mayor Gary Fuller, Chair of the Committee on State and Federal Legislation, for the Resolution Committee's report. Mayor Fuller reported that the Resolutions Committee met on Saturday, May 4, and recommended that the League's *Policies and Goals for 2019* be adopted with certain amendments.

Mayor Fuller moved the adoption of the changes recommended to the *Policies and Goals for 2019*. Councilmember Mack Arthur Bell of Roanoke seconded the motion, which passed unanimously.

The *Policies and Goals for 2019*, as amended, was declared adopted. The following changes were made to the *Policies and Goals for 2019*:

Changes to the *Policies and Goals for 2019* Approved by the Membership:

Delete the following Policy Statements:

EP-7.3 - ADEM is urged to develop an open burning

application to be used by Fire Marshals and Fire Stations. The application should outline controls for open burning and be signed by permittees before an open burn permit is issued.

CL -1.10 - That the need for a viable annexation statute becomes more acute as time passes. The League strongly urges an all-out effort on the part of its members, the legislature and the state administration to produce a workable answer to this need at the earliest possible time. Furthermore, this committee urges the League Committee on State and Federal Legislation to make a viable annexation statute a top priority.

Amend the following Policy Statements:

EP-2.4 (d) That municipal officials are urged by the Land Division of ADEM to exercise caution before engaging a private contractor to make sure that such contractor is competent to handle their solid waste needs, and undertaking a cost study analysis of the present operation before entering into a contract with a private contractor. Local units of government should exercise caution in entering into contracts to ensure they do not lose local control and that long-term capacity is assured for disposal. **Further, local units of government are urged to demand immediate reporting of any changes, expansions or exceptions to the environmental guidelines covering the solid waste operation.** (amended 2019)

EP-4.3. (a) The governor and legislature are further encouraged to provide adequate political and financial support to ensure that the state realize the benefits of increased use of its energy resources. (b) Municipalities are urged to support, and where feasible, participate in the development and use of **solar**, synthetic fuels, coals, natural and unconventional gas and waste including biomass. (c) That federal and state funding be provided to investigate and develop potential energy sources in Alabama. (amended 2019)

CL-1.6. That the League urges the Alabama Legislature to pass legislation allowing municipalities to annex territory that is completely surrounded by municipal corporate limits without any petition or election. **Furthermore, this committee urges the League Committee on State and Federal Legislation to make this a top priority.** (2009, amended 2019)

CP-5.9. The League supports the on-going economic development activities of the Economic Development Alliance **various economic development alliances throughout the state.** (2011, amended 2019)

FP 5.9 - That the League commends the Alabama

Legislature for its passage of Act 2009-656, **recognizes the importance of** providing for the establishment of domestic violence fatality review teams and team memberships, and further providing for confidentiality of the review team process and information. The purpose of domestic violence fatality reviews is to encourage governmental and non-governmental agencies that encounter domestic violence to work together within an environment of trust and openness to study fatal and nonfatal incidents of domestic violence and suicides. The goal of the domestic violence fatality review team is to learn how to prevent domestic violence through early intervention and improve the quality of individual and institutional responses to parties involved in a domestic violence relationship. Municipal governing bodies are strongly encouraged to provide any assistance that is appropriate and available, including meeting space, to ensure the success of the review teams. (2009, amended 2019)

HL-1.11. That the League strongly urges the Alabama Legislature to meet the responsibilities of the state government to provide adequate funding for operation of Alabama's mental health system and specifically include funding **for mental health services for the Department of Corrections as well as** for operation of regional mental health districts and mental health and facilities. (2011, amended 2019)

HP-3.3. (a) That the League urges the State of Alabama to continue to support the efforts of local communities to provide adequate public library service with sufficient state funding for local public libraries, **including funding for the following:**

- 1. Increased per capita state aid to public libraries;**
- 2. Construction and renovation of public library buildings, including funding for disaster relief of libraries;**
- 3. Funds to enable all public libraries to have an adequate internet bandwidth according to federal standards.**

(b) Furthermore, the League urges municipalities to encourage their citizens to continue to support access to virtual libraries **and to support public libraries by serving on Board of Trustees, and joining Friends of the Library to ensure that citizens of Alabama have access to quality library services.** (2006, amended 2019)

HP-3.5. That the League encourage their school systems to affiliate with the solid waste management programs **and anti-litter campaigns,** including "Keep America Beautiful." (amended 2019)

TP-1.10. The League encourages the timely completion of I-759—W to Ala. Hwy. 77 major highway projects tied to economic growth and requests the Alabama Department of Transportation include this them in its 10 year plan. (2013, amended 2019.)

PP-6.2. That all municipalities be encouraged to take advantage of Office of Highway Traffic Safety programs

through agencies such as ADECA and ALDOT when offered. (2013, amended 2019)

Adopt the following new Policy Statements:

CL-2.4. That the League encourages the Alabama Legislature to continue appropriating monies from the Education Trust Fund to the Alabama Historical Commission for rehabilitation grant programs to preserve historical buildings with an educational component. (2019)

CP-2.11. That the League encourages Alabama municipalities to support DesignAlabama programs such as, DesignPlace and the Mayor's Design Summit. (2019)

FP-5.13. The League encourages ADEM to adopt regulations requiring removal of coal ash from those unlined ash ponds that are adjacent to bodies of water, patterned after the State of Virginia's and other states' laws. (2019)

Mayor Fuller then called on General Counsel Lori Lein to read Resolutions 1 through 4. Mayor Fuller moved adoption of Resolutions 1 – 4. Councilmember David Ferrell, Citronelle, seconded the motion. The motion passed with one no vote. The President then called on Ken Smith, Executive Director, to read Resolutions No. 5 through 8. Mayor Fuller moved adoption of the Resolutions, leaving the memorial resolution, Resolution No. 8, open to add additional names until the end of the Closing General Session. The motion, which was seconded by Councilmember Arthur Day, Jr., Phenix City, passed unanimously.

Mayor Fuller then called on Ken Smith to read a staff recommended resolution. Mayor Tom Williams of Satsuma moved adoption of the resolution, and renumbering resolutions so that the memorial resolution would be listed last. Councilmember Tammi Holley, Roanoke, seconded the motion, which passed unanimously.

President Matthews next presented the report of the Nominating Committee. President Matthews noted that the Nominating Committee had a tough assignment choosing officers for the next year from an abundance of very qualified candidates. He reported the Nominating Committee met and recommended the following persons:

For President: Ronnie Marks, Mayor, Athens

For Vice President: Leigh Dollar, Mayor, Guntersville

For Executive Director: Ken Smith

For Chair & Vice Chair of League Policy Committees:

Committee on State and Federal Legislation:

Chair: Adam Bourne, Councilmember, Chickasaw

Vice Chair: Jocelyn Tubbs-Turner, Councilmember, Marion

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League Resolutions Adopted at ALM's 2019 Convention

RESOLUTION NO. 1

WHEREAS, the Alabama League of Municipalities' Annual Convention is its signature event; and

WHEREAS, it takes strategic collaboration with numerous entities as well as many hours to plan, organize and accomplish this event; and

WHEREAS, the Annual Convention not only includes educational sessions, networking opportunities and access to vendors and state agencies but is also the venue for the League's Annual Business Session;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Mobile, Alabama, on this the 6th day of May, 2019, that we respectfully thank Mayor Sandy Stimpson and the City of Mobile for assistance in planning the 2019 Annual Convention and for hosting the Convention Welcome Reception;

BE IT FURTHER RESOLVED that the Alabama League of Municipalities thanks all the many people, businesses and organizations that supported our 2019 Convention as speakers, presiders, sponsors and exhibitors and that we especially thank the League staff for the many hours spent before, during and after to ensure our signature event is always successful.

RESOLUTION NO. 2

WHEREAS, Alabama's motor fuel tax had not been increased since 1992; and

WHEREAS, over the past three decades, vehicles have become more fuel-efficient, translating to a significant drop in the amount of revenue collected; and

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

WHEREAS, a report prepared by the University of Alabama's Transportation Institute and Alabama Transportation Policy Research Center warned that the state must make major investments in infrastructure just to maintain its current needs and, to be competitive in the future, estimated Alabama will need to invest at least \$600 million over the next 20 years; and

WHEREAS the Alabama League of Municipalities fully supported and was a key stakeholder in the efforts of Governor Ivey and the Alabama Legislature to enact additional motor fuel taxes to alleviate the shortfall in infrastructure funding and provide for a more equitable share of statewide infrastructure funding for municipalities; and

WHEREAS, Governor Ivey announced her Rebuild Alabama Infrastructure Plan on February 27, 2019, to address the state's significant infrastructure deficiencies by raising the gas tax; and

WHEREAS, Governor Ivey's infrastructure measure was approved by the Alabama Legislature with overwhelming bipartisan support during a Special Session called on March 5, 2019; and

WHEREAS, Governor Ivey signed those measures into law on March 12, 2019;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Mobile, Alabama, on this the 6th day of May, 2019, that we commend Governor Ivey and the Alabama Legislature for their leadership and courage to enact funding mechanisms to protect Alabama's transportation infrastructure that do not preempt, exempt or restrict existing municipal authority and that provide for a more equitable share of statewide funding for local government.

RESOLUTION NO. 3

WHEREAS, Section 220, Alabama Constitution, 1901, reads: "No person, firm, association, or corporation shall be authorized or permitted to use the streets, avenues, alleys, or public places of any city, town or village for the construction or operation of any public utility or private enterprise, without first obtaining the consent of the proper authorities of such city, town, or village."; and

WHEREAS, Section 220 is in the nature of a bill of rights for municipalities constitutionally guaranteeing that no corporation can use municipal streets and rights of ways for private enterprise without consent from the city or town; and

WHEREAS, numerous bills have been introduced during recent legislative sessions seeking to undermine municipal authority to regulate municipal rights of ways and granting special exemptions for specific types of businesses, removing or limiting municipal regulatory authority over rights of ways; and

WHEREAS, passage of these bills would have a devastating impact on Alabama's municipalities and the people they protect when exercising their authority to regulate rights of ways to protect the health, safety and welfare of their citizens and visitors;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Mobile, Alabama, on this the 6th day of May, 2019, that we do hereby request the Alabama Legislature to protect municipal franchise authority to the fullest extent of the Alabama Constitution and to prevent further attempts to undermine that authority.

RESOLUTION NO. 4

WHEREAS, Alabama municipalities are responsible for

providing services and protecting the wellbeing of the citizens; and

WHEREAS, in order to fulfill this duty, municipal officials must have authority to raise revenue and the ability to exercise regulatory authority to act as they see fit in the best interests of their citizens; and

WHEREAS, these officials depend on the legislature to provide them with this needed authority; and

WHEREAS, numerous bills have been introduced during recent legislative sessions granting special tax or license exemptions for specific types of businesses, removing or limiting municipal regulatory authority, or making municipalities fund state and county functions; and

WHEREAS, passage of these bills would have a devastating impact on Alabama's municipalities, resulting in the potential loss or reduction of much needed services or staff, and severely limit municipal power to protect the health, safety and welfare of their citizens and visitors;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Mobile, Alabama, on this the 6th day of May, 2019, that we do hereby request the Alabama Legislature to protect municipal ability to raise local revenues and authority to act as they see fit to protect the wellbeing of municipal citizens.

RESOLUTION NO. 5

WHEREAS, in 2014 the Alabama State Legislature enacted an amendment allowing municipalities to attempt to collect delinquent debts owed to them by collecting this debt from an individual's State tax refund; and

WHEREAS, in 2015 the Alabama League of Municipalities formed Municipal Intercept Services, LLC (MIS) as its clearinghouse entity to act as a conduit between participating Alabama municipalities and the Alabama Department of Revenue; and

WHEREAS, MIS began full operations in 2016; and

WHEREAS, since its creation MIS has returned more than \$5,000,000 in otherwise uncollectable debt to municipalities and other municipal entities in Alabama; and

WHEREAS, MIS is managed by outstanding leadership by its President, Richard Buttenshaw;

NOW, THEREFORE, BE IT RESOLVED by the delegates of the Alabama League of Municipalities in Convention assembled in Mobile, Alabama, on this the 6th day of May, 2019, that they do congratulate Mr. Buttenshaw and MIS on their success.

BE IT FURTHER RESOLVED that the delegates of the Alabama League of Municipalities encourage all League members to consider using MIS, which is a free service to them, to help reduce debts owed to the municipalities and their boards and other municipal entities.

RESOLUTION NO. 6

WHEREAS, during the 1980s Alabama's cities and towns were faced with a serious dilemma when, due to a "hard" insurance market, they were either unable to secure liability insurance or were charged exorbitant prices for the service; and

WHEREAS, the Alabama League of Municipalities responded to this crisis by forming the Alabama Municipal Insurance Corporation (AMIC) in 1989; and

WHEREAS, now, 30 year later, AMIC continues to provide competitively-priced coverage to many League member municipalities and is the only company writing municipal liability insurance in Alabama that offers first dollar defense covers as well as co-volunteer liability; and

WHEREAS, since its inception, AMIC has continued to enhance municipal services to citizens through specific outreach endeavors including the 2018 endowment to Samford University's Cumberland School of Law in Birmingham to establish the Stephen Everett Wells Chair in Municipal Law designed to ensure that future lawyers are educated about municipal law and the issues affecting municipalities – and that those issues will receive sound scholarly research;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Mobile, Alabama, on this the 6th day of May, 2019, that we commend and thank AMIC and its staff for the exceptional services provided to Alabama's cities and towns for the past 30 years and we will continue to support AMIC's endeavors to insure the future of local government.

RESOLUTION NO. 7

WHEREAS, Council President Jesse Matthews of Bessemer, Alabama, served as President of the Alabama League of Municipalities from May 2018 until May 2019; and

WHEREAS, Council President Matthews' 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; and

WHEREAS, the members of the League shall always be most grateful for Council President Matthews' year 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 Mobile, Alabama, on this the 6th day of May, 2019, that they do recognize and commend Council President Matthews, for his service as a municipal official in the State of Alabama and as a leader of our state organization.

RESOLUTION NO. 8

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Mobile, Alabama, on this the 6th day of May, 2019, that they memorialize the following persons who have died in office since our last convention, namely: Fred Barton, mayor pro tem, Brewton; John

Softley, councilmember, Parrish; Henry Phillips, councilmember, Chickasaw; Kenneth Kilgo, mayor, West Point; Dianne Tillery, councilmember, Leesburg; William Darden, councilmember, Wilton; and Jim Nabors, mayor, Alexander City.

BE IT FURTHER RESOLVED that the following former officials be memorialized: Douglas Gunnin, former mayor Hackleburg; Billie Cooper Davis, former councilmember, Center Point; Mike Ford, former councilmember, Fairhope; Kenneth Clemons, former mayor, Gardendale; Jackie Cooley, former councilmember, Demopolis; Bob Echols, former councilmember, Gadsden; Jeanne Champion-Fisch, former councilmember, Westover; Larry Langford, former mayor, Birmingham and Fairfield; Forest Walls, former councilmember, Pell City; Gary Ivey, former mayor, Hoover; Elise DeBardeleben Atchison, former mayor, Lowndesboro; Dorothy Brown, former councilmember, Level Plains; George Floyd Philpot, Jr., former councilmember County Line; John Michael Smith, former councilmember, Tarrant; Bryan Stone, former councilmember, Rainbow City; Brenda Sturgeon, former

councilmember, Moody; Melba Patton, former mayor, South Vinemont; O.B. "Red" Parris, former councilmember, Cullman; Lynn Blackmon, former councilmember, Evergreen; Florinne Pate, former councilmember, Ashford; Bobby Meadows, former councilmember, Ashford; Richard Long, former mayor, Jackson; David "Tink" Rowe Hargrove, former councilmember, Athens; Bob Gentle, former council president, Fairhope; Jerry Wilton Fretwell, former councilmember, Citronelle; Percy Gill, former councilmember, Wetumpka; Brett Lee, former mayor, New Brockton; Thomas "Sonny" Eads, former mayor pro tem, New Brockton; Bryan Alloway, former mayor, Ashford; Robert Findley, former mayor, LaFayette; Marshall Shaddix, former councilmember, Oxford; Herman Nail, former mayor, Holly Pond; Eddie Lawrence, former councilmember, Riverside; Frances Phelps, former mayor, Wilsonville; Sue B. Strickland, former mayor, Dutton; Tommy Pickle, former councilmember, Florence; Willie Bee Littles, former councilmember, Reform; and Pratt Monk, former councilmember, Satsuma. ■

#ALMCon19





RESOLUTION NO. 8

Presented on May 6, 2019 at the the Annual Business Session during the Alabama League of Municipalities' 2019 Annual Convention in Mobile, Alabama

Be It Resolved by the Delegates of the Alabama League of Municipalities in Convention assembled in Mobile, Alabama, on this the 6th day of May, 2019, that they memorialize the following persons who have died in office since our last convention, namely: Fred Barton, mayor pro tem, Brewton; John Softley, councilmember, Parrish; Henry Phillips, councilmember, Chickasaw; Kenneth Kilgo, mayor, West Point; Dianne Tillery, councilmember, Leesburg; William Darden, councilmember, Wilton; and Jim Nabors, mayor, Alexander City.

Be It Further Resolved that the following former officials be memorialized: Douglas Gunnin, former mayor Hackleburg; Billie Cooper Davis, former councilmember, Center Point; Mike Ford, former councilmember, Fairhope; Kenneth Clemons, former mayor, Gardendale; Jackie Cooley, former councilmember, Demopolis; Bob Echols, former councilmember, Gadsden; Jeanne Champion-Fisch, former councilmember, Westover; Larry Langford, former mayor, Birmingham and Fairfield; Forest Walls, former councilmember, Pell City; Gary Ivey, former mayor, Hoover; Elise DeBardeleben Atchison, former mayor, Lowndesboro; Dorothy Brown, former councilmember, Level Plains; George Floyd Philpot, Jr., former councilmember, County Line; John Michael Smith, former councilmember, Tarrant; Bryan Stone, former councilmember, Rainbow City; Brenda Sturgeon, former councilmember, Moody; Melba Patton, former mayor, South Vinemont; O.B. "Red" Parris, former councilmember, Cullman; Lynn Blackmon, former councilmember, Evergreen; Florinne Pate, former councilmember, Ashford; Bobby Meadows, former councilmember, Ashford; Richard Long, former mayor, Jackson; David "Tink" Rowe Hargrove, former councilmember, Athens; Bob Gentle, former council president, Fairhope; Jerry Wilton Fretwell, former councilmember, Citronelle; Percy Gill, former councilmember, Wetumpka; Brett Lee, former mayor, New Brockton; Thomas "Sonny" Eads, former mayor pro tem, New Brockton; Bryan Alloway, former mayor, Ashford; Robert Findley, former mayor, LaFayette; Marshall Shaddix, former councilmember, Oxford; Herman Nail, former mayor, Holly Pond; Eddie Lawrence, former councilmember, Riverside; Frances Phelps, former mayor, Wilsonville; Sue B. Strickland, former mayor, Dutton; Tommy Pickle, former councilmember, Florence; Willie Bee Littles, former councilmember, Reform; and Pratt Monk, former councilmember, Satsuma.

Finance, Administration and Intergovernmental Relations Committee:

Chair: Ruthie Campbell, Councilmember, Robertsdale
Vice Chair: Charles Black, Councilmember, Priceville

Energy, Environment and Natural Resources Committee:

Chair: Lawrence Haygood, Mayor, Tuskegee
Vice Chair: Johnny Smith, Mayor, Jacksonville

Community and Economic Development Committee:

Chair: Charles Gilchrist, Mayor, Glencoe
Vice Chair: Wayne Biggs, Councilmember, Saraland

Transportation, Public Safety and Communications Committee:

Chair: Jerry Parris, Councilmember, Jacksonville
Vice Chair: Jerry Starnes, Councilmember, Prattville

Human Development Committee:

Chair: Jennifer Williams Smith, Councilmember, Jasper
Vice Chair: Barry Moody, Mayor, LaFayette

For Executive Committee

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Katherine Breeden, Councilmember, Loxley
Paul South, Mayor, Jackson
Newton Cromer, Councilmember, Saraland
Thomas Williams, Mayor, Satsuma

From the Second Congressional District:

Mickey Murdoch, Mayor, Elba
Bill Gillespie, Mayor, Prattville
Darrell Wilson, Councilmember, Tallassee
Jason Reeves, Mayor, Troy
Todd Strange, Mayor, Montgomery

From the Third Congressional District:

Rusty Jessup, Mayor, Riverside
Gary Fuller, Mayor, Opelika
Billy Pearson, Councilmember, Lincoln
Alberta McCrory, Mayor, Hobson City
Mack Arthur Bell, Councilmember, Roanoke

From the Fourth Congressional District:

Woody Jacobs, Mayor, Cullman
Allen Dunavant, Mayor, Glen Allen
Deverick Williams, Councilmember, Gadsden
Donald Pennington, Councilmember, Littleville
Terry John Calhoun, Mayor, Rainbow City

From the Fifth Congressional District:

Randy Garrison, Mayor, Hartselle
Gary Livingston, Mayor, Eva
Tommy Battle, Mayor, Huntsville
Sandra Burroughs, Mayor, Lexington
Tommy Perry, Councilmember, Priceville

From the Sixth Congressional District:

Marty Handlon, Mayor, Alabaster
Frank Brocato, Mayor, Hoover
Tom Henderson, Mayor, Center Point
Bobby Cook, Councilmember, Clanton
Rick Hayes, Councilmember, Pelham

From the Seventh Congressional District:

Marva Gipson, Mayor, Aliceville
Randall Woodfin, Mayor, Birmingham
Loxcil Tuck, Mayor, Tarrant
Don Moore, Councilmember, Uniontown
Gena Robbins, Mayor, York

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Mayor Lew Watson, Lincoln
Councilmember Sadie Britt, Lincoln
Mayor David Bradford, Muscle Shoals
Councilmember Harold Swearingen, Pine Hill
Mayor Melvin Duran, Priceville
Mayor Charles Murphy, Robertsdale
Mayor Howard Rubenstein, Saraland
Mayor Wally Burns, Southside
Mayor Walt Maddox, Tuscaloosa
Council President Jesse Matthews, Bessemer

Councilmember Michael Gay, Millbrook, moved to close nominations. Councilmember Joe Watson, Brewton, seconded the motion. Councilmember William Lumpkin, Orrville, moved adoption of the Nominating Committee Report as presented. Mayor Larry Fetner, Ashland, seconded the motion, which passed unanimously. The President declared all officers elected.

Mayor Sandy Stimpson, Mobile, 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 16-19, 2020, Tuscaloosa; May 22-25, 2021, Huntsville; May 21-24, 2022, Birmingham; May 20 -23, 2023, Montgomery; May 4-7, 2024, Mobile.

Mayor Stimpson moved adoption of the report, which was seconded by Councilmember Harold Swearingen, Pine Hill. The Site Selection Committee report was approved. There being no further business, the meeting was adjourned.

Ken Smith
Acting Secretary





#ALMCon19



2019 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 and municipal judges who have completed 20, 30, 40 and 50 years of service in municipal government. A total of 25 awards were announced during the Closing General Session on May 7th in Mobile. Pictured here and on the following pages are the recipients of the 2019 Distinguished Service Awards. Not pictured – **30 Years:** Johnny Clark, Councilmember of Louisville; Thomas E. Crossley, Councilmember of Louisville; William “Bill” Kling, Councilmember of Huntsville; Harry Moon, Councilmember of Centre; Debbie Stepleton, Clerk of Crossville **20 Years:** M. Scott Arnold, Councilmember of Garden City; Paul A. Garrison, Councilmember of Natural Bridge; Johnny H. Hart, Councilmember of Arab; A.G. “Pete” Parrish, Mayor of Natural Bridge

2019 Distinguished Service Award Recipients



40 Years: Mayor David Bradford,
City of Gadsden



30 Years: Councilmember
Katherine Q. Breedon, Town of Loxley



30 Years: Councilmember Alberta S. Dixon,
City of Thomasville



30 Years: Councilmember Frankie Kelly,
City of Centre



30 Years: Councilmember
Joseph M. Kitchens, City of Robertsdale



30 Years: Councilmember Jo Ann Lindsey,
City of Hartford



30 Years: Mayor Gary L. Livingston,
Town of Eva



30 Years: Councilmember
James McGowan, City of Pell City



30 Years: Mayor Billy J. Middleton,
Town of Loxley



30 Years: Mayor Charles H. Murphy,
City of Robertsdale



30 Years: Councilmember Richard L. Teal,
Town of Loxley



30 Years: Councilmember
Randall Whitaker, City of Guntersville



30 Years: Councilmember
Bess Yarbrough, City of Centre



20 Years: Municipal Clerk
Judy H. Fortenberry, Town of Eva



20 Years: Municipal Clerk
Betty Jones, City of Guntersville



20 Years: Municipal Judge L. Daniel Mims, City of Bayou La Batre



Congratulations to our 2019 Distinguished Service Award Recipients!

2018 Certified Municipalities



ALM named its inaugural list of Certified Municipalities on Tuesday morning during the Closing Session of the 2019 Annual Convention. This newly created honor is awarded to cities and towns in which the mayor and all councilmembers have earned the professional designation of Certified Municipal Official. The designation signifies that the mayor and all councilmembers have completed a minimum of 40 credit hours of formal training, in the previous calendar year, on municipal government conducted or endorsed by ALM through its Certified Municipal Official program. Congratulations to the cities of **Andalusia, Brewton, Center Point, Foley (not pictured), Priceville, Robertsdale and Saraland** for their commitment to excellence by ensuring their elected officials are certified through the Alabama League of Municipalities!





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200
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This year's Municipal Marketplace during the League's Annual Convention featured 132 vendors and state agencies that work closely with Alabama's cities and towns. The outstanding City Hall backdrop and BIG letters were designed by ALM Graphic Designer Karl Franklin (pictured right). Cindy Price (pictured middle), the League's CMO/Corporate Relations Manager, oversees and coordinates all aspects of the League's annual Expo Hall and Legal Services Administrator Sharon Carr (pictured left) managed vendor registration, answered questions and made sure people got where they needed to go.

ALM's Annual Convention is a tremendous undertaking and wouldn't happen – or be as efficient – if it weren't for the entire League team:

Ken Smith, Executive Director
Theresa L. Cook, Executive Liaison

Greg Cochran, Deputy Director

Administrative Services
Barbara Alexander, Operations Manager
Priscilla Starr, Administrative Services Assistant
Dana Buster, Office Assistant
Alexis Rawls, Receptionist

Advocacy/Communications
Carrie Banks, Communications Director
Karl Franklin, Graphic Designer/Web Master
Kayla Bass, Public Affairs Associate

CMO/Sponsor Services
Cindy Price, CMO/Corporate Relations Manager

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Legal
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Teneé Frazier, Assistant General Counsel
Rob Johnston, Assistant General Counsel
Sharon Carr, Legal Services Administrator

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Opportunity Zones

Building Your Community Strategy

By Alex Flachsbart • Founder and CEO • Opportunity Alabama



Editor's note: *Live Locally Alabama is an ALM grassroots campaign designed to encourage civic engagement, instill community pride and highlight the crucial role municipal government plays in the daily lives of Alabama's citizens. As part of this campaign, a Live Locally Alabama feature is included in each issue of the Journal highlighting important community topics and quality of life issues that will help municipal officials and employees improve their cities and towns for the people they serve.*

By now, you've probably heard something about Opportunity Zones. The latest buzzword in the economic development community has already generated dozens of articles from national publications, and tens of billions of dollars' worth of "qualified Opportunity Funds" have already been announced. What's behind the hype? Why is this incentive so popular – and how can it impact a city like yours? This article gives you the back story on Opportunity Zones, how they work and what you can do to leverage them for community growth.

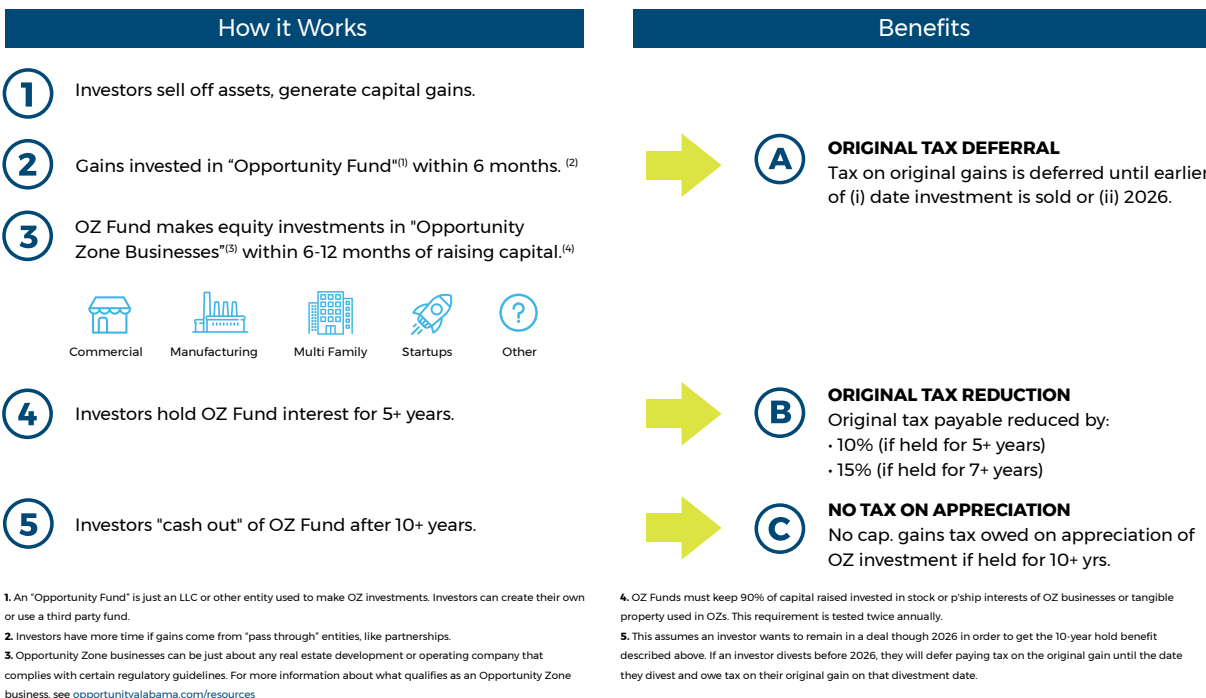
Opportunity Zones – The Background.

The Problem. Though the Great Recession officially ended in 2009, there are parts of the United States that have never recovered. In fact, the most distressed portions of the US have lost jobs and economic productivity every year since 2007. These communities are far more likely to experience issues with business formation, economic mobility and even educational attainment.¹ While talent is evenly distributed across all parts of America, economic opportunity – and, as a result, access to capital – is not.

The Solution. Opportunity Zones are a place-based economic development response to this issue. A concept that started as a white paper by a D.C. think tank (called the Economic Innovation Group) found its way into the tax reform package that passed in December 2017.

Selecting the Zones. The law required every state governor to select their Opportunity Zones by March of 2018. The criteria were simple: pick up to 25% of certain designated "low-income communities" (Census tracts with high poverty rates, high unemployment,

The Opportunity Zones Program - An Overview





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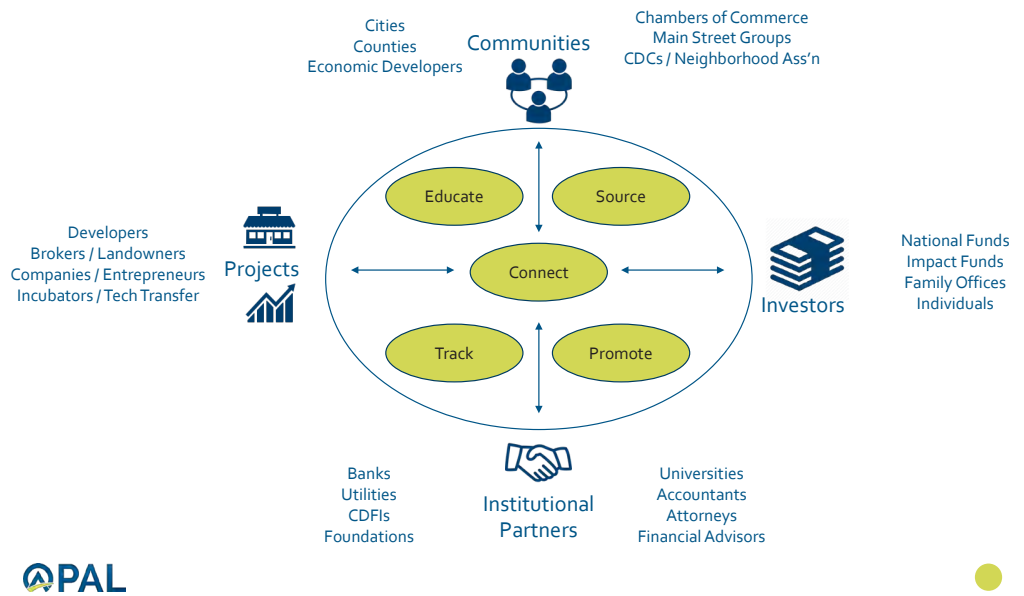
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or low median family incomes) in your state, with no other limitations.

Setting the Map in Alabama.

Governor Ivey made sure that every county had at least one Opportunity Zone. She then allocated the remainder across the state, focusing on places where there were already core assets to justify investment, such as downtowns, interstate exits, airports or industrial parks. Her designations were approved in April, and by May 2018, the map was set. **Any changes to the map will, at this point, require a formal act of Congress.** See www.opportunityalabama.com for an interactive map of the Opportunity Zones.



How Opportunity Zones Work - the Investor Perspective

Opportunity Zones were created to attract patient, at-risk capital to low-income communities. The longer an investor stays committed, the greater their incentives become. These benefits are described in the diagram on page 35.

How It Works – A Practical Example

Assume Jane has \$200,000 in stock she acquired in 1990. It is now worth \$1.2 million. Jane sells the stock, realizing a \$1 million gain. Within six months, she forms her own “qualified Opportunity Fund” (or finds a national one already in existence) and deposits \$1 million. Immediately upon doing so, she gets Benefit 1 – deferral of the capital gains tax she would have otherwise owed on the \$1 million. She’ll have to pay her tax bill on her original \$1 million investment December 31, 2026 – but because she invested this year (2019), she will get Benefit 2 – a 15% discount when she pays her bill in 2026.

An Opportunity Zone does not make a bad investment good; instead, it makes a good investment great – and, with just the right marketing push, it focuses investor attention on the projects that will produce strong returns for them and for the community at large.

Once she forms her Opportunity Fund and makes her deposit, Jane will have another 6 to 12 months to identify one or more investment opportunities. Assume she invests in revitalizing some commercial buildings at the core of a blighted neighborhood. As

that neighborhood redevelops, her investment will become more and more valuable until, 10 years later, the \$1 million she put in is worth \$3 million. When she sells the property to a new owner in Year 10, **all** her \$2 million in gain is **tax free**.

The key here is that the vast majority of investors *expect* cash flow out of these investments (rents, dividends, etc.) during the 10-year holding period. As a result, this is not necessarily the program for starting a new nonprofit or a risky business likely to fail within the next decade.

How Opportunity Zones Work - the Community Perspective

As you can see, the Opportunity Zone incentive is not a grant. There is no “central administrator” of who gets the money that comes in. Private market forces decide how much capital goes to the Opportunity Zone in your community versus the one in North Miami Beach or across from downtown Nashville. And private capital always follows the path of least resistance – which may not be into your backyard.

Your role as a community is to help make the path the funds must take to your community as easy as possible. Here are the five things you can start doing now to accomplish that objective.

Education and Awareness. Activate *all* the potential members of your local funding ecosystem that can contribute in some way to the long-term success or failure of your local OZ organizing effort. Those members include: project sponsors (developers, landowners, business owners, entrepreneurs and others with investable projects); potential investors (high net worth individuals, “prodigal sons,” financial advisors, accountants and others who know where the money is buried); community members (e.g., elected officials, economic developers and the chamber of commerce); and third party supporters such as bankers, attorneys, local anchor institutions

and others who could have a vested stake in seeing an ecosystem thrive. (see chart above)

The best way to do that is via one or more educational events – and Opportunity Alabama is happy to help you provide that education.

continued on page 54

ALM Now Offering “IT in a Box” via Sophicity

ALM has recently partnered with **Sophicity** to deliver **IT in a Box** to cities in Alabama. This new service was officially launched by the League on Monday, April 22, 2019.

IT in a Box is consistent with the League’s mission to not only provide leadership and guidance for cities but also to help local government stay innovative and efficient in serving their citizens.

Ken Smith, League Executive Director, said: “IT in a Box is aimed at providing cities and towns in Alabama with state-of-the-art information technology tools supported by experienced, highly skilled IT professionals. This service is being offered through a contract with Sophicity. The municipalities of Vincent and York worked with Sophicity on a pilot program and both have provided positive feedback. Additionally, the League selected Sophicity to redesign and host our own website and they worked very closely and professionally with our staff to design a fresh, user-friendly site.”

For one monthly all-inclusive fee with no long-term contract, a municipality will receive:

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For additional information, please contact: Alabama League of Municipalities: Chuck Stephenson at (334) 262-2566 or chucks@alalm.org. Sophicity: Dave Mims at (770) 670-6940, ext. 110 or davemims@sophicity.com

Budget Shortfall?



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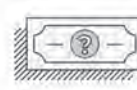
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The Legal Viewpoint

By Teneé Frazier, Assistant General Counsel



“Council, may I ...”

The Mayor’s Authority to Spend Municipal Funds

One of the most asked questions the Legal Department receives is, “Can the mayor spend municipal funds without the council’s approval?” It is likely this question is asked once, if not twice a day in some form or fashion. The answer to this question just happens to be an attorney’s favorite reply and a mayor or councilmember’s most feared: “It depends”. This article is intended to quell that fear and provide some insight on this frequently asked question. It will discuss the council’s authority to manage and control municipal funds, the exceptions that allow the mayor to exert some control and authority over the finances, and how that authority must work in conjunction with all applicable municipal law. It will also provide examples of situations when the mayor is allowed to expend municipal funds without the council’s approval and the situations when the mayor is not allowed to do so and the factors affecting each.

Preauthorization

Section 11-43-56, Code of Alabama 1975 provides that the council has the authority to manage and control municipal finances. Therefore, all expenditures must come before the council for approval. The end. Right? Not quite. There is an exception to this rule. What is that exception you ask? PREAUTHORIZATION! Generally speaking, all expenditures must come before the council for approval, unless there is some preauthorization from the council.

Preauthorization can happen in many ways. One example of a preauthorization is when the city council adopts a general fund budget containing line-item appropriations. These funds have been approved by the council and included in the budget. Thus, it is likely the mayor would not need to come before the council for approval to expend these funds since the council has already adopted (approved) these expenditures in the budget. The exception to this is when the council has adopted a policy stating otherwise.

Let’s examine this example in action in the fictional City of League.

The City of League’s population is 11,994 and it has a mayor-council form of government. The mayor of the City of

League would like to hire an administrative professional for the mayor’s office and pay them a salary of \$20,000 a year. The council adopted the municipal budget last month that included a line item for an administrative professional with a budgeted salary for the position of \$25,000. The council has not adopted a policy requiring prior approval to spend municipal funds. Can the mayor hire the administrative professional and pay them a salary of \$20,000 per year without first bringing it before the council for approval? YES! The council approved the line item for an administrative professional with a budgeted salary of \$25,000. The mayor is only asking for \$20,000 for the salary, \$5,000 less than what was originally adopted in the budget. Further, the council does not have a policy stating prior approval is needed to spend any and all municipal funds. Therefore, as long as the funds are sufficient, the mayor is well within his or her authority to hire and pay the administrative professional the salary of \$20,000 without going before the council for approval.

Hiring Authority

But that raises the question of who decides who is hired for the administrative professional position? The answer to this question is relatively straightforward: The mayor! As chief executive officer of the city, the mayor has the authority to hire most municipal employees unless otherwise provided by law. Section 11-43-81, Code of Alabama 1975 provides that the mayor has the “power to appoint all officers whose appointment is not otherwise provided for by (state) law.” Since the administrative professional position is not appointed by the council, the mayor retains the authority to decide who is hired for this position.

In *Scott v. Coachman*, 73 So.3d 607 (Ala. 2011), the Supreme Court of Alabama held that the mayor has the authority to hire most municipal employees. The Court in *Coachman* interpreted Section 11-43-81, Code of Alabama 1975 which provides that the mayor has the “power to appoint all officers whose appointment is not otherwise provided for by law.” The Court ruled that the council cannot remove the mayor’s appointment authority under Section 11-43-81 by

continued on page 52



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VONA Case Management, Inc.
Webster Henry

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Alabama Manufactured Housing Association

Alabama Mountain Lakes Tourist Association

Alabama Municipal Funding Corporation (AMFUND)

Alabama Municipal Insurance Corporation (AMIC)

Alabama Power Company

AlabamaRetire Deferred
Compensation Plan
(Empower Retirement)

Alden Systems

American Fidelity

AMIC/MWCF Loss Control

AMWASTE

Arrow Disposal Service, Inc.

AT&T Alabama

AUC Group

Avenu Insights & Analytic
formerly RDS

BancorpSouth

Equipment Finance

Bandit Industries, Inc.

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Bradford Health Services

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CMH Architects, Inc.

Corrective Asphalt Materials, LLC

Croy Engineering

CSA Software Solutions

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Highland Technical Services, Inc./

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LaBella

Main Street Energy

Master Meter, Inc.

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McKee & Associates Architecture

and Interior Design

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Municipal Intercept Services (MIS)

Municipal Revenue Service

Municipal Workers Compensation Fund (MWCF)

Municode/Municipal Code





The Nine
 Thompson Tractor Co., Inc.
 Twin States Recreation, LLC
 VC3
 Vortex Aquatic Structures Intl.
 Waste Pro

GRID Exhibitors

Musco Sports Lighting
 NAFECO
 National Water Services, LLC
 NLC Service Line Warranty Program
 OnSolve
 Playworld Preferred
 Poly, Inc.
 PReMA Corp
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Alabama Association of Regional Councils
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 Engineers and Land Surveyors
 Alabama Clean Fuels Coalition
 Alabama Correctional Industries
 Alabama Council of The American Institute
 of Architects
 Alabama Department of Agriculture & Industries
 Alabama Department of Archives and History
 Alabama Department of Economic
 and Community Affairs
 Alabama Department of Environmental
 Management (ADEM)
 Alabama Department of Revenue
 - Sales & Use Tax Division
 Alabama Emergency Management Agency (AEMA)
 Alabama Municipal Revenue Officers Association
 Alabama Plumbers & Gas Fitters Examining Board
 Alabama Recreation and Parks Association
 Alabama Tourism Department
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 Institute Auburn University
 Jacksonville State University's Center
 for Economic Development & Business Research
 Local Government Health Insurance Board
 Retirement Systems of Alabama
 State Auditor of Alabama
 The Alabama Advantage for New Alabamians
 USDA Rural Development



#ALMCon19



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

Tort Liability: City was entitled to municipal immunity in negligence action brought by invitee after the invitee fell through a broken drain gate in a city-owned park. *Ex parte City of Muscle Shoals*, 257 So.3d 850 (Ala. 2018).

Property Sales: Residents lacked standing as taxpayers to challenge the sale of a public middle school building by the county board of education to the town since the sale would bring money into the public treasury rather than result in a potentially illegal expenditure of money which would result in injury. *Richardson v. Relf*, 265 So.3d 236 (Ala. 2018).

Tort Liability: A municipal utility did not have substantive immunity from a personal injury action concerning an electrocution incident on a bridge-repair project. *Ex parte Utilities Board*, 265 So.3d 1274 (Ala. 2018).

Elections: Circuit court could void a town's special election for failure to strictly comply with election laws, as required by a previous order of the court. *Ex parte Scrushy*, 262 So.3d 638 (Ala. 2018).

License: Circuit court lacks jurisdiction via certiorari over denial of liquor license by a local

government in a different county. *EMBU, Inc. v. Tallapoosa County Com'n*, 263 So. 3d 731 (Ala.Civ. App. 2018).

UNITED STATES COURT DECISIONS AFFECTING ALABAMA

Tort Liability: Under the property test for evaluating comparator evidence at the prima facie stage of the Supreme Court's McDonnell Douglas burden-shifting framework, in an action asserting an intentional-discrimination claim under Title VII, the Equal Protection Clause, or section 1981, a plaintiff must demonstrate that she or her proffered comparators were similarly situated in all material respects. In so holding, the Eleventh Circuit abrogated circuit precedent by applying a "nearly identical" standard or a "same or similar" standard, and declined to adopt the Seventh Circuit's standard, which requires distinctions that are not so significant that they render the comparison effectively useless. *Lewis v. City of Union City, Georgia*, 918 F.3d 1213 (11th Cir., Ga. 2019).

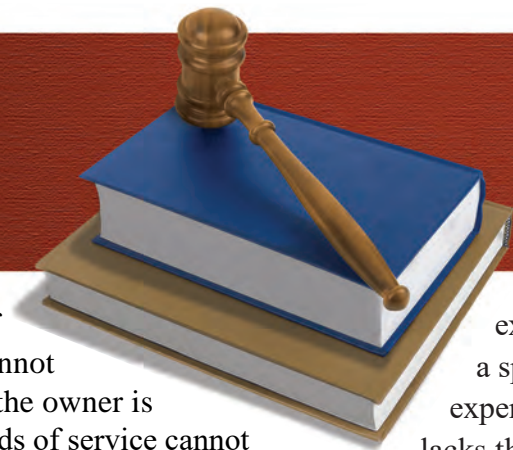
DECISIONS FROM OTHER JURISDICTIONS

Zoning and Planning: Prospective home-sharing hosts failed to make specific allegations as to how the city's shared housing ordinance was preventing or hampering their home-sharing activities. The city's ordinance required hosts to register with the city and acquire a business license before listing their homes for rent on home-sharing websites. *Keep Chicago Livable v. City of Chicago*, 913 F.3d 618 (7th Cir., Ill. 2019).

ATTORNEY GENERAL'S OPINIONS

FCPA: Discussion of the authority of the Secretary of State and Ethics Commission regarding civil penalties under the Fair Campaign Practices Act. AGO 2019-021.

Property Forfeiture: When the location of a property owner is unknown, an action to declare property abandoned must be served at the last known address of the owner and by publication pursuant to



section 15-5-64 of the Code of Alabama. Seized property cannot be deemed abandoned when the owner is unknown because both methods of service cannot be completed. AGO 2019-022.

Buildings: A city, by ordinance, may cease requiring building permits for construction. A county commission may require permits in the corporate limits if the city council consents for the county to apply its building codes. AGO 2019-023.

Land Sales Act: The Land Sales Act applies to land forfeited to the state pursuant to section 20-2-93 of the Code of Alabama. If the land is forfeited as a part interest in property, the \$20,000 threshold applies to that portion and not the larger property. AGO 2019-025.

Fundraising: Discussion of the authority of a municipality to engage in fundraising activities. AGO 2019-027.

Public Works Bid Law: The Birmingham-Jefferson Civic Center Authority may divide a stadium construction project into phases and award a contract for each to a different low bidder in order to meet construction deadlines. AGO 2019-028.

Forfeiture: The police chief is not required to obtain the approval from the city council before making expenditures from state forfeiture proceeds. The chief and council should cooperate in planning for such

expenditures. The council may disapprove a specific request made by the chief for the expenditure of federal forfeiture proceeds but lacks the authority to expend the proceeds in a manner not proposed by the chief. Expenditures from state and federal forfeiture proceeds are required to be made by competitive bidding. The purchase of law enforcement equipment with forfeiture proceeds does not violate section 94 of article IV of the Recomplied Constitution of Alabama. The use of forfeiture proceeds to benefit private persons or entities does not violate section 94 if a valid law enforcement purpose is served. Forfeiture proceeds may be used to purchase law enforcement equipment in the ordinary course of business. The council may not use federal forfeiture funds to reduce the amount of funds appropriated to the police department. AGO 2019-029.

Public Employees: The city manager has the authority to appoint and remove officers and employees, including the deputy city attorney, the public defender, and their assistants. If it determines that special consideration is required to handle a specific case or cases pending in municipal court, the city council may hire outside counsel to assist the deputy city attorney. AGO 2019-030. ■

2019 Fall Municipal Law Conference - September 26-28, 2019

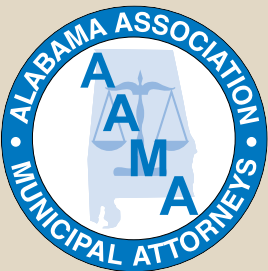
The AAMA/AMJA Fall Municipal Law Conference has a rich tradition of excellence in providing Alabama city attorneys, judges and prosecutors with education on the latest municipal law

issues. Delve into issues and topics that will update your roles and responsibilities and enhance your success in your municipality.

All topics will be submitted to the AL State Bar and the Judicial College for CLE approval. The conference will be held at

The Lodge at Gulf State Park. To find out more about this

event, including registration and hotel information, go to alalm.org/conferences-training. Additional information will be posted as it becomes available.





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REBUILD ALABAMA ACT FINANCING FACTS FOR COUNTIES AND CITIES

Summary of the Rebuild Alabama Act

Revenue Measures

- **Fuel Tax Increase** – The state gasoline and diesel tax will be increased by 6 cents per gallon on September 1, 2019, 2 cents per gallon on October 1, 2020, and 2 cents per gallon on October 1, 2021.
 - \$32.3 million – Estimated revenue collected by each 1-cent in the fuel tax
 - \$323 million – Estimated total revenue collected once the fuel tax is fully implemented
 - Revenues are to be distributed as follows:
 - First \$980,000 collected each month (\$11.76 million annually) shall be distributed to the Alabama Highway Finance Corporation for the payment of the principal of and interest on bonds to be issued by it to finance improvements to the ship channel providing access to the facilities of the Alabama State Docks. This diversion is not perpetual and will end once the bonds are paid off.
 - Then, remaining funds shall be distributed as follows:
 - 66.67% to ALDOT, 25% to the Counties, and 8.33% to the Municipalities.
- **Electric and Hybrid Vehicle Fees** – Electric vehicles (EVs) will now pay an annual registration fee. Battery electric vehicles (BEVs) will pay \$200, and plug-in hybrid electric vehicles (PHEVs) will pay \$100.
 - Revenue collected for EVs will be distributed as follows:
 - 25% will be dedicated to support an EV infrastructure grant program that will provide funding to pay for a portion of the costs of developing EV charging station infrastructure.
 - 75% of the total revenue from the new BEV and PHEV fees will be distributed as follows:
 - 66.67% to ALDOT, 25% to the Counties, and 8.33% to the Municipalities.

Local Government Fuel Tax Revenue Distribution

- **County Fuel Tax Revenue Distribution** – County governments will receive 25% of the total fuel tax revenues from the new 10-cent per gallon fuel tax, after costs of collection and distributions to the Alabama Highway Finance Corporation to finance State Docks improvements. This allocation will be distributed to the counties as follows:
 - 45% of the amount shall be allocated equally among the 67 counties of the state.
 - 55% of the amount shall be allocated among the 67 counties of the state on the basis of the ratio of the population of the state according to population projections from the U.S. Census Bureau Population and Housing Estimates Program and will be updated every five years.
- **Municipality Fuel Tax Revenue Distribution** – Municipal governments will receive 8.33% of the total fuel tax revenues from the new 10-cent per gallon fuel tax, after costs of collection and distributions to the Alabama Highway Finance Corporation to finance State Docks improvements. This allocation will be distributed to the municipalities as follows:
 - 25% of the amount shall be allocated equally among all municipalities in the state.
 - 75% of the amount shall be allocated among the municipalities of the state on the basis of the ratio of the population of each municipality to the total population of all municipalities of the state according to population projections from the U.S. Census Bureau Population and Housing Estimates Program and will be updated every five years.

Local Government Funding: Uses, Restrictions, Financing and Other Funding Opportunities

Funding Uses Allowed

- The revenue allocated to counties and municipalities from the Rebuild Alabama Act must be deposited into a separate fund maintained by the county or municipality and expended only for the following:
 - The maintenance, improvement, replacement, and construction of roads and bridges maintained by the county or municipality.
 - As matching funds for federal road or bridge projects.
 - The payment of any debt associated with a road or bridge project.
 - For a joint road or bridge project with one or more adjoining counties or one or more municipalities pursuant to any agreement executed under the authority of state law.
 - For a joint road or bridge project with one or more counties and municipalities pursuant to any agreement executed under the authority of state law.
 - Any Class 1 through 4 municipality that currently provides or operates public transportation services may utilize an amount not to exceed 10% of the net tax proceeds received annually to match any available federal or state transportation funding available for public transportation infrastructure improvements.

Funding Restrictions

- The revenue allocated to counties and municipalities from the Rebuild Alabama Act shall NOT be used for the following purposes:
 - Salaries, benefits, or any other form of compensation for county, municipal, or contract employees or for county or municipal officials except as included as project costs.
 - The purchase, lease, or maintenance of equipment, other than equipment purchased and permanently installed as a part of a road or bridge project.
 - The maintenance or construction of public buildings/structures not integral to the road/bridge system.

Financing

- A county government may pledge up to 50% of its total revenue received from the Rebuild Alabama Act as security for the issuance or refinancing of any loan or debt obligation used for transportation infrastructure improvement, preservation and maintenance.
- A municipal government may pledge 100% of its total revenue received from the Rebuild Alabama Act as security for the issuance or refinancing of any loan or debt obligation used for transportation infrastructure improvement, preservation and maintenance.

Additional Funding Opportunities

- County and State Funding Exchange
 - Beginning on October 1, 2019, ALDOT will allocate \$400,000 of its state portion of tax revenues to each county in the state in exchange for the annual federal allocation of \$533,000 which was being distributed to each county. Counties will be able to utilize the state funding more freely than the federal allocation.
 - The \$400,000 annual allocation to each county shall be utilized first as matching funds for any balance in the county's federal allocation not authorized by Sept. 30, 2019. Once this is accomplished, all remaining and future allocations shall be expended for road and bridge projects on county roads classified as minor collectors or higher and/or for bridge structures on the National Bridge Inspection inventory.
- ATRIP-II Program
 - Through the Rebuild Alabama Act, this program will require ALDOT to set aside from \$30 to \$50 million annually of the state revenue portion to fund projects of local interest on the state-maintained highway system, which may also include local roads and bridges essential to the overall project.
 - This program will be directed by an 8-member ATRIP-II Committee which will be authorized to develop and adopt the procedures which will determine how the funds will be used and the projects selected.
- ALDOT Annual Grant Program
 - ALDOT will create an annual grant program of not less than \$10 million for which county governments and city governments can apply and is charged with creating a process for cities and counties to submit applications.
 - Cities and counties will also be able to leverage local proceeds to partner with the State on larger projects for which the respective city or county might not have adequate funding.
 - First round of grant applications is due by Nov. 30, 2019, and grants will be awarded by Jan. 15, 2020.

The information contained herein is a summary of certain provisions of the Rebuild Alabama Act and is not meant to be comprehensive or conclusive. Estimated revenues cited herein are reproduced from publicly available information and are general estimates only.

supplemental policy to provide extra benefits to firefighters while remaining fiscally responsible to our municipalities. We expect these policies to cost approximately \$200 annually per firefighter.

ACT 2019-32 by Sen. Waggoner and Rep. Ledbetter - Tier II Retirement Benefits for ERS Employees would allow municipal and county governments wishing to enhance the retirement benefits of their Tier II employees to elect those to participate under the Tier I program under certain circumstances.

SB308 by Sen. Allen - RV Parks Lodgings Taxes – Passed by Legislature – amends the transient lodgings tax liability on RV parks. Senator Allen agreed to an amendment offered by tourism and municipalities to limit the transient lodgings tax on motor homes to 90 days. All other lodgings, hotels, motels, camp grounds and marinas will be required to collect up to 180 days. Codifying camp grounds and marinas in SB308 clarifies their responsibility to collect and remit these lodgings taxes.

HB286 by Rep. Faulkner and Sen. Waggoner Council Manager form of Municipal Government – Passed by Legislature – would further clarify that a municipality must have an election to change its form of government from mayor-council to council-manager.

HB16 by Rep. Hill - Municipal Elections – Passed by Legislature – would require voters to register within 14 days of a municipal election. This brings the requirement in consistency with county and state elections.

ACT 2019 – 326 by Rep. Shedd and Sen. Scofield Rural Broadband Deployment allows the electric utilities to utilize their existing infrastructure to deploy broadband technology across Alabama.

ACT 2019 – 327 by Sen. Scofield - Broadband Internet Grants establishes grants funds for the deployment of broadband internet in unserved and underserved areas of the state.

ACT 2019-52 by Rep. Baker Ethics Law Filings for Economic Developers exempts economic developers from the definition of lobbyist in certain circumstances as it pertains to the Alabama ethics law filings.

ACT 2019-284 by Rep. South and Sen. Smitherman Financial Institution Excise Tax Reforms creates an improved process for the distribution of FIET revenues from the banking community to municipalities and counties.

HB565 by Rep. England and Sen. Williams - Bail Bonds Regulatory Act – Passed by the Legislature – would create the Alabama Bail Bond Regulatory Act to license bondsmen and recovery agents and provide continuing education.

SB153 by Sen. Melson and Rep. Scott Simplified Sellers Use Tax – Passed by the Legislature – would update amnesty and class action provisions against online out of state retailers. SB153 also establishes 25% of county SSUT funds to be appropriated to local school boards.

SB191 by Sen. Orr - Asset Forfeiture – Passed by the Legislature – would require the Alabama Attorney General to establish and maintain a case tracking system for recording property seized and forfeited by local law enforcement.

ACT 2019-204 by Sen. Orr - Unemployment Compensation

Benefits revises the maximum amount paid to an individual based on the state’s average unemployment rate, revises maximum weekly benefits rates and establishes terms for losing benefits due to disqualification.

Bills the League Opposed that Failed to Receive Final Passage

SB202 by Sen. Orr would have required a municipality to follow the same procedures required of a county before entering into a bond financing agreement and would have required completion of a government bond financing review form developed by the Department of Examiners of Public Accounts.

SB23 by Sen. Elliott would have frozen the current police jurisdictional territories around the state and would have removed all building code enforcement authority in the police jurisdictions and amended the planning jurisdictional authority.

SB268 by Sen. Orr would have created the Inland Port and Intermodal Fund and funded it by diverting \$10 million annually from the newly adopted motor fuel tax revenues.

SB264 by Sen. Orr would have given small cell deployment providers preemption of local rights of way authority, capped fees and allowed for exemptions for placement of this technology. The small cell providers worked with legislators in adopting a resolution creating the Advanced Small Wireless Deployment Task Force. **SJR92** creates the task force comprised of three members of the Senate and three from the House to meet and provide proposed legislation to the leadership on October 1, 2019.

SB289 Sen. Melson would have created a fireworks preemption from local ordinances.

HB51 by Rep. Wood would have expanded workers’ compensations coverage for PTSD and mental disease.

HB135 by Rep. Polizos would have enacted subsistence allowance for municipal firefighters, EMA and law enforcement officers.

HB2 by Rep. Haynes would have created a Workers’ Compensation Cancer Presumption as an Occupational Disease for firefighters.

HB346 by Rep. Ledbetter would have preempted any municipality from adopting ordinances against single use consumer products.

HB438 by Rep. Pettus would have required municipalities and counties to provide additional compensation to law enforcement officers injured while on duty.

SB19 by Sen. Allen would have preempted RV parks, campgrounds and marinas from collecting and remitting lodging taxes.

SB237 by Sen. Ward would have revised the procedures for access of public records, provided for fees and created the Office of Public Access Counselor in the Department of Examiners of Public Accounts.

SB307 by Sen. Allen would have allowed businesses to exempt excise tax collections from the municipal business licenses gross receipts calculations.

SB305 by Sen. Holley would have required any municipality wanting to adopt an occupational tax to seek legislative approval

before enacting. The League extends a special thanks to the House members who voted against the adoption of the procedural BIR to prevent consideration of SB305: Speaker McCutcheon, Alexander, Ball, Blackshear, Boyd, Bracy, Brown (K), Clarke, Coleman, Daniels, Drake, Drummond, Easterbrook, Ellis, England, Farley, Faust, Fincher, Givan, Gray, Grimsley, Hall, Hanes, Hatcher, Hill, Hollis, Holmes, Hurst, Isbell, Jackson, Jones (S), Lawrence, Ledbetter, Lipscomb, McCampbell, McClammy, McMillan, Moore (M), Moore (P), Morris, Rafferty, Reynolds, Robertson, Rogers, Rowe, Sanderford, Shaver, Stringer, Wadsworth, Warren, Wheeler, Whitt, Wingo and Wood (D).

Please take the time to share your appreciation for the important role your local legislators played in this extremely productive session for municipal governments. When you consider the complicated and challenging issue before the Legislature – between the regular and special sessions – municipal governments experienced an incredible year. It’s important that legislators know how much we appreciate their partnership in the development of policies affecting our citizens.

Don’t get comfortable!

Remember, *this is only the first year of this quadrennium* and we have three more regular legislative sessions ahead. Much of our success this year was built upon the planning, time and resources we dedicated more than a year ago to this new quadrennium.

After witnessing the passage of devastating legislation in many of our sister states, the League’s Executive Committee adopted a strategic plan mandating us to change our course of operations and charged us to be much more proactive in the legislative arena in order to avert the same fate as our sister states that lost their municipal authorities by their legislatures. In answering that challenge, we have invested additional resources in the advocacy department. Kayla Bass was hired to enhance our social media and media relations and we coordinated with Carrie Banks and Karl Franklin in our Communications Department to develop an outstanding campaign strategy and narrative to accomplish our legislative goals. We then engaged our members to assist us with carrying the message forward by hosting legislative meetings across the state as well as the League’s first ever media day. We also provided the *State House Advocate* e-newsletter on Fridays, Monday Morning Huddles (conference calls) and weekly luncheons for municipal lobbyists during the legislative session.

It’s not coincidental Governor Ivey called us to her office to collaborate on the motor fuel tax. We built a narrative to support the increase in funding and needed to be around the table to discuss it moving forward. ***We were a strategic partner!***

It’s not coincidental that we were called into the office of the Speaker of the House and Senate Pro-Tem throughout the session to discuss many of the bills mentioned above on how to build better policies through stakeholder groups. ***We are a strategic partner!***

It’s not coincidental that we were able to convince the Alabama Legislature to pause and rethink giving small cell providers our rights-of-way authority or for providing presumption of cancer

diagnosis in workers’ compensation for firefighters. These bills have been enacted in nearly every state around us. ***We are a strategic partner!***

As an organization, our relevance and success rate are *directly* attributed to our involvement and engagement – which is why we must continue to make our voices heard and have a seat at the table.

Looking Ahead

Looking ahead, your Advocacy/Communications Team will continue cultivating relationships with key stakeholders and media outlets; will expand the League’s social media platforms to engage larger and broader audiences; and will develop a strategic advocacy campaign for 2020. We’ll also be developing presentations and materials suitable for those interested in learning how civic engagement and government work.

Let’s take a moment to celebrate our successes and then refocus on the upcoming year. Our work is not done. Next year we will face many of the same issues again – preemption of municipal extraterritorial authority, small cell deployment, preemption of business licenses and exemptions from municipal oversight. *We must* continue to stay vigilant and discuss these issues with legislators and community leaders. We need you to continue to build upon your relationships with your local chambers of commerce, civic clubs and citizens to share the municipal perspective on these topics.

As always, we appreciate your leadership and commitment to your communities and the Alabama League of Municipalities. It is an honor to represent Alabama’s cities and towns.

Thank you. ■



ALM Deputy Director Greg Cochran and Public Affairs Associate Kayla Bass presented Sen. Clyde Chambliss, who sponsored the infrastructure legislation in the Senate, with a framed cover of the Alabama Municipal Journal following passage of Gov. Ivey’s Rebuild Alabama initiative.

ordinance. Since at least 1957, the Attorney General had interpreted the phrase “otherwise provided by law” to mean that the council could pass an ordinance - a law - to assume the power to appoint employees and officers. *Coachman* overturned this interpretation and stated that unless a state statute authorized a different appointment method, the mayor had the power to appoint all officers and, presumably, employees.

In cities having a population of more than 6,000, there shall be elected by the council, at its first regular meeting or as soon thereafter as practicable, a city treasurer and a city clerk, who shall hold office until the next general election and until their successors are elected and qualified, and such council may elect an auditor, and any officers whose election is required by ordinance, and, except as otherwise provided, the council shall have authority to fix the terms of office, prescribe their duties and fix the salaries of the officers. Section 11-43-3, Code of Alabama 1975. This section specifically gives the council the authority in municipalities of over 6,000, to identify “officers” of the city by ordinance and provide for their election by ordinance.

In cities having a population of less than 6,000 and in towns, the council shall elect a clerk and fix the salary and term of office and may determine by ordinance the other officers of the city or town, their salary, the manner of their election and the terms of office. The clerk and such other officers elected by the council shall serve until their successor or successors are elected and qualified. Section 11-43-4, Code of Alabama 1975.

While worded differently than Section 11-43-3, this section also gives the council, in municipalities of under 6,000 population, the authority to identify officers of the city by ordinance and to elect those officers or provide for another “manner of appointment” by ordinance. The council may provide for a tax assessor, tax collector, chief of police, and chief of the fire department and shall specifically prescribe their duties. The council shall designate the persons who shall administer oaths and issue warrants of arrest for violations of law and the ordinances of the city or town and the persons authorized to approve appearance bonds of persons arrested. This section identifies specific officers of a municipality and gives the council the authority to provide for these officers should it choose to.

In combination with Section 11-43-3 and Section 11-43-4, Code of Alabama 1975, the council, in providing for these “officers” could, by ordinance, provide for their manner of appointment, including appointment by the council rather than the mayor. In addition to the above listed code sections, Section 12-14-30, Code of Alabama 1975 specifically gives the council the authority to appoint, by vote of a majority of its members, the judges of the municipal court. Also, Section 11-43-20, Code of Alabama 1975 authorizes the city council

to provide for, by ordinance, a city manager. The council is authorized to establish a police force under the general supervision of a police chief. Section 11-43-55, Code of Alabama 1975.

Where a municipality has created, *by ordinance*, the office of city attorney and the ordinance fails to designate the appointing authority, the mayor is the appointing authority for the city attorney. AGO 2009-054. **NOTE:** Where a municipality contracts with an attorney to provide legal services for the municipality, the council must approve the contract and its terms.

The Attorney General, in Opinion 2012-039, held that the specific language of Sections 11-43-3 and 11-43-4 don’t limit the council’s appointment power only to listed “offices.” Instead, the Attorney General noted that “Section 11-43-3 authorizes a city council to elect any officer whose election is required by ordinance, to prescribe the duties, to fix salaries and to set the terms of office for these officers.” Therefore, the Attorney General concluded that the legislature has created a method for the council to appoint other positions than those listed above and designate them as “officers”. The Attorney General, though, stated that there are limitations on the council’s power to designate certain positions as officers. Using the definition in *Black’s Law Dictionary*, the Attorney General concluded that: “any office created by a city council must be assigned specific duties and hold a position of authority.” Paramount to the authority of an officer is the ability to discharge some portion of the sovereign power.

The Supreme Court of Alabama, in defining the term “office” stated the following: “We apprehend that the term “office” implies a delegation of a portion of the sovereign power, and the possession of it by the person filling the office; and the exercise of such power, within legal limits, constitutes the correct discharge of the duties of such office. The power thus delegated and possessed may be a portion belonging sometimes to one of the three great departments, and sometimes to another; still, it is a legal power, which may be rightfully exercised, and, in its effects, will bind the rights of others, and be subject to revision and correction only according to the standing laws of the state. An employment, merely, has none of these distinguishing features.” *State v. Stone*, 240 Ala. 677,680, 200 So. 756, 758 (1941). An employee, instead, is someone who “works within the service of another person (the employer) under an express or implied contract for hire ... (A) n officer must have responsibilities and hold a position that is superior to that of an employee ... Accordingly, an officer is limited to a person that exercises some level of authority, presumably over employees, and performs some discretionary, policy-making functions.”

In summary, according to *Coachman*, the mayor has the power to appoint anyone whose appointment “is not otherwise provided for by [state] law.” State law clearly provides that

the council shall appoint certain positions, such as clerk and treasurer. State law also allows the council to create “offices” by ordinance and, therefore, fill those positions. Keep in mind that not every position within the municipality can be designated as an office. In order to hold an office, a person must exercise some “level of authority, presumably over employees” and perform discretionary, policy-making functions. If so, the council may pass an ordinance making these positions officers of the municipality.

Additional Examples

But let’s get back to the money, what if the facts were different? What if the mayor wanted to pay the administrative professional \$35,000 a year. Could the mayor hire an administrative professional and pay them a salary of \$35,000 a year without first bringing it before the council for approval? NO! The council only approved a salary of \$25,000. If the mayor would like to pay the administrative professional more than the approved amount in the budget, the mayor must bring the request before the council for approval. **Side Note:** This analogy does not apply to municipalities with a personnel board. If your municipality is governed by a personnel board then you will need to consult with the personnel board rules and procedures.

Another example of preauthorization is when the city council adopts an ordinance approving the mayor to spend up to a certain amount before bringing the item before the city council for approval.

Let’s visit the fictional City of League again and see this example in action.

The City of League City Council adopted an ordinance allowing the mayor to spend up to \$500 without coming before the council for approval. The mayor would like to purchase a new patrol car for the police department from a local dealer. The total purchase amount is \$17,000, but the down payment is \$500. Can the mayor purchase the patrol car? Can the mayor pay the down payment?

This example is intended to create a barrage of issues. But first, it is important that you DO NOT interpret the mayor’s authority to spend up to a certain amount without bringing the item before the council for approval as complete and unfettered authority. It is not. The laws concerning public funds, contracts and municipal law in general still apply. Can the mayor purchase the patrol car? NO!

First, the expenditure is more than what the council authorized the mayor to spend. Next, the competitive bid law applies to this expenditure because it is over \$15,000; thus, the council would need to request bids on this item and approve the winning bid. Lastly, the mayor cannot enter into a contract or obligate the city or its public coffers without first obtaining the council’s approval. The council has authority to enter into contracts, not the mayor alone.

The Alabama Supreme Court held that, absent authorization from the council, the mayor does not have the authority to enter into and execute a contract on behalf of the municipality. While the Court recognized that the mayor is authorized to enter into and to execute contracts, it determined that the authority cannot be exercised without the direction and authorization of the council. *Town of Boligee v. Greene County Water & Sewer Auth.*, 77 So.3d 1166 (Ala. 2011). Accordingly, the general rule is that the only method by which an employee or official may expend funds or be given authority to bind the municipality to a contract is by an affirmative vote of the council reflected in the minutes. An exception is the mayor’s authority to contract for an annual municipal audit pursuant to Section 11-43-85, Code of Alabama 1975.

What about the down payment? Can the mayor pay the \$500 down payment? NO! Although the council authorized the mayor to spend up to \$500 without bringing the item before the council for approval, this expenditure has strings attached to it. Contract strings. Competitive bid law strings. The \$500 down payment is part of the \$17,000 expenditure. Payment of the down payment would ultimately contractually bind the city for the remaining \$16,500 due for the patrol car.

As stated above, the mayor cannot enter into a contract on behalf of the city or obligate the city for the remaining amount due without first obtaining the council’s approval. Further the competitive bid law applies to this purchase and the council would need to request bids on this item.

Conclusion

So, *can* the mayor spend municipal funds without the council’s approval? The answer to this question is still: “It depends.” However, our hope is that this article has alleviated some of the fear associated with this response and provided pertinent information and examples as to when the answer is yes and when the answer is no.

One of the most important takeaways from this article is that the mayor must always ask “where is my authority to act – spend money?” *before* acting or spending municipal funds. As stated earlier, all expenditures must come before the council for approval, unless there is some preauthorization from the council. That preauthorization can happen when the city council adopts a general fund budget containing line-item appropriations or when the city council adopts an ordinance authorizing the mayor to spend up to a certain amount before bringing the item before the council for approval. In any case, the preauthorization to spend municipal funds without bringing the item before the council for approval is not unfettered. It must operate within the constraints of all applicable municipal law (e.g., competitive bid law, contract law, etc.).

As always, if you have any questions regarding the information contained in this article or any area of municipal law, please feel free to contact the League Legal Department! We are here to help. ■

Building an Investment Pipeline. Find the projects in your Opportunity Zone that have the potential to reduce returns for investors over a 10-year period.

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Developing a Local Investor Network. Opportunity Zone investments present residents and “prodigal sons” alike with the ability to own a piece of their future or leave a legacy behind. Either way, they will need someone to help prove to them that these investments will produce returns, and they will need an investment vehicle to get their dollars into projects. Who creates that diligence structure and that investment vehicle will vary substantially from community to community, and Opportunity Alabama can help you think through the options.

Closing Deals and Last Dollars In. Revenue sharing agreements, land control, purchase guarantees and other local incentives can make or break an OZ project. Opportunity Alabama can help you think through what structures will work best to incentivize the particular deals you believe have the highest community impact potential.

Where to Go from Here

When Congress created Opportunity Zones, they conveniently forgot the community instruction manual. Fortunately for Alabama, there is a nonprofit that works on a statewide basis to help communities fill their Opportunity Zone knowledge gaps and develop strategies for implementing the action steps described above. Opportunity Alabama is here to help you do everything on the list above – from educating your local ecosystem to developing a pipeline of local projects.

During 2019, Opportunity Alabama is working to build short marketing documents for every Census tract in Alabama. We have already worked with the City of Birmingham to complete its Opportunity Zone Prospectus (available at birminghamoz.org) and are continuing to work with dozens of other communities across the state to build out short-form marketing documents and long-form investment prospectuses like Birmingham’s. At the same time, we are in the process of introducing over \$300 million in projects to potential investors. We are creating a statewide Opportunity Zones ecosystem with equity at its foundation, and your community is invited to be a part of that ecosystem. Please visit www.opportunityalabama.com to learn more.

Endnotes: 1. See the Distressed Communities Index (<https://eig.org/dci>) for additional information.



Alex is a recovering attorney who practiced for several years with Balch & Bingham LLP in Birmingham, Alabama, specializing in tax credit and economic development-related work. Alex was a member of Teach for America’s charter corps in Alabama, where he taught high school mathematics in one of the most impoverished rural counties in America. A native of Northern California (but a naturalized Alabamian), Alex received undergraduate and masters degrees in economics from The University of Alabama and a JD from Washington and Lee University School of Law. Alex allocates some of his free time to board service for Main Street Alabama and the balance to his beautiful wife and daughter.

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