

# The Alabama Municipal JOURNAL

May/June 2020

Volume 77, Number 6

# COVID-19.

## NAVIGATING A GLOBAL PANDEMIC AT THE LOCAL LEVEL

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# The Alabama Municipal JOURNAL

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#LiveLocallyAlabama

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COVID-19: an unprecedented and evolving pandemic that has significantly impacted our lives and livelihoods.

COVID-19:  
NAVIGATING A GLOBAL PANDEMIC  
AT THE LOCAL LEVEL

## A message from ALM's Interim Executive Director



On Friday, March 13, Governor Ivey declared a State of Emergency due to the spread of COVID-19. This pandemic has challenged and compromised our country, our state, our local governments, public health structure, business community, school systems, medical community, emergency response... every aspect of our lives and livelihoods.

**"I have never been more enthusiastic about our future and mission."**

Your ALM staff was monitoring the coronavirus prior to it invading our daily routines and so we were and are especially sensitive to the confusion, anxieties and significant challenges faced by Alabama's communities and our local

leaders. We followed the state's lead and the majority of our staff began working remotely mid March. Thankfully, our IT department had ensured we were well prepared for this possibility long before a pandemic disruption was even a thought, much less a reality. This continued through May, with limited staff working various hours at the office so deliveries could be accepted and critical systems weren't adversely affected. I am extremely pleased with how well we were able to function and respond to our membership throughout this unprecedented time, and I commend our staff and you, our membership, for being flexible and understanding as adjustments were made and lessons were learned.

In my 24 years with the League, I have never been more enthusiastic about our future and mission. Alabama is facing historic economic loss and extended challenges to our many public systems; however, the League remains a steadfast and reliable resource for our members. We will continue to be proactive and to work diligently with Governor Ivey, her administration, legislative leadership, state agencies and our congressional delegation, as well as our many strategic partners and stakeholders, to provide the best representation, resources and guidance available.

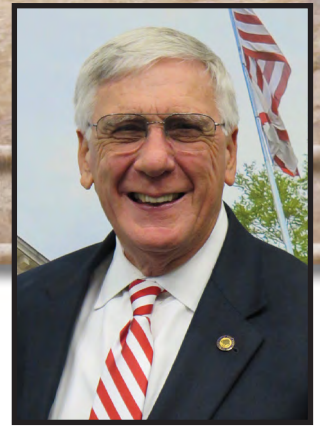
Thank you for your encouragement, engagement and leadership. I also humbly thank the League's Executive Committee, Ken Smith and our staff for their support and guidance as we navigated these unprecedented times while adjusting to a new normal.

Alabama is resilient. Together we will prosper.

Peace be with you.

# The President's Report

Mayor Ronnie Marks, Athens



## COVID-19: ALM Responds to Unprecedented Pandemic with Proactive Leadership

Two days after I returned from the National League of Cities Congressional City Conference in DC this past March, Governor Ivey declared a State of Emergency due to the spread of COVID-19. For several weeks prior, the country had been talking about coronavirus and its potential impact. The NLC conference was deemed a "No Handshake" event with signage and constant reminders. Hand sanitizer was distributed at registration and daily updates were provided on the virus. Even so, at that time, it was more of an inconvenience than a real concern.

And then everything changed.

As you read this, Alabama has been methodically

restarting our economy following a Safer at Home order from our State Health Officer and then a Stay at Home order issued on April 3rd that expired on April 30th followed by another Safer at Home order ultimately ending May 11th. For nearly two dreadful months, our economy was at a virtual standstill. Only "essential" businesses were allowed to operate; people were only allowed to leave home for "essential" work and for "necessary" services and supplies; and "social distancing" became part of our vernacular. Confusion, frustration and apprehension ensued.

Meanwhile, our cities and towns still had a job to do – through the lens of significantly reduced revenue streams; municipal curfews in some areas; and a real and significant challenge to the health and safety of our employees, particularly first responders, as well as our citizens.

But leaders lead. And, with the support and guidance of our Alabama League of Municipalities, we became – as my colleague from South Alabama, Robertsdales Councilwoman Ruthie Campbell, succinctly put it – a bridge over troubled water.

I was asked to join League staff on Gov. Ivey's weekly Coronavirus Task Force conference calls. These always included an update from Dr. Scott Harris, our State Health Officer, as well as reports from various cabinet members and statewide leaders. In addition, your staff was involved with Lt. Governor Ainsworth's Small Business Emergency Task Force, participating in sometimes twice-weekly calls and offering insight wherever necessary. Multiple conference calls were coordinated with our Congressional Delegation, our legislative leaders, Gov. Ivey and her administration, the National League of Cities as well as other partners and stakeholders. Our Legal Department was actively engaged with the Attorney General's Office and Governor's legal staff to interpret and issue guidance regarding the health orders, particularly as they pertained to Open Meetings.

And then there was the question of not only lives but livelihoods.

As you well know, municipalities rely on sales and use



*The March NLC Congressional City Conference in Washington, D.C. was a "no handshake meeting". Little did we know what was to come – or that "social distancing" would be part of our daily existence.*

taxes, motor fuel taxes, lodgings taxes, rental taxes and, in some areas, occupational taxes to provide critical services to our citizens. These revenue streams were severely impacted during the shutdown. In an effort to mitigate the fallout, the League formed a 10-member Stimulus Task Force chaired by me and comprised of elected officials from throughout the state. The Task Force convened multiple times via conference call and teleconference to determine necessary resources and establish a matrix for gathering accurate information on a per municipality basis in order to provide a sound basis for Governor Ivey and Alabama's Congressional Delegation to fairly distribute potential federal stimulus aid to our communities in an attempt to keep them solvent. These efforts are ongoing. I extend a heartfelt thank you to the Task Force members: Mayor Leigh Dollar, Guntersville, Vice Chair; Councilmember Adam Bourne, Chickasaw; Mayor Gary Fuller, Opelika; Mayor Tony Haygood, Tuskegee; Mayor Walt Maddox, Tuscaloosa; Mayor Mark Saliba, Dothan; Mayor Robert Craft, Gulf Shores; Councilmember Bridgette Jordan-Smith, Vincent; and Mayor Hollie Cost, Montevallo. I also especially thank Tuscaloosa Chief Financial Officer Susan Snowden and Mobile Executive Director of Finance Paul Wesch for their unique insight and professional guidance during this process.

As the League was navigating pandemic challenges, we also had to make the difficult decision to cancel our Annual Convention scheduled for mid-May in Tuscaloosa. Mayor Walt Maddox was gracious and understanding and we appreciate the assistance and support from him and his staff. That decision left us with the challenge of holding an Annual Business Session, which is mandated by our Constitution, to elect the League's leadership.

On April 16th, the Executive Committee met via conference call and unanimously supported the staff recommendation to hold a one-day event at the Renaissance in Montgomery on July 23rd to accommodate a resolutions meeting, AMIC's business and board meeting and ALM's business session so our leadership can be determined for the next year. Delegates at the Annual Business Session will also be voting on several necessary changes to our constitution, which has not been updated since 1988. We'll conclude the day with a president's reception at the Alabama Department of Archives and History. Attendees will not be charged a registration fee but CMO credit will be available for attending the resolutions and business sessions. The staff and I look forward to seeing you in Montgomery.

The Executive Committee also unanimously voted to name Deputy Director Greg Cochran as Interim Executive Director beginning June 1st following the retirement of Ken Smith, who served our organization for 34 years, nine as Executive Director. We certainly appreciate his three-plus

decades of service and wish him well in retirement. Greg's position as Executive Director will be formalized by the membership during the Business Session on July 23rd.

Lastly, during the April 16th call, I resigned as your president effective June 1st so Vice President Mayor Leigh Dollar of Guntersville could roll into that position until there is a formal vote of the membership on July 23rd.

Serving as your President has been a unique honor and an experience for which I will always be grateful. Thank you for your support and engagement – particularly as this unprecedented pandemic threw our country – our world – into an unforeseen crisis that we'll be addressing and overcoming for many years. I don't know what "normal" will be, but I do know our cities and towns are resilient and will continue to provide critical services to our citizens every day. Strong, proactive local government matters now more than ever.

Thank you for your leadership and your service to our communities. ■



*ALM's Executive Committee met April 16 via conference call to discuss several items. ALM President Mayor Ronnie Marks announced during the meeting that he would resign effective June 1 to allow Vice President Mayor Leigh Dollar of Guntersville to assume the president's role since the 2020 Convention had to be rescheduled and restructured.*

## COVID-19 – the pandemic that changed everything

Carrie Banks • Communications Director • ALM

*Social distancing, flatten the curve, contact tracing, personal protection equipment (PPE), serology testing, virtual happy hour, zoom fatigue ...*

These are some of the terms that have become a mainstay in our daily existence since mid-March – terms that are likely to remain with us indefinitely as our nation moves towards a new normal following the unprecedented global disruption COVID-19 has inflicted. Lives have been lost and livelihoods upended. Apprehension, anxiety and varying levels of trepidation have left society exhausted, overwhelmed and somewhat dejected. Handshakes and hugs are now circumspect, and masks that were once associated with very specific professions are now household items.

For a society that literally embraces each other, the new normal surrounding social distancing is neither natural nor appealing. And the economic impact on families and communities has been severe – possibly devastating. While it is clear the COVID-19 pandemic is causing nationwide economic disruption at unprecedented speed and scale, according to a report by VoxEU.org, “the relatively slow frequency of most official statistics and macroeconomic indicators represents a challenge for policymakers in their efforts to mitigate the economic impact of the crisis.”

In April, the Labor Department reported a loss of 20.5 million jobs, bringing the national unemployment rate to 14.7 percent, both post-World War II highs. By the first week of May, unemployment claims due to the coronavirus crisis totaled nearly 36.5 million – the largest job loss in U.S. history by far.

As of May 17, 2020, the Center for Disease Control (CDC) listed a confirmed national COVID-19 death toll approaching 90,000 with nearly 1.5 million total cases.

According to a May 6, 2020, U.S. Travel Association report, in the week ending May 2, 2020, the travel economy registered 88 percent *below* last year’s levels with cumulative losses for the U.S. travel economy at just over \$138 billion due to the COVID-19 pandemic.

According to a May 8, 2020, article by the National Restaurant Association, the restaurant industry lost nearly three times more jobs than any other industry since the beginning of the coronavirus outbreak – nearly 6 million as of the payroll period that included April 12. The article further noted: “while restaurants experienced the most job losses

in recent weeks, they certainly weren’t alone. Professional and business services (-2.2 million), retail trade (-2.2 million), health care and social assistance (-2.2 million), manufacturing (-1.4 million), construction (-1.0 million) and accommodations (-900,000) were among the other industries to register significant employment declines during the last two months (Source: Bureau of Labor Statistics).”

Nationally, local governments along with the National League of Cities (NLC), United States Conference of Mayors and the National Association of Counties began an aggressive campaign to lobby Congress for direct federal funding to offset the dire impact to revenue streams that communities rely on to provide essential services to protect the health and security of their citizens. According to a May 14 report by NLC: “cities that generate the majority of their revenue from sales or income taxes have been hit hard as their budgets experience the immediate impacts of massive declines in jobs and consumer spending ... the portion of revenues for cities, towns and villages generated by sales and income taxes will have the largest relative fiscal impact on budget



shortfalls, followed by revenues generated by fees and charges then property tax revenues. Since the share of local revenue generated by each stream varies greatly by state, so too does the sensitivity of local budgets to economic conditions. As a result, cities, towns and villages in Alabama, which rely primarily on sales tax revenue, have the most responsive fiscal structure to economic downturns, while those in Maine, relying primarily on property tax revenues, have the least.”

## Alabama

On March 13, 2020, Governor Ivey declared a State of Emergency due to the spread of COVID-19. All public K-12 schools closed on March 18 and on March 19 Gov. Ivey ordered all beaches and childcare facilities closed and all restaurants, bars, breweries and similar establishments shuttered to on-premises consumption of food or drink, reducing the industry to take-out or curbside pickup only.

A Safer at Home Order from the State Health Officer was issued on March 27 prohibiting all non work-related gatherings of 10 persons or more, or non work-related gatherings of any size that could not maintain a consistent six-foot distance between individuals. The order also closed a published list of “non-essential” businesses, including athletic and entertainment facilities, salons and a wide range of retail outlets. Hospitals and nursing home/long term care facilities were closed to visitors and all dental, medical and surgical procedures were ordered postponed until further notice excepting emergencies.

On April 3, a Stay at Home order was issued directing every person to stay at his or her place of residence except as necessary to perform a list of “essential activities” due to “potential widespread exposure to an infectious agent posing significant risk of substantial harm to a large number of people”. On April 28, a Safer at Home order was issued effective April 30 lifting some of the earlier restrictions on retail establishments as well as most medical procedures. This was followed by an updated May 8 Safer at Home order effective May 11, which included an expanded list of entities that could reopen, including beaches, *all* retail stores (subject to 50 percent capacity), restaurants, close contact service providers, such as salons, barbers and tattoo services, as well as gyms and athletic facilities – all subject to social distancing and sanitation guidelines.

The two months from mid-March to mid-May brought unprecedented disruption and challenges to the way Alabamians live, work and play. It also greatly strained state and local governments as they struggled to respond to the pandemic.

In early March, the money in the Alabama Department

of Labor’s (ADOL) unemployment fund was at a historic high. Through February, Alabama recorded a 2.7 percent unemployment rate – its best percentage ever – with roughly \$700 million in its unemployment fund. By the end of March, however, Alabama’s unemployment rate had surged to 3.5 percent and by early May – two months into the pandemic – nearly half a million Alabamians had applied for aid. (In all of 2019, there were 130,000 claims.) Additionally, by the first week of April, ADOL had to make major upgrades to its online filing system, which was being overwhelmed, and use staff from other divisions to ease the stress on the call system.

When the outbreak started, Alabamians received a maximum weekly unemployment benefit of \$275 for 14 weeks, with an option to add more if in qualified training. One of the provisions of the federal \$2.2 trillion CARES Act, signed into law by President Trump in March, added another \$600 on top of the weekly amount. During the first week of May, the Alabama Department of Labor announced it had paid out more than \$503 million in COVID-19 related unemployment compensation benefits – including all three programs under the CARES Act: Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC).

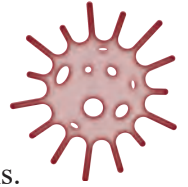
At the municipal level, the Alabama League of Municipalities continued to work strategically and aggressively with local, state and national organizations, agencies, stakeholders and partners to gather accurate, transparent revenue loss data; ensure municipal authority remained intact; advocate on behalf of Alabama’s municipalities at the state and congressional levels, particularly regarding stimulus funding; as well as distribute critical information to cities and towns regarding this unprecedented pandemic and the many resulting statewide orders.

As this issue of the *Journal* was being prepared for print, Alabama had begun to reopen most of its economy, albeit with many adjustments; COVID-19 cases were still rising; and the true impact of the pandemic on municipal revenue streams was just beginning to be reported. National updates were still troubling. Yet, there was some comfort in the knowledge that Alabama is resilient. Its people are determined, innovative and ready to begin again – particularly at the local level. And the League will continue to work closely with its membership at every stage of the COVID-19 pandemic as Alabama’s communities navigate a challenging and uncertain recovery process. ■



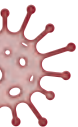
# COVID-19: Responding to an Unprecedented Health and Economic Crisis

Carrie Banks • Communications Director • ALM



Municipal government is the framework that supports and protects our cities and towns. Planning for and overcoming a variety of challenges, including weather-related disasters, is integral to the role of every elected official and municipal employee. COVID-19, however, is a viral storm unlike anything any state or community has experienced. Government at every level has had to improvise as each day presented uncharted territory punctuated by economic and human distress. Limitations on municipal powers and reliance on state directives, which were often derived from information based on battling an unknown foe, has further complicated the individual and collective pandemic experience.

Even before Gov. Ivey declared a State of Emergency on March 13th, the League staff was zeroing in on coronavirus information by adding a COVID-19 resource links page to the ALM website offering guidance from state and national sources as well as often daily updates from the Governor, State Health Officer, AG’s office and others. The League’s social media platforms have been regularly posting updates on Alabama’s fight against the pandemic and ALM’s efforts to be a leader in those endeavors. (When ALM posted the April 3rd Stay at Home order to its Facebook page, it was shared over 1,000 times, had nearly 23,000 post clicks and a reach of more than 118,000.) The first COVID-19 specific eblast was sent to members on March 16th followed by nearly 50 more to date. Also on March 16, the majority of League staff began telecommuting and our professional paradigm shifted quickly and significantly. Thanks to the forethought and expertise of ALM’s IT Department, remote access and necessary equipment were immediately available to the entire staff. Becoming proficient in video conferencing soon followed.



*It's our opinion that without the foundation of the city being economically healthy, it doesn't matter how much money Congress and the State put toward the business community, because there's not a foundation for them to build upon. As we've found across our state, the cities that do the best have a great foundation for businesses to prosper and for citizens to live, work and play in their communities. So making sure that cities have the funds to provide the essential services that allow the business community to be successful and citizens to live, work and play – that's the recipe for success.*

~ Greg Cochran, May 8 interview with Bill and Susan Britt, *The Voice of Alabama Politics*

Interim Executive Director Greg Cochran and League Immediate Past President Mayor Ronnie Marks of Athens were asked to join Governor Ivey's Coronavirus Task Force consisting of statewide leaders and experts that met via weekly conference calls. The League also participated in Lt. Governor Ainsworth's Small Business Emergency Task Force updates. And since mid-March, the League has hosted several conference calls with the Alabama Congressional delegation, White House Office of Intergovernmental Affairs, National League of Cities, Southern Municipal Conference, Conference of Black Mayors, Governor Ivey, Lt. Governor Ainsworth and several legislative leaders to discuss the impact COVID-19 is having on local economies as well as participated in numerous video town hall sessions and pandemic-related conference calls – nearly 70 meetings to date. In addition, the League has fielded numerous media inquiries and been featured in several articles,

averaging two per week. Staff has also prepared and distributed relevant press releases and op-eds regarding municipal challenges and efforts throughout the pandemic.

By the first week of April, federal stimulus funds via the CARES Act were appropriated to the states. In response to Congress enacting the CARES Act, the League created a 10-member Stimulus Task Force to determine the immediate economic impact of COVID-19 on Alabama's cities and towns and to provide accurate and transparent revenue loss data to Governor Ivey and her staff, our state legislature and our congressional delegation. ALM's Stimulus Task Force is comprised of Mayor Ronnie Marks, Athens and ALM Immediate Past President; Mayor Leigh Dollar, Guntersville and ALM President; Councilmember Adam Bourne, Chickasaw and Chair of ALM's Committee on State and Federal Legislation; Mayor

The COVID-19 pandemic has affected the lives of every Alabamian. From public health to the economy, it has transformed everyday life in our state. The Alabama Department of Archives and History (ADAH) has launched a new documentation project called "Collecting a Crisis: Alabama During COVID-19." The Archives is seeking to document this unprecedented time in our history by acquiring a variety of materials that tell the story of Alabamians' experiences. ADAH is asking the public to contribute materials including photographs, audio recordings, video, journals, blogs, social media posts, three-dimensional items, and more.

"Alabamians have experienced an extraordinary two months of disruption to work, school, and community life," said Archives director Steve Murray, "and the crisis will continue in some form for months to come. Preserving the distinctive records of this period is vitally important for ensuring that future generations will understand how the coronavirus suddenly and, perhaps permanently, changed our society."

To participate, visit [https://archives.alabama.gov/covid\\_19/collecting\\_a\\_crisis.html](https://archives.alabama.gov/covid_19/collecting_a_crisis.html). Questions? Contact ADAH's registrar, Haley Aaron, at (334) 353-4726 or [haley.aaron@archives.alabama.gov](mailto:haley.aaron@archives.alabama.gov).



Alabama Department of Archives & History

## COLLECTING A CRISIS Alabama During COVID-19

[archives.alabama.gov](https://archives.alabama.gov)



Gary Fuller, Opelika; Mayor Tony Haygood, Tuskegee; Mayor Walt Maddox, Tuscaloosa; Mayor Mark Saliba, Dothan; Mayor Robert Craft, Gulf Shores; Councilmember Bridgette Jordan-Smith, Vincent; and Mayor Hollie Cost, Montevallo.

Knowing that Alabama's communities rely on sales, use and lodgings taxes, as well as rental and motor fuel revenue streams and, in some cases, occupational taxes to provide critical quality of life services to its citizens, the task force understood it was crucial to make a concerted effort to identify immediate funding losses to provide a sound basis for Alabama's lawmakers to fairly distribute federal stimulus aid to cities and towns in an effort to keep them solvent during the uncertain future ahead. To that end, The City of Tuscaloosa partnered with the task force and ALM to develop a unique revenue portal, accessible via the ALM website, where cities and towns can enter specific revenue data based on the criteria above. The League is extremely grateful to Tuscaloosa Chief Finance Officer Susan Snowden and Communications Specialist Alex House for their expertise and guidance in creating the portal as well as retrieving and collating the data, which we will continue to collect through the summer and fall.

COVID-19 also derailed the League's 2020 Annual Convention, which was slated to take place in Tuscaloosa mid-May. A significantly restructured format featuring

our Resolutions Committee meeting and Annual Business Session as well as a president's reception has now been scheduled for July 23rd in Montgomery. There is no fee to attend this one-day event; however, registration is required so the staff can plan accordingly. Please visit [alm.org](http://alm.org) for more information. ALM is very grateful to Mayor Walt Maddox for his leadership and guidance as difficult decisions were made to circumvent significant challenges brought on by COVID-19. We look forward to meeting in Tuscaloosa in the future.

Rest assured that your League team will continue to aggressively advocate at the state and congressional level for the best interests of our cities and towns. We will continue to work closely with state and federal agencies, organizations, stakeholders and partners to provide our members the best resources, guidance and information available. We understand that without an economically healthy municipal foundation, the business community will not be able to thrive because there's not a foundation for them to build upon. The communities that flourish and are the most resilient offer a stable foundation for businesses to prosper and for citizens to live, work and play. Therefore, ensuring that municipalities maintain their local authority and are able to provide the essential services that keep communities healthy and solvent will always be the League's priority. ■



## COVID-19 REVENUE LOSS PORTAL

## *It depends.*

Creativity and legal compliance with all things COVID-19

Lori Lein • General Counsel • ALM

While continuing to respond to and advise our members on the issues they face daily, as well as the upcoming municipal elections, the League Legal Department has been advising and supporting our member municipalities on the multitude of legal and legislative issues related to the COVID-19 outbreak. But this article isn't just about the legal details we've helped your municipalities wade through in the past few months; it's about our member municipalities, their leaders and their legal counsel and the creative ways they have risen to the occasion to provide continued transparency; continuity of governmental services; and enforcement of orders from the Governor and State Health Officer. When discussing what to include in this article, it was suggested that I focus on all the things the League Legal Department has been working on to assist our members during this unprecedented time. In doing so, however, I discovered that – at its heart – this article should be a shout-out to municipal officials and local municipal attorneys.

Recently, while responding to a group email to the Alabama Municipal Revenue Officers Association regarding the question of whether a farmer who butchers and sells his own beef is exempt from a business license, I responded with: "I rarely get to do this ... Yes." Almost immediately the group got a response saying: "Mark this day on the calendar! Lori said 'yes' – not 'it depends!'" Of course, that response was quickly followed with: "I was thinking the same thing. 'It depends' or 'no'!"

It's become a running joke that I start most of my responses to legal questions with "it depends". So much so that one of our past presidents teased me that he is going to send me a box of Depend® upon his retirement. Rarely do legal questions lend themselves to definitive answers and lawyers, for the most part, are trained to get comfortable analyzing questions based on the facts and law in front of them to determine a conclusion. Lawyers in private practice are ultimately responsible for a more definitive answer to help guide their clients in decision making. Having come from private practice before working for the League, I had to learn to walk back my definitive responses because the attorneys at the League aren't the ones who have to stand before a judge and defend municipal actions in court. This is, at times, frustrating for me (because I know what I'd advise if I was in private practice) and perhaps frustrating for you as well if you are looking for that black or white, yes or no response. As general counsel for the League, I can offer guidance and my opinion;



however, many legal questions must ultimately be turned over to your local attorney (and sometimes your insurance carrier) to advise before proceeding.

### Processing a Pandemic

Municipalities provide the structure and services to ensure the health and safety of its citizens, which can be complicated on a normal day. Enter COVID-19 – a disaster without precedent. The list of issues municipalities faced over the past two months (and continue to face) is broad and includes:

- Open Meetings Act issues
- Various federal stimulus packages and how to funnel monies to local government
- Families First Coronavirus Relief Act (FFRCA)
- Emergency powers of municipalities beyond the State Health Order
- Multiple state health orders
- Numerous Governor's proclamations
- AG guidance
- Local enforcement of the Governor's Stay and Home and Safer at Home orders
- Unemployment reimbursement

The answer to many of the questions raised by these issues? You guessed it: *It depends*. Most of the laws passed in recent months by Congress, proclamations from the Governor, orders from the State Health Officer and guidance from the AG, don't offer clear-cut answers to every question they raise: what is an essential business; how does the Governor's order on the Open Meetings Act apply to public hearings; what are the "minimum essential

functions” of a municipality; can the public leave their home to attend a public meeting; what can the federal stimulus money be used for; does a municipality have to reimburse (and how much) for unemployment benefits paid to laid off employees? In fact, many of the orders and proclamations raised more questions than they answered. Needless to say, it’s kept a lot of lawyers busy in this state and it is no wonder that Chief Justice Parker issued all attorneys in Alabama a letter stating they are an essential business!

With the help and input of seasoned municipal attorneys, who understand not only the legal implications but also the day-to-day practical implications of managing such questions, the League Legal Department prepared numerous memos and answered hundreds of legal calls and emails on the issues impacting municipal government in an attempt to provide some guidance and framework for adjusting to the new norm. Over the past few months, I have worked with and sought the input of many municipal attorneys across the state who I respect and appreciate. I want to personally thank Ben Goldman and Shane Black (a.k.a. “Professor Black”) with Hand Arendall Harrison Sale for their thoughtful, timely and sage legal (and often practical) advice and for making me laugh out loud when I needed it most. From Sunday brainstorming sessions to well-reasoned legal analysis, I cannot thank them enough for helping guide me and our member municipalities through these trying times and for giving so freely of their time and expertise.

### Particularly Troublesome

Open Meetings Act issues have been particularly troublesome and difficult to maneuver. Because there were no clear answers to questions that arose from the various state health orders on how to conduct public meetings, we worked closely with the Governor’s office, the Attorney General and the Department of Public Health to develop some frequently asked questions regarding conducting open meetings and public hearings. We have always worked diligently to develop and maintain our state agency relationships and I am grateful they reached out – and continue to reach out – to us throughout this unprecedented time for input and occasional education on municipal law. While they don’t always agree with what we propose, they do keep us at the table and value our insight into the issues facing municipalities.

Conducting public meetings during this time is an area where I am most in awe of the creativity and ingenuity of our local elected leaders and their legal counsel. Necessity is indeed the mother of all invention. From municipalities that smoothly transitioned to on-line/video formats like Zoom and Facebook Live for council meetings to those that met outdoors in the fresh air to maintain social distancing and get a little vitamin D, local elected officials have really shined as they came up with workable solutions on how to conduct meetings in the most transparent, inclusive and legal ways possible. Public service at its best.

When it came to issues surrounding municipal emergency powers and shelter in place orders and

ordinances, we intentionally made the decision not to broadcast sample orders and ordinances but rather advised on those powers on a case by case basis as requested. While municipalities do have good authority under Title 31 of the Code of Alabama 1975, and their general police powers in Section 11-45-1, Code of Alabama 1975, there is not a one size fits all. Further, as an organization representing all municipalities, large and small, we must balance advising our members regarding their authority with the desire on the part of the Governor, State Health Officer and the Attorney General, to have a consistent statewide response and approach to the statewide public health issues being confronted.

On the employment issues that local governments faced, and continue to face, as a result of the Families First Coronavirus Relief Act (FFCRA), we provided very basic and general information which is outlined in a memo available on our website. As we do with any specific employment related issues dealing with employee rights and employer responsibilities, we referred our members to the Employment Practices Hotline as issues came in. I’d like to thank Jim Porter and Warren Kinney from Porter, Porter and Hassinger, for being available to the League Legal Department and for reviewing the employment information we put out as well as providing guidance on the information released from the Department of Labor. They’ve been a great resource for us during this time.

Speaking of employees, another issue that developed involved unemployment reimbursement requirements for municipalities for those employees who had to be laid off during this time. The Coronavirus Aid, Relief, and Economic Security (CARES) Act specifically provides individuals laid off as a result of COVID-19 with an additional \$600 per week in federal unemployment benefits. In April, some municipalities received information (and bills) for employer reimbursement of part of that amount, even though the CARES Act specifically prohibits states from seeking reimbursement from employers. After contacting the Alabama Department of Labor for clarification, we received

*continued page 23*



*April 3rd open-air meeting of the Hanceville City Council following social distancing precautions against the spread of COVID-19. Photo by Benjamin Bullard; republished with permission from The Cullman Times.*

## 2020 LEGISLATIVE UPDATE

Kayla Bass, Director of External Affairs, ALM

The 2020 Regular Session began on Tuesday, February 4, with several critical issues before the Legislature for debate that would have impacted municipal governments. Those issues included small cell deployment, police and planning jurisdiction preemption, fireworks preemption, PTSD coverage for first responders, motor fuel excise tax preemption and public records. While most issues were halted due to the COVID-19 outbreak, legislation to ban municipalities from implementing new occupational taxes without legislative approval sailed through both bodies early in the session.

Following several weeks of uncertainty, the Legislature announced they would reconvene in Montgomery on May 4th to consider the Education Trust Fund and General Fund budgets, local legislation and supplemental appropriations. Once reconvened on the 4th, the Legislature passed the Education Trust Fund and General Fund budgets, a \$1.25 billion bond issue to fund capital projects at public K-12 schools, two-year colleges and universities and several pieces of local legislation.

The budgets and school bond issue were then sent to Governor Ivey for her signature. Originally, the General Fund Budget (Senate Bill 161) that was sent to Governor Ivey included an appropriation that would have allocated \$200 million of the \$1.8 billion from the CARES Act to her and state agencies to be spent at their discretion, while leaving the Legislature the rest. After reviewing, Governor Ivey returned SB161 with an executive amendment that detailed her administrations recommendations on how the funds should be spent. Her plan included:

- Up to \$300 million to reimburse state agencies for expenses directly related to the pandemic.
- **Up to \$250 million to reimburse local governments for expenses directly related to the pandemic.**
- Up to \$250 million to support delivery of health care and related services to citizens because of the pandemic.
- Up to \$300 million to support citizens, businesses and nonprofit and faith-based organizations directly impacted by the pandemic.
- Up to \$53 million for reimbursement of equipment and infrastructure necessary for remote work and public access to functions of state government directly impacted by the pandemic, including the Legislature.
- Up to \$300 million for expenses related to technology and infrastructure for remote instruction and distance learning.
- Up to \$200 million for reimbursement of costs necessary to address the pandemic by the Department of Corrections.
- Up to \$10 million for reimbursement of costs necessary to ensure access to courts during the pandemic.
- \$5 million to reimburse the General Fund for supplemental appropriations to the Alabama Department of Public health during the pandemic.

- Up to \$118 million for any other lawful purpose approved by the federal government.

On Monday, May 18, the Legislature met for the final day of the 2020 Regular Session. The Senate and House concurred with Governor Ivey's executive amendment to the General Fund Budget, adjourned sine die and Governor Ivey signed both budgets along with the million dollar Public School and College Authority (PSCA) bond.

On a final note – several pieces of legislation that would have been detrimental to municipalities failed to pass during the 2020 regular session. We must remain vigilant to the fact that these issues (small cell, police and planning jurisdictions, PTSD coverage, etc.) will reappear when the Governor calls the Legislature back to Montgomery for a special session. While we are unsure of that date, the League and its members *must* advocate for Governor Ivey to refrain from having any of these bills in the call. Additionally, we must continue to advocate our Congressional delegation for *direct* funding to municipalities to address the loss of revenue during the COVID-19 pandemic. Municipalities are the foundation of our state. We must do everything within our power to ensure we continue to provide the essential resources and services that will foster safe, vibrant spaces for business to thrive and citizens to live, work and play. ■



*Interim Executive Director Greg Cochran led a video meeting On May 18 with Alabama's Congressional Delegation and the League's Executive and Legislative Committees to discuss federal stimulus funding and the COVID-19 challenges facing Alabama's municipalities. The League appreciates the engagement and leadership of our delegation as we move towards an uncertain future.*

## Dear Diary - An IT Director's Journey Through a Pandemic

Chuck Stephenson • Director of Information Technology • ALM

*December 24, 2019*

Today while changing the channel on the television to switch from Hallmark's Christmas movies to the "A Christmas Story" Christmas Eve marathon, I briefly see a news story out of China about some "Corona" virus. I think: "Man, glad I don't drink Corona... hmmm... I think I'll have another Christmas cookie."

*December 31, 2019*

It's New Year's Eve!!! Can't wait to see how **awesome** 2020 is going to be!!!! This will be Tennessee Football's year! We will be competing in our first bowl game in a few years! Next season is going to be awesome! Better get my black-eyed peas soaking for tomorrow – can't have enough good luck. Man, hate to see this Corona thing is messing with China so bad. Why in the world do people want to eat bats? Have they not seen Ozzy Osbourne?!

*January 1, 2020*

Well, started 2020 on a bad note today... my black-eyed peas turned out more like refried black-eyed peas... hope this isn't an omen ...

*January 2, 2020*

GO BIG ORANGE!!!! Tennessee beats Indiana in the Gator Bowl!!!! "We want Bama!!!! Wait, no, we don't... (not yet anyway 😊). This Corona thing is looking pretty bleak for China. Hopefully, it will run its course soon.

*January 21, 2020*

Uh oh, now we have a case of Corona in the U.S. Not good; CDC isn't sure how easily it spreads between people... Glad my job doesn't require me to travel outside the U.S.!

*February 2, 2020*

Yeah baby!!!! SUPER BOWL SUNDAY!!!! Hope the Chiefs beat the stink out of the 49ers. After the way the 49ers beat my Packers, they deserve it ...

*February 14, 2020*

Valentine's Day! Better get something for my wife so that I stay out of the doghouse. What does social distancing mean and why would you do that on Valentine's Day? And where (pardon the pun) the crap is all the toilet paper?!?!?!?!?

*February 29, 2020*

Leap year!!!! It would be kind of cool to have a birthday today. This Coronavirus looks kind of bad; had the first death from it in the U.S. today. :/

*March 4, 2020*

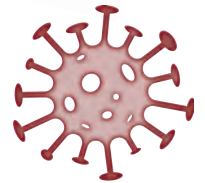
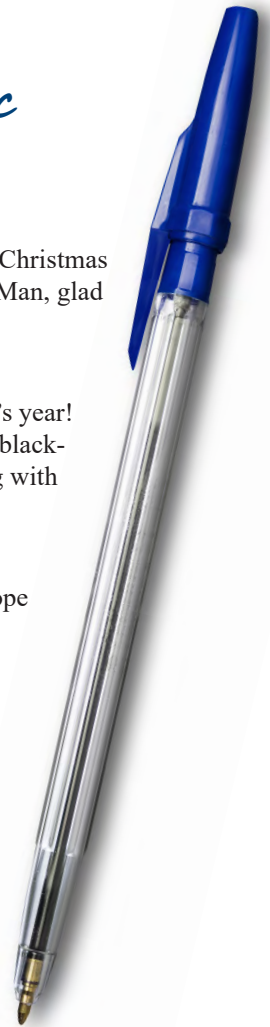
Had my first conference call today on novel (I don't see anything novel about it!) Coronavirus – or, as those of us in the know call it – COVID-19. Looks like things are getting pretty serious. Time to review the League's disaster recovery abilities. I have washed my hands so many times today they feel like sandpaper...

*March 5, 2020*

Another day, another COVID-19 conference call. This one was with Homeland Security. (Yeah, I am one cool dude.) They said we could start seeing some disruptions. Man, I sure hope my plans for disaster recovery/business continuity are going to work in a real-world scenario...

*March 11, 2020*

What don't people understand about SOCIAL DISTANCING??!?!?!?  
STOP getting in my personal space!  
6 FEET, PEOPLE!!!!



## March 13, 2020

Governor Ivey declared a State of Emergency due to the spread of COVID-19. Game changer.

## March 16, 2020

Well, I sure hope all the software and hardware changes we made over the last couple of years work... ALM announced today that we would begin working from home tomorrow for the next couple of weeks in response to COVID-19.

#FLATTENTHECURVE

Should be interesting; schools are closed, too, although that shouldn't be a big deal for me since we already home school our children at my house...

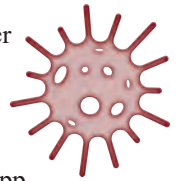
I told our IT staff to be ready for a TON of calls tomorrow.

## March 17, 2020

Happy St. Patrick's Day!!!! Woke up and was in the office (or sofa with my TV tray desk) by 7:30. Oh boy, we are having trouble with our VPN... Here come the calls...

Ok, not too bad. Just a setting that needed to be changed. All in all, a big success. Only a couple of calls. Hopefully a better day tomorrow.

Now need to make sure I don't burn my corned beef and cabbage!



## March 22, 2020

Read an article this morning about the increase in Zoom video calls and the massive security risks associated with that app. Glad ALM isn't using it.

Had a video call this evening with our small group from church. Everyone wants to switch to Zoom... "sigh"

## March 23, 2020

Had our second department head video call this morning! It went well. Everyone wants to try Zoom... Told them we could use Microsoft Teams for video calls as we already had a subscription for it.

My stay-at-home, homeschool teaching wife asked me today if this was like a normal day at the office for me. I told her: "Yes. Why?" She said: "Then why are you always so tired when you get home in the evenings?"

## March 24, 2020

I had to go to the office this afternoon to check on a couple of items. VERY odd feeling. Luckily, we will be back in just a few days.

## March 26, 2020

Had another department head video call this morning... we won't be going back to the office on April 4th as planned. We will now return April 13th to follow the Governor's mandate.

How does my wife do this every day?!?!?! These teenagers are SO LOUD! She is a saint ...

## Feb ... Mar ... Ap... Whatever day... Possibly still 2020 (?)

We are living in amazing times. I don't remember the last time I drove. I think I filled my truck up with gas sometime last month/year... We no longer go shopping for groceries in the store. We do that from home on our phones ... We attend church in our pajamas in the family room. Crazy times indeed.

I wonder if I should change out of my PJs and comb my hair for this video call?

## April 26, 2020

It was decided in our department head video call this morning that we would, in compliance with the Governor's policy, have a phased return to the office. I get to go back on May 4th — Star Wars Day!!!!

## May 4, 2020

Returned to work today... Office is still there. Looked suspiciously at my coworkers (from afar) any time they sneezed, cleared their throats or (heaven forbid!) coughed! I have Lysol, and I'm not afraid to use it!!!

## May 8, 2020

Went to Costco today... it is so inefficient to shop in a store... So many people in the way... I am a technology guy – I should be shopping from home with the rest of my kind!

Wonder when things will be normal again ... **What is normal??**

*Just a bit of humor to lighten a very difficult situation for many. My family, friends and coworkers have hunkered down and fared fairly well through this pandemic – thus far. I hope you and yours have as well. We're all trying to establish a new normal ... will 6 feet ever shrink?*



## Council Meetings During a Pandemic

In April, ALM asked municipal leaders via its Facebook page to share what social distancing looked like in their city and town halls during the Governor's Stay at Home orders. Here are some of the replies we received:

**Millbrook:** "Millbrook held our meetings in our council chambers. The Police Chief was responsible for telling people where to sit to maintain social distance. We excused department heads from the meetings to reduce crowd size. The clerk brought documents to the council members in their assigned seating location. No problems occurred with crowd size or social distancing. Basically, I ran the meeting by myself up front looking at the council members and mayor in the audience."  
~ Council President Michael Gay

**Guntersville:** "We held outdoor meetings in the police parking lot beside City Hall where we maintained appropriate social distancing." ~ Mayor Leigh Dollar, ALM Vice President



**Southside:** "We used Zoom for our council meeting Monday night and it worked great. City hall is closed for the public and our employees are still working. We are all in separate offices so social distancing is no problem." ~ Mayor Wally Burns

**Jasper:** We held a "live" meeting (FB and website) with the 10 of us spaced six feet or more in the council chambers. We had a large screen set up in the courtroom for 10 to sit as well. There were a few audio problems but we were good to go for future meetings.  
~ Councilwoman Jennifer Williams Smith

**Thomasville:** "We did two meetings by Facebook Live with councilmembers on the phone, following the criteria laid out by the Governors State of Emergency Proclamations. We then returned to a more normal style meeting with extra spacing in the council chamber, limiting visitors, while broadcasting live on Facebook. We did monitor and answer questions via Facebook Live as well." ~ Mayor Sheldon Day

**Montevallo:** "It was an ever evolving landscape based on the conditions. In short, we'd gotten more and more restrictive as the conditions changed. We are hopeful to loosen restrictions under the right conditions. More specifically, because the Governor's order only allowed for voting by distance for COVID-19 related issues or essential regular business, and we strive for maximum community engagement, we got very creative with our meetings. During city council or other public meetings, a quorum of the council/board was present in the council chamber along with our city clerk. We allowed only the number of members of the public to be present to stay within the 10 person rule. All council/board members present and at home, plus department heads or those on the agenda, participated in the meeting via Zoom. We then live-streamed the meeting on Facebook, accepting and responding to public commentary this way. There were interesting technological challenges especially due to audio feedback. It's definitely not a perfect process. In addition to that, we significantly cut back on staff that are permitted to enter city hall and many of our staff members worked remotely. All department and other non-public business meetings took place via Zoom or GoToMeeting." ~ Mayor Hollie Cost

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# BEYOND COVID-19:

## EMPLOYEE RETENTION, VIRTUAL SOLUTIONS AND SWEET TEA

DAVE DUNLAP ■ GOVERNMENT MARKETS MANAGER ■ AMERICAN FIDELITY

**W**ith the economy opening back up and employees starting to return to work, cities are investing a lot of time and resources around health and safety in the workplace. Many are looking for ways to limit unnecessary physical interaction and establish social distancing measures where possible, which has proved to be extremely challenging where public interaction is involved. While most experts agree that COVID-19 can (and will) be beat, the lessons we're learning will have a lasting effect on our internal processes and how we engage with our employees.

### Employee Retention

In re-evaluating processes, one area that should be considered centers around employee education and traditional benefit enrollment practices. In addition to evaluating safer enrollment and onboarding strategies, there's an additional benefit to keeping your employees educated and informed. LinkedIn provided some valuable insight as a part of their Global Talent Trends 2020 report, where they broke down the top three reasons employees leave their employer. To add a unique twist, they divided their results by generation. The report concluded that compensation and benefits rank as the second highest reason why Gen X employees leave their employer. For millennials, it was the number one reason.

While there are many ways to interpret LinkedIn's findings, one of the points it could be suggesting is not whether one employer is offering better benefits than the other, but perhaps it simply comes down to an employee not fully understanding the value of what they already have. In order to drive retention efforts, we must continually press into the value of our benefit programs and not only educate employees but empower them to make wise financial decisions year over year. Based on LinkedIn's findings, passive enrollments may actually have an adverse effect in overall retention efforts and overall employee satisfaction.

It's also worth noting that according to a 2018 Pew

Research report, millennials are now the largest generation in the workforce and will account for half of the worker population by the end of 2020. Based on sheer numbers alone, they are exerting the most influence on how organizations hire and retain talent than any other generation in the workforce. While decisions are made on more than this one factor, it's a valuable insight as we look to attract and retain top talent and remain competitive against imposing private sector employers.

### Virtual Solutions

Okay, so we now understand that benefits are important, and millennials are taking over the universe. How, then, do we meet our employee's great need and still ensure health and safety remain paramount in this new normal? How do we leverage technology without alienating some of our less tech-savvy employees? How do we drive education and communication without exposing employees and creating unnecessary risk? How do we onboard new employees?

All great questions.

First, let's agree that technology is not an end-to-end solution when it comes to a successful enrollment strategy. While most enrollment-based platforms have many strengths and can help to ease administrative processes, they are only one part of a larger enrollment strategy. In fact, many cities have refrained from implementing an enrollment platform simply because they are afraid of alienating or overwhelming their less tech-savvy employees and have concerns about employees not being able to make informed decisions on their benefit options.

Considering the importance of health and safety in the workplace, American Fidelity, an ALM endorsed program, has taken a unique approach to helping cities find safe solutions around benefit enrollments. Rather than promoting technology as the solution, American Fidelity is leveraging technology as an opportunity to drive employee education and engagement, increase retention efforts and add credible

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# 2020 CMO WEBINARS

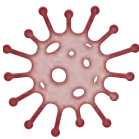
## 2020 Certified Municipal Official Program Training Calendar

### 2020 Webinar Schedule:

- **June 30** Ways to Improve your City or Town
- **July 28** Cyber Security Update
- **September 29** The Public Purpose Doctrine
- **October 20** Starting the Next Term on The Right Foot (or Exit Gracefully)
- **November 24** Conflicting Office and Interests

value to each city's benefit program. It's not just a virtual solution or novel approach to enrolling benefits; rather, it's an opportunity to build bridges and stabilize what employees deem as one of their biggest needs from their employer.

By incorporating enrollment technology with their Benefit Advisors, American Fidelity's virtual enrollment process provides cities and their employees many different options including group meetings; one-on-one communication with and American Fidelity Benefit Advisor; and the ability to enroll in all of their benefits at one time, in one place. Since everything is facilitated in a virtual environment, cities can



limit large group gatherings, lower possible infectious disease transmission by eliminating paper forms, and ensure the safety of their employees year-round.

American Fidelity can also provide custom enrollment material and electronic communication pieces to ensure employees feel educated and prepared. Since the entire enrollment is facilitated by an American Fidelity Benefit Advisor, enrolling is easy – regardless of an employee's technological proficiency.

A successful benefit strategy can drive employee satisfaction and help to retain key employees in a competitive market. As we continue to monitor the COVID-19 pandemic and look for ways to keep our employees safe, cities don't have to fall back on a passive enrollment environment. They now have the ability to be engaged and provide proactive and safe solutions for their employees.

### Sweet Tea and Thank You

And the sweet tea? Ah, yes. I would like to take a brief moment, raise this ice-cold glass sitting beside me and propose a toast. To all of you who have spent countless hours fighting and leading the charge through this pandemic, we thank you. The way you have served your community, school districts, local businesses, hospitals, food banks and your employees is what leadership is truly all about. Your resolve and strength in the face of these uncertain and unprecedented times will not soon be forgotten. I'm honored to have the privilege to work with many of you and look forward to serving many more, but today more than ever, I'm just proud to call Alabama home. Cheers, y'all! ■

*For more information, please contact Dave Dunlap, Government Markets Manager, with American Fidelity at 800-654-8489, ext. 2444 or [dave.dunlap@americanfidelity.com](mailto:dave.dunlap@americanfidelity.com).*

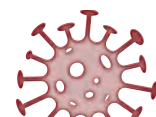
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## It depends.

continued from page 13

written confirmation that the \$600 benefit available to unemployed workers pursuant to the FPUC (Federal Pandemic Unemployment Compensation) in the CARES Act is not to be paid in any way by reimbursing employers, including municipal employers. It is fully federally funded. Additionally, despite information previously submitted to the contrary to some municipalities, the Department of Labor also clarified that “pursuant to US Department of Labor guidance, reimbursing employers, such as municipalities, who previously paid all unemployment claims against them dollar-for-dollar, will only be billed for 50% of those claims for weeks of unemployment between March 13, 2020 and December 31, 2020. These reduced charges apply to “all (benefit) payments made during this time period (except the additional \$600), even if the unemployed individual is not unemployed as a result of COVID-19.” If your municipality has received a bill that does not reflect the above, please contact the League Legal Department.

Last, but certainly not least, there is the looming issue of conducting elections in the time of COVID-19. When Governor Ivey announced that the statewide primary election had been moved from March 31st to July 15th as a result of the outbreak, we started getting calls from the media asking whether municipal elections would also be postponed. At the time, our response was a resounding: “No, we do not have any plans to seek a postponement of municipal elections which don’t take place until August 25th.” As the weeks rolled by, however, we also received calls expressing concerns from the primary election supplier, ES&S, as well as some city attorneys in areas where lots of annexations have taken place in the past year who were being told by their local boards of registrars that they are unable to assist with updated information due to the changed runoff election date. We’ve also had concerns expressed to us by some probate judges. Further, after what happened in Wisconsin where the National Guard had to be called in to work the polls because poll workers refused to show up, we felt we would be remiss to ignore the issue being raised.

Knowing that if we needed to postpone municipal elections legislatively, we would have a very limited window to do so, we brought the issue to the League’s Executive Committee during its April 16th meeting held via conference call. After a very thoughtful and thorough discussion, it was decided that we should continue to monitor the situation and re-evaluate in June whether we need to ask the Governor to postpone municipal elections. As of this publication, municipalities are on schedule to qualify candidates beginning July 7th and conduct elections on August 25th. If anything changes, we will alert our membership immediately.

### Moving Fast on Uncharted Ground

Throughout March, April and May, every morning I felt like Jean-Luc Picard in *Star Trek* asking for the “damage report”. Things were moving very fast and we were on uncharted ground. There were no clear answers. I want to thank Rob and Teneé, who have been remotely handling many of the day-to-day legal

questions that we continue to field regarding bid laws, zoning, elections, etc. in addition to questions regarding this outbreak. They have also taken on the primary responsibility during this time for updating the *Selected Readings for the Municipal Official* which will be available after municipal elections this fall. Special thanks also to Sharon Carr who keeps the legal department on its toes, even remotely, and has been busy making sure we are on track for our Fall Municipal Law Conference. I am blessed with a great team. Finally, thank you to all the local municipal officials who have dedicated their time to public service. You certainly aren’t in it for the money and it is often a thankless job; however, your friends, family and neighbors are counting on your leadership.

Always remember, the answer to most legal questions, especially now, is: *It depends*. So, don’t forget to seek the counsel of your local attorney during these unprecedented times as you continue to craft creative solutions to the problems your municipality is facing.

Stay safe everyone and WASH YOUR HANDS! ■

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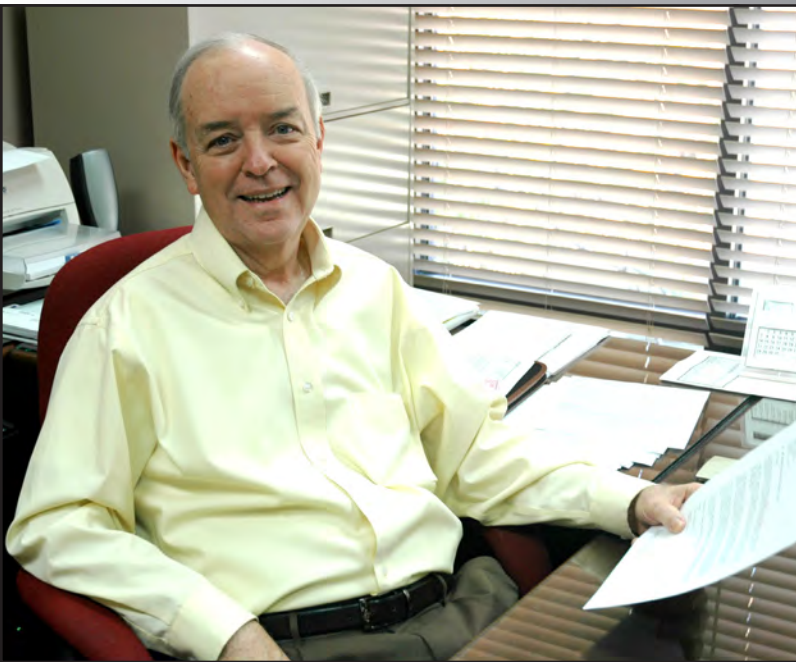


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# Finance Director Steve Martin

## Retiring After 29 Years of Distinguished Service

**S**teve Martin joined the Alabama League of Municipalities staff in 1991 and, as the League's Finance Director, has been directly responsible for the financial integrity of not only the League's accounting structure but that of the Municipal Workers Compensation Fund (MWCF), the Alabama Municipal Funding Corporation (AMFund) and Municipal Intercept Services (MIS). He is retiring July 1 with nearly three decades of tireless service that included financial reporting analysis and budget development as well as serving as MWCF's Operations Manager until 2016. Beyond his professional role, Steve has been a steady and solid resource whose wise counsel and compassion have been greatly appreciated by the League staff.

Steve was a CPA in public accounting for 26 years before joining the League's staff, which he said was the best decision he could have made for his career. "I have been blessed to have worked with some of the best people I could have ever chosen to be associated with," he said. "That includes my fellow employees and the elected officials I have come to know. Perry Roquemore and Ken Smith, the Executive Directors during my tenure, as well as the Boards of Directors I served under, provided excellent leadership for the League."

Former Executive Director Ken Smith praised Steve's stewardship of League funds: "I leaned heavily on him for advice during my years as Executive Director and he never failed to provide me all the financial aspects of the decisions we made. His guidance has been instrumental in the success of the League and its affiliated programs, but he never lost sight of the human impact of financial decisions."

During Steve's tenure, the League's budget increased significantly and the number of employees more than doubled – allowing the League to expand existing services and develop new programs for its members.

"Professionally, Steve's leadership throughout his career has placed the League on solid financial footing, not only today but for the next generation of programs that best serve our members," said Interim Executive Director Greg Cochran, who has worked with Steve for 24 years. "I am grateful for the guidance he provided during our recent leadership transition; it made the process seamless. Personally, Steve is a man of great integrity and kindness as well as a fine example of servant leadership. I most appreciate the way he treats everyone with respect and has been a significant influence on the character of our staff."

In addition to safeguarding the League's finances, Steve served as Operations Manager for MWCF for 25 years, which tripled both its membership and earned premiums during his tenure. He has also managed the financial operations of AMFund and MIS and helped develop and launch a full-service Loss Control Division in partnership with the Alabama Municipal Insurance Corporation (AMIC), allowing both programs to provide additional staff and expanded risk management services at a much-reduced cost to their members.

"Over these 29 years, I have been blessed to be a part of this success but by no means have I been responsible for these accomplishments," Steve said. "I just happened to be at the right place at the right time and had good people to work with me."

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MWCF Operations Manager since 2016 and MIS President Richard Buttenshaw doesn't entirely agree. "Steve Martin is responsible for the great success and financial stability of the Workers Comp Fund over the past 25 years," he said. "I owe him so much. He was instrumental in my initial hiring as a Loss Control representative and then ultimately giving me the great honor of being his successor as the Operations Manager of MWCF. Throughout my many years working with Steve, he has become a mentor and a friend, not only to me but to many others here at the League. His wisdom and insight have certainly helped guide me in many decisions and I will truly miss his friendship and counsel."

AMIC President Steve Wells succinctly summed up his two-decade association with Steve Martin: "Steve is a kind, honorable man of faith. He is all the things we all aspire to be!"

Melissa Chapman, the League's Accounting Manager, works closely with Steve and said his knowledge and guidance are not just an asset to the League, MWCF and the many additional League programs, but to her personally as well. "Not a day has gone by since I've been working with Steve that he has not taken the time to tell me how much I am appreciated and how much I have helped him," she said. "I actually think he has it backwards! I would not have made the transition into this position without his willingness to help and his patience. I have so much respect for Steve and will always cherish his words of wisdom along with his friendship. I will miss seeing him every day and will certainly miss his words of encouragement."

Terry Young, President of Millennium Risk Managers (MRM), which provides management services for MWCF, said Steve has been a voice of consistency and a stable rock for MWCF and MRM for many years. "Steve provided guidance to me personally on the professional and proper



*Former Executive Director Ken Smith presents Steve Martin with the National League of Cities John G. Stutz award recognizing 25 years of service on the staff of a state municipal league.*

way to communicate with our cities and he always brought a commonsense approach to dealing with the public entities throughout Alabama and in providing guidance to MRM daily in managing those claims and business decisions," he said.

ALM Assistant Finance Director Barry Crabb has been working closely with Steve in preparation to transition into the Finance Director's position. "I have only been with the League for a few months but have quickly learned how important Steve is to the success in virtually every phase of its operations," he said. "He has been extremely helpful with my transition and in sharing his encyclopedic knowledge of the operations of the League, its affiliates and all their missions. Steve's financial expertise is highly regarded here at the League as well as by a number of important charitable groups throughout the Montgomery region."

After working 55 years – and knowing he's leaving the League and its affiliate organizations on solid financial ground – Steve is looking forward to retirement. "God has blessed me with a Christian wife, Loretta, for 52-plus years, three children and seven grandchildren," he said. "My plans for retirement are to travel and make memories with my wife and family." ■



*Steve Martin worked closely with Assistant Finance Director Barry Crabb as he prepares to transition into the Finance Director role following Steve's July 1 retirement.*

# 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.

## UNITED STATES COURT DECISIONS AFFECTING ALABAMA

**First Amendment:** City's maintenance of a cross in a city park was presumptively constitutional under the Establishment Clause, where a wooden cross had originally been erected more than 75 years earlier, the original wood cross had been replaced with a concrete version 50 years earlier, there was no evidence regarding city's motivations, there was no evidence that the city ever made space around the cross available to public on anything other than a neutral basis, the cross's message had evolved into a neutral one, and removing the cross might strike many as aggressively hostile to religion. *Kondrat'yev v. City of Pensacola*, 949 F.3d 1319, (11<sup>th</sup> Cir. Fla. 2020).

**Due Process:** Catch-all provision of city's disturbing the peace ordinance, prohibiting any act, other than constitutionally protected expression of assembly, in such a manner as to disturb or alarm the public, or make such a disturbance imminent, or to provoke another to retaliatory action or violence, was not facially unconstitutionally vague under the due process clause. *Roy v. City of Monroe*, 950 F.3d 245, (5<sup>th</sup> Cir., La.2020).

## ATTORNEY GENERAL'S OPINIONS

**Boards:** The utilities board of the city is authorized to waive the commercial capacity fee for connecting a building to its water and sewer system for a sports complex if it determines that the waiver is reasonable and nondiscriminatory. AGO 2020-002.

**First Responders:** Dependent children that are born or adopted after a firefighter is declared totally disabled are not eligible for benefits under the Police Officer's and Firefighter's Survivors Educational Assistance Act. AGO 2020-011.

**Competitive Bid Law:** A contract to provide an inmate telephone system for prisoners of the county jail must be competitively bid. The sheriff and the county commission should cooperate on the bidding process and when entering into a contract with a vendor. AGO 2020-012.

**Competitive Bid Law - Public Works:** The county E-911 board ("Board") may enter into a contract to allow a private company to erect a cell tower on a fire station so long as the tower is used for dispatch services. The contract between the Board and the company must be competitively bid under the Public Works Law. If the Alabama Law Enforcement Agency makes a determination that confidentiality would be required to protect the safety of persons or facilities, then the contract may be let without public advertisement. AGO 2020-015.

**Mayor - Utilities:** The council may increase the mayor's salary as superintendent of the utility system effective immediately without violation of the "six month" prohibition of Section 11-43-80(b) or Section 11-43-9 of the Code of Alabama. The salary is limited to \$1,200 per month pursuant to Act 258 (1975). AGO 2020-017.

**Property:** A county board of education may enter into an agreement to sell a school building to a town and lease back a portion of the building for continued operation as a school. AGO 2020-018.

**Court Costs:** A violation of Section 32-5A-191.4(j) of the Code of Alabama is a traffic offense; thus, the court costs that should be assessed are those imposed for traffic offenses in addition to any fines required to be imposed. AGO 2020-022.

**Property:** The municipal park and county beach board ("Board") may continue to dispose of real or personal property prior to dissolution if it furthers its purpose, but it may not do so as a "prelude to its dissolution." The county



may not grant a leasehold estate for 99 years to the town for property that is dedicated for a public use. The town is not authorized to manage Board property. Real property sold by the Board does not have to be competitively bid or awarded to the highest bidder. The Board would be required to receive fair and adequate consideration for the property and the proceeds of the transaction must be used for school purposes. AGO 2020-023.

**Zoning:** A county board is exempt from local zoning ordinances, local building codes and local stormwater ordinances. AGO 2020-024.

**Boards:** Any property owned by the municipal industrial development board (“Board”) that does not come under the Cater Act is subject to the Tax Incentive Reform Act of 1992 (“TIRA”). The Board may reincorporate as an authority pursuant to Section 11-92A-6 of the Code of Alabama. The Board does not have the authority to grant tax exemptions on property subject to the Cater Act. The remaining Board property is subject to the restrictions set forth in TIRA. AGO 2020-026.

### ETHICS OPINIONS

**Conflicts of Interest:** An associated business of a public official may continue to be a vendor to local public agencies provided he does not use his public position or influence to direct business to his associated business and is not involved in any transaction between his associated business and his public agency either as a public official or owner of the business. A public official’s associated business may conduct business with the agency which the public official serves provided that the transactions are either competitively bid, whether required or not, or there is evidence that makes clear the business was not obtained because of their public position which must be determined on a case-by-case basis. A copy of the contract between a business with which a public employee or official is associated that is paid in whole or in part with state, county, or municipal funds must be filed with the Ethics Commission within 10 days of executing the contract. If there is no formal contract, an invoice or purchase order should be filed with the Ethics Commission to comply with Section 36-25-11, Code of Alabama 1975. AO 2019-10.

**Revolving Door:** City employees who hold a position of authority may later seek re-employment with the governmental agency which previously employed them without violating the “Revolving Door.” This opinion is limited to the facts presented here and only addresses the application of Section 25-13(d). It does not address other sections such as Sections 36-25-5, 7 or 8 which could exist in any fact situation but were not raised by the facts presented in this opinion. AO 2019-11. ■

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# Drug and Alcohol Clearinghouse Rule Now in Effect

Aaron Reeves ARM-P, Loss Control Representative/Biosystems Engineer, AMIC/MWCF

**O**n January 4, 2017 the Federal Motor Carrier Safety Administration (FMCSA) enacted the Drug and Alcohol Clearinghouse Rule with a required compliance date of January 6, 2020. (49 CFR 382.701-727). The FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse is a secure online database that will give employers, the FMCSA, state driver licensing agencies and state law enforcement personnel real-time information about commercial driver's license (CDL) and commercial learner's

permit (CLP) holders' drug and alcohol program violations. *There are no exemptions for municipal government employers.*



## Who is affected?

All CDL drivers who operate Commercial Motor Vehicles (CMVs) on public roads and their employers are subject to the Clearinghouse. This includes municipalities and municipal drivers of CMVs. The only exemption to this rule applies to drivers who perform only FTA-regulated safety-sensitive functions (fire service personnel, EMT's, etc., even if a city requires them to have a CDL). These drivers and employers are subject to drug and/or controlled substances testing requirements found elsewhere in the law.

Currently, the requirements of CDL holders have not been changed by this rule. Drivers are not required by the rule to register within the clearinghouse. However, for employers to complete some requirements contained within the rule, the CDL holder must register and give electronic permissions to the employer. Failure to complete this task could result in the driver being unable to be employed. Drivers must also be registered to electronically view the information in his or her own Clearinghouse record.

## What is required of your municipality?

Employers (or their designated representatives) are required to report information to the clearinghouse about positive drug tests, alcohol tests greater than 0.04 blood alcohol content, refusals to test and other non-test violations of drug and alcohol regulations. Negative return-to-duty test results and the date of

successful completion of a follow-up testing plan for any driver who is employed must also be recorded in the Clearinghouse.

Only violations that occurred on or after January 6, 2020, will be reported to the Clearinghouse. Testing conducted for internal purposes (not related to the drivers CDL) should not be reported through the Clearinghouse.

As of January 6, 2020, employers are required to conduct both electronic queries in the Clearinghouse as well as traditional manual inquiries with previous employers. Conducting both inquiries will be required until January 6, 2023, at which point the manual inquiry will no longer be required. Employers are required to conduct a full query of the Clearinghouse as part of each pre-employment process. Limited queries must also be performed at least annually for every CDL holder that is in their employment. The Clearinghouse will retain a record of every query an employer conducts, reducing the record keeping requirements of employers.

When performing a limited query, a general consent is required. This is obtained outside the Clearinghouse through a physical, signed consent form. Employers may obtain a multi-year general consent form from the driver for limited queries. A sample form can be found at: [www.clearinghouse.fmcsa.dot.gov/Resource/Index/Sample-Limited-Consent-Form](http://www.clearinghouse.fmcsa.dot.gov/Resource/Index/Sample-Limited-Consent-Form).

For full queries, the driver must provide specific consent to the employer electronically within the Clearinghouse. This requires the driver to be registered within the Clearinghouse, and this consent must be provided prior to each full query performed for that driver.

If an employer uses a third-party administrator (TPA) to comply with reporting requirements, the employer still retains the ultimate responsibility for ensuring that the required reports are made; that they are truthful and accurate; and that records are retained. Employers can reduce the risk associated with a TPA through contract language that makes clear responsibilities and protections (such as indemnification if the TPA makes a late report).

### **How does it work?**

Once registered, employers can report violations through the Clearinghouse as well as query the system as needed to satisfy their requirements. Employers can also invite users to complete required actions in the Clearinghouse on their behalf. These users would register as Clearinghouse Assistants. Employers can assign assistants to conduct queries and report drug and alcohol violations on their behalf. Employers may have multiple Clearinghouse assistants, and Clearinghouse assistants can support multiple employers.

Some actions within the Clearinghouse do charge a fee. While there is no cost for registration, reporting violations or some other activities, employers are charged a fee to conduct limited and full queries within the Clearinghouse.

### **How to register for the Clearinghouse**

Before you can conduct queries or report violations or return-to-duty information in the Clearinghouse, an employer must first register. First, if one does not already exist, a [login.gov](http://login.gov) account will need to be created. The link to create this account can be found at: [www.clearinghouse.fmcsa.dot.gov/Register](http://www.clearinghouse.fmcsa.dot.gov/Register). Click “Create an account” and follow the prompts to finalize the registration process. For detailed instructions on how to register if you don’t have a DOT number (municipalities are not required to have a DOT number), visit: [www.clearinghouse.fmcsa.dot.gov/Resource/Index/Registration-Instructions-Employer-without-Portal](http://www.clearinghouse.fmcsa.dot.gov/Resource/Index/Registration-Instructions-Employer-without-Portal). ■

# Local Government Health Insurance Board's Audit Program

By: Michelle Walden, Communications Director

All participating units, including municipalities, that provide health insurance for its employees through the Local Government Health Insurance Plan (LGHIP), will soon receive information from the Local Government Health Insurance Board (LGHIB) regarding an audit program that will begin in January 2021.

The purpose of the LGHIB's audit is to protect the financial integrity of the LGHIP by ensuring that participating units are abiding by the LGHIP's eligibility and enrollment rules. The audit is not being conducted to punish participating units, but to confirm that the eligibility and enrollment records are correct. Units that cooperate with the LGHIB will not incur any adverse financial impact should the unit self-report any irregularities in the eligibility and enrollment of their employees in the LGHIP. By the LGHIB having correct information, each unit will pay accurate premiums and will not be forced to subsidize the cost of noncompliant units.

## **How will a municipality be informed of its audit date?**

The LGHIB will notify each municipality 30 days in advance of its tentative audit date. The LGHIB will work with municipalities to ensure that the audit timing is not overly burdensome.

## **How will the audit be conducted?**

Once notified, the unit will have 60 days to complete a self-audit and submit its findings to the LGHIB. Within 30 days after the unit submits the results of its self-audit to the LGHIB, the unit must also provide records which the LGHIB can use to verify the results of the self-audit. If necessary, the LGHIB will schedule an onsite visit to address any issues identified. The LGHIB will work to make the audit as convenient as possible.

## **What information must be provided during the audit?**

In general, payroll records will be used as a primary source. Detailed instructions and a list of required documentation will be included with the notice of audit.

## **What if irregularities are found in your records?**

If a unit self-reports irregularities within its own records to the LGHIB, those eligibility and enrollment irregularities will be corrected without penalty to the unit. A unit should not wait for its scheduled audit to notify the LGHIB of known irregularities in its eligibility and enrollment records. If a unit fails to self-report irregularities and the LGHIB later discovers there are eligibility and enrollment errors, the LGHIB may move the unit to the standard premium category for at least two years, require full or partial payment of back premiums, and/or require full or partial payment of non-recallable claims.

## **How will a municipality submit its self-audit?**

Municipalities will be able to submit findings safely through their account on [my.lghip.org](http://my.lghip.org).

## **Is there anything else municipality units need to know about the audit?**

The LGHIB's intent for the audit is not to punish units. In contrast, the purpose of the audit is to protect the integrity of the Plan and ensure the Plan can continue to provide superior benefits at the lowest possible cost. Units that fail to participate in the audit will be referred to the LGHIB Grievance Committee. More information about this audit will be provided during the LGHIB's annual fall conferences. More information about the fall conferences will be mailed to each unit soon.

*Questions? Michelle Walden, Communications Director, Local Government Health Insurance Board, (334) 263-8332, [mwalden@lghip.org](mailto:mwalden@lghip.org)*



# Thank You and A Fond Farewell

Ken Smith • Former Executive Director • ALM

This article was originally intended to be a verbal Annual Report at the Business Session at the League's Annual Convention in Tuscaloosa. As everyone reading likely knows, circumstances related to the COVID-19 pandemic forced us to alter our plans. The Business Session will now be held in late July in Montgomery led by Interim Executive Director Greg Cochran.

In the last issue of the *Journal*, I reflected over my 34 years here at the League. I had intended to use the Annual Report to thank so many others to whom I am indebted. I appreciate the opportunity to do that here.

I have been blessed to have outstanding mentors at every stage of my career, from working with Senator Ryan DeGraffenried, Jr., during my years in law school, to clerking for Justice Hugh Maddox on the Alabama Supreme Court after graduation. These men were the best at their jobs and always taught me that success can only be achieved through hard work, preparation and the willingness to lead by serving the needs of others. I also learned a great deal from the League's second Executive Director, John Watkins. I never worked for John, but he was around the office often and when he was, I took the opportunity to pick his brain. I also received great instruction and preparation from my predecessor, Perry Roquemore, Jr. Perry always ran the League with great skill and passion and guided my duties as the League's attorney, always teaching me that the League's mission can only be achieved when its programs and services meet high quality standards.

I'm also extremely grateful to the League's Nominating Committee and membership for taking a chance on me in 2011. I always found the responsibility and trust very humbling and hope I've lived up to their trust. It has been a blessing to work alongside so many dedicated public servants and League staff members. While I know this is the best time for me personally to step away from the League, I will miss the friendships and the pleasure of working daily with so many outstanding employees and officials. Thanks to each of you and to our membership for supporting me, our staff and our mission these past nine years. We have tried to stay true to the successes of the past while keeping an eye on the needs of the future.

By the time you read this, Greg Cochran will have been appointed by your Executive Committee to serve as Interim Executive Director following my retirement. I fully expect him to be appointed as the League's fifth Executive Director by the full membership at the Convention. As I turn over the reins of the League to a new Executive Director, I know that bright days are ahead. Greg has great ideas and plans to move the League forward. I know you and this organization I love so much are in great hands and that you will support him as you've supported me. You will face many challenges. But I know that the League will be there to help you navigate your way around or through them.

As I step down, I have to express my deep appreciation to your staff in Montgomery. I can't tell you how much this group of individuals – and, while they work as a team, they are all individuals, believe me – means to me. They constantly exceeded my expectations and always strive to go the extra mile to serve you. Their willingness to develop relationships with each other and with our members, and to pitch in together as needed, truly made my time with the League enjoyable, and our accomplishments successful. Your staff is passionate about their jobs and they work very hard



*Working remotely during the COVID-19 Stay at Home Orders just prior to retirement.*

to serve you. I am proud to have been a part of the League staff and to have worked alongside these great individuals. I know you share my pride in their accomplishments.

When I first interviewed with the League, I remember seeing a car in the parking lot with a bumper sticker that read: “I believe in grassroots democracy.” While I thought I understood the nature of grassroots democracy, I didn’t have to work for the League long to realize just how little I knew about the true significance grassroots democracy plays in American government and the League’s important role in sustaining it.

The League’s mission is to serve our members. It’s that simple, and that complex. The League has over 450 municipal members, representing all populations and diverse regions of Alabama. Determining exactly how best to serve the needs of this membership is not always easy. It takes active participation by our members. What makes the League unique? It’s the people. It’s the staff. It’s the municipal officials. It’s the municipal employees. It’s the partnership we’ve all shared to improve our municipalities. As our municipalities go, so goes the state and the nation. When municipalities succeed, the quality of life improves for America’s citizens.

I have tried to practice servant leadership. I believe in leading by example. I always tried to demonstrate to our staff that no task is beneath any of us, if it serves our common goals. That’s one of the things I’ve enjoyed most about working for the League – there was always a new challenge to address even if it wasn’t in my job description. To me, that desire to serve is the heart of grassroots democracy. To me, grassroots democracy is more than just the idea that local decisions should be made locally – it’s a recognition that we all have an obligation to help those around us.

Fortunately, if we need an example, we need look no further than to the people we represent. You likely didn’t run for office for money, or popularity or recognition. And if you did, it probably didn’t take you long to find out that your expectations were misplaced. I think most of you ran because you wanted to improve your community. You saw a problem and wanted to be part of the solution. You wanted to make things better for your family and your neighbors. Most of you aren’t career politicians. You have day jobs, sometimes physically demanding day jobs. You run for office and attend late night council meetings after leaving a hard day at work and take late night telephone calls even when you have to get up early because you want your community to improve. These are the places you live and work. Maybe you were born there. You may be able to trace your family tree in the city back for generations. You want your fellow citizens to be happy, to have the services they need that make their lives more enjoyable.

And I’ve always felt that the least the League can do is try to help you accomplish that goal. Grassroots democracy begins with you, and you deserve our support and admiration. That desire to help you is the heart of the Alabama League of Municipalities. It has been my pleasure to help keep that heart beating for the past 34 years.

Before I conclude, I have to say a few words about my family and the support they have given me over the years. My father and mother, Carlton and Martha Smith, are the two greatest individuals I’ve ever known. The way they lived has always served as an example to my brother and me of the importance of serving with integrity and compassion for others. I wouldn’t be here today without their love, guidance and – more often than I care to admit – patience. I also have to thank my brother, Bill, who has always been there when I needed him. But my deepest respect and gratitude go to my wife, Brenda. Brenda, you’ve been there for me during my greatest achievements and in my darkest hours. We’ve celebrated together and we’ve suffered together. Often, you were the only person who knew how difficult certain times have been. You’ve given me your wisdom, your input and your encouragement.

Theologian and philosopher Albert Schweitzer said: “At times our own light goes out and is rekindled by a spark from another person. Each of us has cause to thank with deep gratitude of those who have lighted the flame within us.” Brenda, thank you for rekindling my flame when I needed it. Thank you for believing in me and the goals I’ve wanted to achieve, and for helping me reach them. I love you.

As I head into this next chapter of my life, I’m excited for what the future holds. I look forward to spending more time with my wife doing things we enjoy. I’m delighted to report that the League has prospered and grown over the last nine years and I know that the League will continue to be well-served by Greg, its leadership and its great staff.

Thank you all for the opportunity you’ve given me to serve you. I can’t think of a better way to have spent the past 34 years. It’s never easy to say goodbye, so instead, I’ll just say so long until we meet again.

Thank you all. ■

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