

# THE ALABAMA MUNICIPAL JOURNAL

March 2004

Volume 61, Number 9



Leslie Hines of the Demopolis Police Department with "Jenny"

## K-9 Units: Municipal Liability Issues

story page 15

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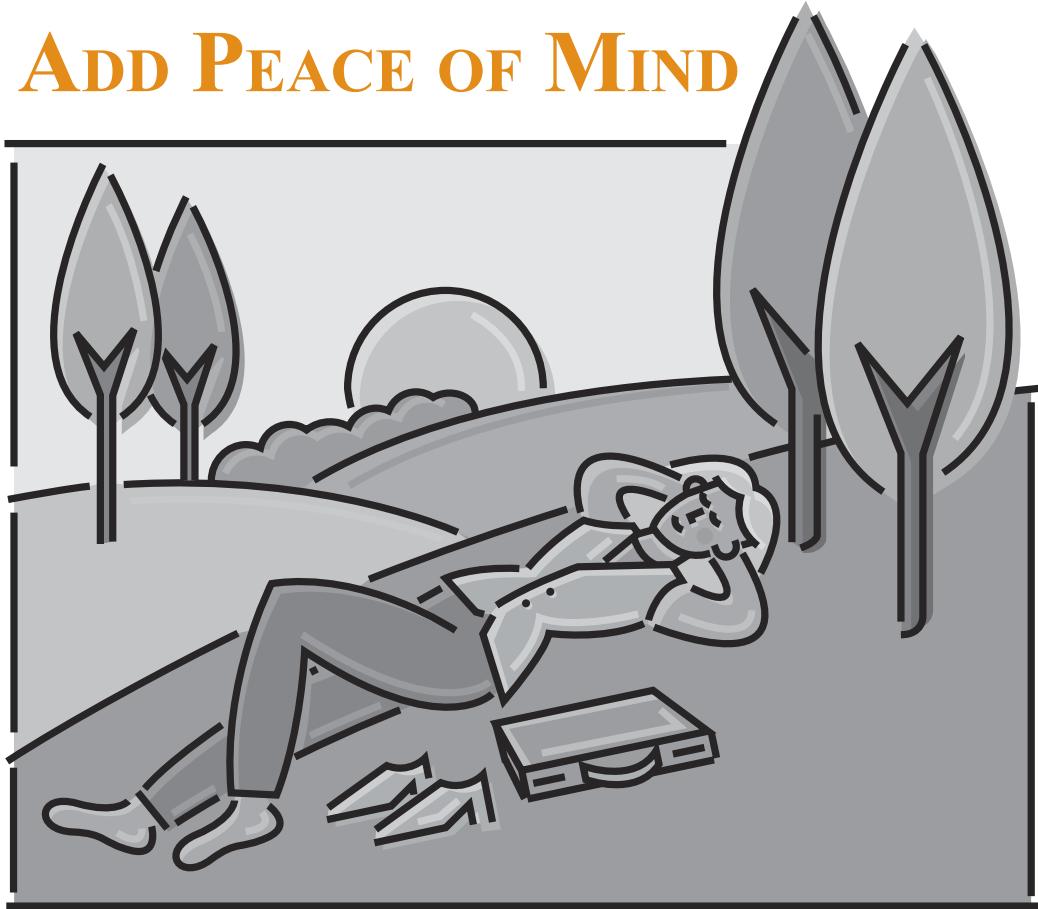
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- 46th Civil Support Team: The Military's First Responders

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# THE ALABAMA MUNICIPAL JOURNAL

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# A Special Message from Mayor Leon Smith

The family of Danny Neal Smith would like to thank everyone for your sympathy expressed to us in the many cards and flowers we received. You do not know how much this means to Delone and me to know that my colleagues came from all over the state to be with us during the great loss of our son, Danny. We have felt your prayers and we continue to feel your prayers for us. There is no way we could ever answer each card and letter, but I personally want you to know that you made Delone and me feel very proud to be associated with the cities throughout the State of Alabama. I certainly would like to thank the Alabama League of Municipalities, Perry Roquemore and his staff for the prayers, flowers, cards and letters from them as well. This has been a tragic loss

for our family and we will never forget you because your friendship means so much to us. On behalf of Danny's son, Tyler, I would like to express his appreciation to each of you, also. I ask that you please continue to remember us in your prayers and may God bless each of you. Thanks so much for being my friend.

Mayor and Mrs. Leon Smith

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**Contact: Tim Lasseter**

Thompson Tractor Co., Inc. is the full-service Caterpillar dealer for Alabama and northwest Florida. Thompson Tractor Company is headquartered in Birmingham, and also operates from locations in Attalla, Decatur, Dothan, Mobile, Montgomery, Opelika, Oxford, Thomasville, Tuscaloosa and Tuscumbia in Alabama, and in Crestview, Marianna, Panama City and Pensacola in Florida. Since being founded in 1957, Thompson has built a solid reputation for providing industry leading parts and service support for the equipment it sells. **See half-page ad, page 24**

Vendor Profiles are included in the League's Gold and Platinum advertising packages. For more information on how your company can purchase a package, contact Greg Cochran at 334-262-2566 or [gregc@alalm.org](mailto:gregc@alalm.org).

## Goshen Dedicates New Town Hall

By: Kathleen Ryan, Public Relations Specialist

At a time when rural towns across America are folding up and plowing under, Goshen, Alabama is poised and ready to grow. In addition to refurbishing its railroad and attracting new business, the 97-year-old farming community now has something else to crow about. Recently they dedicated a brand new 5,000 square foot town hall and community center that sits pretty as a picture, right smack in the middle of downtown Goshen. Residents couldn't be happier.

"We're real proud of this building," said Mayor Michael Sanders. "We've never had a place where we could hold community activities. Now we're getting so many compliments from people inside and outside of the community who either drove by and saw it or toured the building."

The decision to build a new town hall came nearly seven years ago when the old one, built in the late 1800s and used first as a drug store and then as a bank, began falling in on their heads.

"We'd hold our council meetings with buckets spread all around to catch the water from the leaking roof," recalled longtime Council Member Norma McLeod. "We replaced that roof three times and still couldn't get it to stop leaking. It was always cold and damp and mildew was growing everywhere. The wiring was so old that half the time the lights didn't work and it was so dark in there you could hardly see yourself because the only windows were up in front."

When they attempted some repairs to a back room, McLeod got some more distressing news. "One of the workers told me that the seals under the floor were so wet and rotten that you could practically wring the water out of them. So the building was literally falling in from the top and dropping out through the bottom."

Estimates for the necessary repairs to the old structure were so exorbitant that the council was left with no choice. The old building had to come down. "It would have been nice if it could have been saved but that just wasn't possible," said Sanders. "We might have lost some history but in the long run the community gained a whole lot more."

With the buildings on either side of them already crumbling, the town council made the decision in October of 1997 to start the process of securing funding for a new town hall. But the wheels of progress turned slowly. The planning and procurement stages took years.

Sanders explained: "This was a long time coming and the years of delays were very frustrating. We were turned down on two separate grant write-ins. We'd do it on

a point system and one time our points were so high they said there was no way we could hardly lose – but we found out there is a way to lose. So we just had to keep trying. It got to where people were wondering if we really were planning on doing anything or if it was all just a lot of wishful thinking."

In the interim, everything in the old building had to be sorted through, boxed up and stored in a safe place. "The building was packed with papers and boxes and filing cabinets full of stuff, nearly a hundred years of history, and we were determined to go through it all one piece at a time and save everything we possibly could," said Cricket Snyder, Town Clerk.

For nearly five years the town government went without a home, conducting business from the fire station or the local farmer's co-op or the telephone company, anywhere they could find an empty room. In the end, it was USDA Rural Development that came through with funding.

*continued page 27*



Goshen's new town hall building. (Photo by Seventh Impression)

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# The President's Report

Dan Williams  
Mayor of Athens

## What Has Happened to the Public Forum?

What has happened to the Public Forum? I have been involved in local politics for 25 years and the opportunity to be able to express yourself in a Public Forum has not been that great. I remember growing up in Athens, and – like most other small southern towns – the Courthouse Square was the place of the Public Forum. Every four years the Governor's race would bring, at different times, the candidates for Governor to the Courthouse Square for a rally. The first helicopter I ever saw brought Big Jim Folsom to town and landed in the street on the Square. Local political rallies were held at the Courthouse; and, in my mind, everything of importance happened at the Courthouse Square.

Every Saturday morning the Preachers of various denominations came to the downtown area to preach and debate the Scriptures. They came early and stayed late. Some brought their singers and musicians with them to conduct a regular worship service. Some came alone and waited for their opportunity to speak. There was always a crowd to listen because Saturday was the trade day and the country folks were in town for the day and the preaching gave them something to do while they rested from shopping or waiting for their ride back to the country. Almost all of the Preachers passed the hat after their part and the pickins were usually slim to none.

Occasionally there would be a debate between two different denominational Preachers and this always drew a crowd. They would have charts and visual aids, usually homemade, to explain their position on the scripture. Rarely was there ever any trouble. Most of the time these men conducted themselves as gentlemen and respected the opinion of the other. The Preachers always seemed to appeal to the intellect and reasoning of the audience to get them to see things their way rather than tear into the other in an attempt to make him look foolish or belittle him in front of folks.

What a difference 50 years make. The Courthouse Square – what once was the seat of government and the place where ideas could be exchanged; where citizens could go and hear different ideas; where many movements began; the ultimate Public Forum – is no longer in existence in many small,

Southern towns. Many Courthouse Squares have been torn down or replaced with structures that don't even look like Courthouses. It appears that the public forum went with it.

Times have changed and people no longer go out to hear someone speak in person. Television and talk radio have made an effort to become the public forum, but I think they do a poor job. Have you noticed even Presidential candidates have very few people show up for their rallies or announcements? You can even feed folks and still not get a decent crowd.

**Have you noticed how polarized the nation has become?** The television and radio talk shows and so-called news shows have become shouting matches for loud-mouthed politicians and movie stars to give a verbal shellacking to anyone who doesn't agree with their views. Everything comes down to Democrat or Republican, conservative or liberal, black or white, pro-Bush or anti-Bush, love Bill and Hillary or hate Bill and Hillary, love Rush or hate Rush and on and on it goes.

Many people today will hate, and try in any way, to destroy and ruin anyone who differs with their views. I do not care what movie stars think about anything. I loved Dolly Parton's answer to an interviewer about why she didn't give her opinion on politics, the war, etc. She said she had an opinion on everything but people paid good money to see her as a cheap floozie and expressing her opinion would alienate her fans and lose her money.

If you watch the so-called forums, it's evident that a vocal, vicious minority of hateful and spiteful people have taken over and monopolized them to the point that any intellectual person searching for the truth will quickly be turned away from them. Most cities in our League who televise their Council meetings can tell you horror stories about the nuts who show up to get on television and trash their public officials. You Mayors and Councilpersons may not know it, but chances are a local forum on the Internet has people who regularly bash you and everything you do. They are usually telling outright, vicious lies about you and doing all they can to destroy you. These people will not reason with you. They like to do their thing anonymously, and they may be someone with whom you associate regularly. It's hard to defend yourself against people like this.

As public officials we take every opportunity to speak to every group who will listen, from the Rotary Club to the Ladies Garden Club. During one of my campaigns, at a public forum, each candidate had six minutes to speak. Six minutes!! I was the last to speak and my opponents tagged me as a low-down SOB who never did anything right. My six minutes was spent defending eight years of service to my City while stipulating that I was not a low-down SOB.

I wish we did have the public forum available to us. I wish folks were as interested in the political process as they were the Super Bowl halftime show. I hope that at some point in the future we will bring back the good old days where the Courthouse Square will again be the citizen's Public Forum. ■

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# 46th Civil Support Team: The Military's First Responders

**T**hey stand ready to enter any dangerous situation to do their part defending the nation. They work with civilian agencies, however, the 46th Civil Support Team – Weapons of Mass Destruction is the military's first responders.

The mission of the 46th Civil Support Teams (CST) - Weapons of Mass Destruction (WMD) is to support local and state authorities at domestic WMD/NBC incident sites by identifying agents and substances, assessing current and projected consequences, advising on response measures and assisting with requests for additional military or civilian support. They ensure that our strategic national interests are protected against any enemy, whether foreign or domestic, who may employ chemical, biological or radiological weapons – regardless of the level of WMD/NBC threat. The 46th CST will maintain the capability to advise on how to mitigate the consequences of any WMD/NBC event, whether natural or man-made.

There are 32 teams across the country. Each Civil Support Team consists of 22 highly skilled, full-time members of the Army and Air National Guard. Team members spend 800 to 1,200 hours learning the standards of the Occupational Safety and Health Agency (OSHA), the National Fire Academy and the Environmental Protection Agency (EPA). They also train extensively with civilian subject-matter experts. A high level of proficiency in each individual's military specialty must be maintained. In addition to individual training requirements, collective training is of utmost importance. Fifteen months of rigorous initial unit training is required before operational certification. Training and coursework are also provided by the **Army Chemical School**, the **Defense Nuclear Weapons School**, the Army Medical Department, the U.S. Army Medical Research Institute for Infectious Diseases and the Department of Justice's Center for Domestic Preparedness.

The teams are divided into six sections – command and control, operations, survey and reconnaissance, logistics and administration, communications and medical. All have been issued state-of-the-art equipment that can

make them a tremendous asset to on-scene commanders. The units have two major pieces of equipment: an analytical lab and a mobile communications facility. The first allows the teams to identify and assess particular chemical and biological agents in the field. The second allows the team to coordinate communications among the first responders and all other areas including reaching back to subject matter experts.

The 46th CST is stationed in Montgomery, Alabama. They have trained extensively in West Virginia, Louisiana, and across Alabama. They were an integral part of exercise "Dragon Slayer" that took place in Prattville and also played a major role in the Jefferson County full scale haz/mat exercise which had four simultaneous major events.

They stand ready to answer the call 24 hours a day, seven days a week whether it may be a training event planned with a local responder or an actual terrorist event unfolding in our state.

For more information on the 46th Civil Support Team, contact:

**Brenton L. Briggs**  
**1LT, MS, AL ARNG**  
**Medical Operations Officer**  
**46th CST (WMD)**  
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## Andrea Jackson of Auburn Reappointed to SAFE Board

State Treasurer Kay Ivey has announced the reappointment of Andrea Jackson, of Auburn, to the Board of Directors of the Security for Alabama Funds Enhancement (SAFE) Program. Jackson serves as the Finance Director for the City of Auburn and was nominated by the Alabama League of Municipalities.

Ivey said: "City governments in Alabama have a real interest in ensuring the safety of their local deposits. As the financial officer for a municipality, Andrea Jackson brings this important perspective to the board. She is a diligent and conscientious board member, and I greatly value her service on this board."

Enacted by the Alabama Legislature in 2000, the SAFE Program, administered by the State Treasurer's Office, provides a unified, mandatory system by which financial institutions within Alabama qualify to service as depositories to accept and hold public funds.

## 41st Annual Education Conference for the Alabama Association of Plumbing, Gas and Mechanical Inspectors

AAPGMI is conducting its 41st Annual Educational Conference for all interested personnel of city, county and state agencies. Inspectors, contractors, engineers, architects and anyone associated with construction and maintenance fields will find this program beneficial.

**When: March 31 - April 2, 2004**

**Where: Auburn, Alabama**

**Cost: \$115**

The conference will be held at the Best Western University Convention Center located at 1577 South College Street in Auburn, Alabama. For more information or registration materials, call 1-800-446-0382 or 334-844-4370 or e-mail [bece@eng.auburn.edu](mailto:bece@eng.auburn.edu). For more information about AAPGMI, contact Joyce Hargiss with the Town of Trinity at 256-353-2474, ext. 4.

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# Municipal Overview

By  
PERRY C. ROQUEMORE, JR.  
*Executive Director*

## Mid-Winter Meeting of the Executive Committee

The Mid-Winter Meeting of the Executive Committee of the Alabama League of Municipalities was called to order on Thursday, January 29, 2004, by Mayor Dan Williams of Athens, League President. Mayor Williams thanked members for attending and for their support of his city after the tragic loss of two law enforcement officers. Mayor Jim Byard of Prattville, League Vice President, also expressed thanks for support during the loss of a Prattville law enforcement officer during a training accident.

Mayor Ted Jennings of Brewton thanked the Committee members and the League Staff for their help in his successful effort to be elected to a seat on the NLC Board of Directors at the NLC Congress of Cities in Nashville, Tennessee, in December.

The President called on your League Director for his report. It was my pleasure to report that dues notices for our September 1, 2003 - August 31, 2004 League Fiscal Year were mailed in early August. The League has 442 member cities and towns out of the 458 municipalities in the state. At the time of the meeting, the League had collected dues from 424 member municipalities. A list of non-member municipalities was provided to Committee members. They were urged to contact any non-members in their area and recommend that they join the league.

The NLC Congress of Cities in Nashville, Tennessee, was held in December. Over 480 officials and guests from Alabama attended this successful meeting. Our campaign to get Mayor Ted Jennings of Brewton elected to the NLC Board of Directors was successful. Ted will join Council Member Cynthia McCollum of Madison on the NLC Board. Mayor Alvin P. DuPont of Tuscaloosa and Mayor Leon Smith of Oxford continue to serve on the NLC Advisory Committee. Next year's Congress of Cities meeting will be held in Indianapolis, Indiana, on December 1-4, 2004.

The League Legislative Package for the 2004 Regular Session was formulated by the Committee on State and

Federal Legislation in November 2003. A full list of the bills contained in the package and a summary of each can be located in the State Legislation section of the League web site at [www.alalm.org](http://www.alalm.org).

The annual League of Municipalities Convention will be held in Birmingham on May 22-25, 2004. The meeting brings together municipal representatives from across Alabama to discuss common interests and share solutions to common problems. The Convention provides instruction for elected officials, clerks, attorneys and others. It is not too early to begin making plans to attend now. The Registration booklet has been mailed to every mayor, councilmember, clerk and attorney in the state. It is also available on the League webpage. The League will accept payments by credit card this year. The Sheraton-Birmingham Hotel and the Tutwiler, A Wyndam Historic Hotel, are currently full. Both do maintain a waiting list. A third property, the Crowne Plaza Hotel – The Redmont, still has rooms available. The League staff is currently planning workshops and events for the convention.

The 2005 League Convention will not be held in Montgomery as previously scheduled due to construction of a new hotel and Convention Center facility. The site of the 2005 Annual Convention will be announced in the near future.

The League Staff has been working on numerous items relating to the 2004 municipal elections. The *Elections Manual* has been distributed by mail to each clerk and is also available for download on the League's web site. Ken Smith, Lori Lein and Mary Ellen Harrison are to be commended for their work on preparing the new elections documents and presentations on municipal elections.

A seminar on municipal elections for municipal attorneys was also held at the League Headquarters Building on February 6. The legal staff is also making preparations for the large number of election inquires that will be fielded this year. Newly-revised editions of the *Selected Readings for the Municipal Official* and the *Handbook for Mayors and Councilmembers* are being written by the legal staff for distribution in the Fall. Due to several requests, the 2004 edition of the *Selected Readings for the Municipal Official* will contain an index.

I wish to thank Laura Anne Whatley for her hard work in redesigning the League web site. We are constantly looking for ways to improve the usefulness of the web site. The League is currently exploring methods of surveying members over the internet on pertinent issues.

The League continues to offer two Computer Programs – *The Municipal Law on Disc* program contains summaries of Attorney General Opinions, Court Decisions, and Ethics Opinions published in the League Newsletters over the past

*continued next page*

40+ years. We currently have 39 subscribers. A subscription lasts for one year and the program is updated quarterly.

Our second program is *ALM Library*. This program contains the complete text, searchable by word, of the *Selected Readings for the Municipal Official; Handbook for Mayors and Councilmembers; Municipal Clerk's Manual, Municipal Public Improvement Cost Assessments; Methods of Extending Municipal Corporate Limits; Labor Laws Affecting Municipalities; and Incorporating a Community*.

I also want to commend Greg Cochran and Carrie Banks for the newly-revised 2004 *Annual Directory & Vendor Yellow Pages*, which has been distributed to members.

The total enrollment in the League's CMO Program since inception is 2097 officials. Active officials enrolled are 1256. There have been 564 Basic CMO graduates to date. They can be broken out as follows: 1996 – 48; 1997 – 84; 1998 – 84; 1999 – 103; 2000 – 73; 2001 – 29; 2002 – 65; 2003 – 72; 2004 (to date) – 6.

There have been 189 Advanced CMO Graduates that can be broken out as follows: 1999 – 23; 2000 – 50; 2001 – 41; 2002 – 31; 2003 – 36; 2004 (to date) – 8.

The League Cable TV Franchise Management Service continues to be a huge success. At least 20 cities and towns

have participated since June 2003. Members seeking further information should contact Greg Fender at 866-280-5030. Recent positive articles on Gov Deals, our online auction service, have appeared in USA Today, GOVERNING Magazine, VIRGINIA MUNICIPAL LEAGUE TOWN & CITY, RALEIGH NEWS & OBSERVER. The number of sellers and buyers has been increasing weekly. There were over 400 registered buyers on a recent weekend. There are approximately 44 municipalities that have used the service to date.

The following future meeting dates have been announced:

- **NLC Congressional-City Conference** – March 5-9, 2004 - Washington, D.C.
- **SMC Leadership Conference** – April 15-17, 2004, Lexington, KY
- **Last Day of Regular Session** – May 17, 2004
- **ALM Convention** – May 22-25, 2004, Birmingham
- **Executive Committee Organizational Committee** – July 15, 2004
- **General Election Date** – August 24, 2004
- **Runoff Election Date** – September 14, 2004
- **Committee Day** – TBA
- **Orientation Sessions for Newly-Elected Officials** – TBA

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# ENVIRONMENTAL OUTLOOK



By Gregory D. Cochran  
Director, Intergovernmental Relations

## Court Backs the Environmental Protection Agency

The U.S. Supreme Court ruled last month that the federal Environmental Protection Agency can override state officials and order some anti-pollution measures that may be more costly. In the 5-4 decision, a victory for environmentalists, the court found EPA did not go too far when it overruled a decision by Alaska regulators who wanted to let the operators of a zinc and lead mine use cheaper anti-pollution technology for power generation.

The Alaska case was the first of eight environmental cases on the court's docket this term, an unusually high number. The fight was over whether a mining operator must use equipment that would reduce pollution from a new generator by 90 percent. The state wanted to allow the mine operator to use equipment that would only reduce pollution by 30 percent.

The Clean Air Act allows state officials to make some decisions involving facilities within their borders but still gives the EPA wide authority to enforce the anti-pollution law passed by Congress in 1970.

The four Justices offering a dissenting ruling argued that the decision undercuts states' power to control their environmental policies. The case is *State of Alaska v. U.S. Environmental Protection Agency*, 02-658.

### Court Ruling favors Atlanta Region Water Allotment

U.S. District Judge Thomas Penfield Jackson of Washington approved an agreement between metro Atlanta governments and the U.S. Army Corps of Engineers, which owns and operates the Lake Lanier dam that controls the upper Chattahoochee. The is ruling in favor of the state of Georgia in a battle that pitted metro Atlanta's bid to draw more water from Lake Lanier against others downstream on the Chattahoochee River.

Although Jackson's ruling could give metro Atlanta a decade's worth of water to grow on, it is just a step in a long legal battle over the Chattahoochee. The fight between Georgia,

Alabama and Florida is likely to wind up in the U.S. Supreme Court. The agreement approved by the judge outlines how much lake water will be reserved for drinking and other city needs and requires metro governments to pay the corps \$2.5 million a year for the dam's upkeep.

For the Atlanta area to actually to get the water, the corps will have to go back to federal district court in Birmingham, where the tri-state water war began in 1990. The judge there already has signaled her distaste for the agreement, which left Alabama and Florida out of secret negotiations that lasted nearly two years. Alabama and Florida, and others downstream from metro Atlanta, will try to make the case that if this region takes more water, it will harm their economic and environmental interests. The three states also are fighting over water sharing in another federal court in Gainesville, Georgia.

Federal experts also must study the environmental consequences of taking more water out of the river, including what it could mean to oysters in Florida's Apalachicola Bay. The bay on the Gulf of Mexico is fed by waters from the Chattahoochee River and the Flint River in Georgia, which form Lake Seminole and then flow into the Apalachicola River.

Proponents of the ruling say it will provide metro Atlanta about 210 million additional gallons a day, which is needed to get the region through another 10 years, based on population projections.

### Birmingham and Montgomery Receive an "A" for Water Quality

Here is some good news about drinking water in Birmingham and Montgomery. *Men's Health Magazine*, with help from the Environmental Quality Institute at North Carolina and the

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**THE**

**LEGAL**

**VIEWPOINT**

Lorelei A. Lein  
League Counsel



## K-9 Units: Municipal Liability Issues

The use of dogs in law enforcement has a long history. We have all seen the spiked collared dog popular in cartoons. These caricatures are actually based on dogs used in ancient Greece and Persia that were often equipped with harnesses with sharp spikes. Such dogs were typically sent in advance of an attack by mounted soldiers in an effort to injure cavalry mounts. In the Middle-Ages, dogs wore armor and were trained to nip at the legs of opposing knights' mounts and the phrase "dogs of war" was born.

One of the first police canine programs in the United States began in New York City at the beginning of the 20<sup>th</sup> century. However, it would be some time before the use of police dogs would be widespread in America despite the fact that their use was quite popular in Europe. Today there are hundreds of police agencies in the United States utilizing canine units for drug detection, crowd control, suspect apprehension, and officer protection.

As with any police activity involving the potential "use of force," the use of dogs in law enforcement raises issues of civil liability. Plaintiffs will typically claim the excessive use of force resulting from a dog bite and the unconstitutionality of the policies utilized within a police department with regard to canine units. While very few plaintiffs have succeeded in obtaining any significant damage awards, adequate training, supervision, and documentation can greatly minimize any liability.

There are two types of policies followed by police departments utilizing police dogs: "find and bite" policies and "find and bark" policies. Under a find and bite policy, a dog is trained to search for a suspect and is allowed to bite the suspect upon location. The dog is trained to release the suspect upon an "out!" command, or to release the suspect once the suspect ceases to resist. As expected,

the biggest criticism of find and bite policies is that the suspect is usually bitten.

While similar to the find and bite method, in the find and bark method a dog is trained to hold or circle a suspect and to maintain a constant bark until the suspect is secured by officers. The dog is not trained to engage a suspect unless the handler commands, the suspect fights with the dog, or the suspect takes aggressive action toward the handler.

Critics of find and bite policies advocate for the nationwide use of find and bark training. However, the find and bark approach requires a superior canine and immediate supervision by the handler. Many trainers assert that find and bark trained dogs are unpredictable when they locate a suspect after an aggressive search or encounter. The Los Angeles Police Department, considered a leader in canine police programs, gave up its find and bark policy largely based on studies which showed an inability to stop the dog from attacking in a find and bark situation.

Although there have been attempts to declare find and bite policies unconstitutional, no court has ever held such. While this is true, the simple fact remains, lawsuits don't happen unless a dog bites. However, the mere fact that a police canine bites a suspect does not always expose a department to civil liability.

The main issues of litigation for canine units include the failure to properly train and supervise; canines as deadly force; and the failure to properly warn a suspect that a canine is going to be deployed.

With regard to negligent training, in *Kerr v. City of West Palm Beach*, 875 F.2d 1546 (11<sup>th</sup> Cir. 1989), one of the leading

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## 2004 Annual Directory & Vendor Yellow Pages

The *Annual Directory & Vendor Yellow Pages* is a 136 page, 8" x 11 publication with a coil binding that also offers information about the League and our staff and provides contact information for the Alabama House of Representatives, the Alabama Senate, Constitutional officers and important state agencies. Municipal listings for Alabama's more than 400 incorporated cities and towns include the following information:

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cases on canine liability, the Eleventh Circuit Court concluded that police dogs must be subject to continual rigorous training in law enforcement techniques. Such training ensures that the dogs will continue to respond with alacrity to the commands of their handlers. Without such training, the dogs' responsiveness to their handlers' commands deteriorates, resulting in more frequent and more serious injuries to apprehended suspects.

The policy followed by the City of West Palm Beach allowed the use of police dogs to apprehend suspected felons and those suspected of "serious misdemeanors". The failure of the policy to define what constitutes a "serious misdemeanor" was one of the primary concerns expressed by the court. The policy left the decision entirely up to the discretion of the officer handling a police dog and as a result, police dogs were being used to apprehend prostitutes, drunks, and petty thieves without any regard for the degree of threat posed to the apprehending officer. The officers displayed stars on the sides of their patrol cars indicating the number of bites their dogs had given and scrapbooks were maintained with photos of suspects and wounds. Several instances of dogs failing to release on command were documented but no remedial training had followed.

On the issue of negligent supervision, the court in the *Kerr* case concluded that supervisors failed to adequately supervise the performance of members of the canine unit to ensure that both misbehaving dogs and officers exhibiting bad judgment in the use of canine force received corrective training. Supervision applies to all supervisors and includes supervision of standards; training, testing, and evaluation to those standards; appointment, entrustment, and retention of both the dog and handler; deployment and the use of canine force.

The *Kerr* case, which did find liability on the part of the city, the police chief, and the individual officers involved, provides two very valuable lessons for canine units. First, misdemeanor suspects who pose no threat should not be apprehended by police dogs. Second, canine programs must be adequately supported with training resources, both in the initial selection of dogs and handlers and in continued in-service training. Many states are fortunate to have qualified training staff and facilities available to police officers through their Peace Officers Standards & Training (POST) divisions. While there are several private training resources available to police departments and officers in Alabama, POST has no training available for Alabama law enforcement nor do they have any regulations or standards required to operate a canine unit.

In many cases, plaintiff's attorneys have attempted to have the use of police canines classified as deadly force. To date, no federal court has ruled that police canines are deadly force and there are numerous cases specifically holding that the use of police dogs does not amount to deadly force. Rather than resulting in deadly force, one court has determined that the use of police dogs may actually prevent the use of deadly force. In *Robinette v. Barnes*, 854 F.2d 909 (6<sup>th</sup> Cir. 1988), one of the few cases involving an actual death as a result of the use of a police dog, the Sixth Circuit Court of Appeals stated:

Instead of generally causing deadly force to be used to apprehend criminals, we believe that these dogs can often help prevent officers from having to resort to, or be subjected to such force. . . . The use of dogs can make it more likely that the officers can apprehend suspects without the risks attendant to the use of firearms in the darkness, thus, frequently enhancing the safety of the officers, bystanders and the suspect.

*Id.* at 914.

In addition to the issue of deadly force, there have been several cases where the suspect claims he did not receive any sort of warning that a dog was about to be deployed. Some courts have held that a warning must be given prior to using a dog as a potential use of force. The Fourth Circuit found it clearly established that it is objectively unreasonable for a police officer to fail to give a verbal warning before releasing a police dog to seize someone. *Vathekan v. Prince Georges' County*, 154 F.3d 173 (4<sup>th</sup> Cir. 1998). *Vathekan* involved the release of a police dog into a house where the dog found, bit, and seriously injured a sleeping woman. In an earlier Fourth Circuit case, *Kopf v. Wing*, 942 F.2d 265 (4<sup>th</sup> Cir. 1991), the court concluded that releasing a police dog without warning, into an extremely narrow passage between a shed and a fence, where the suspects were essentially trapped, could be deemed objectively unreasonable. *Id.* at 268-69. However, at least one Circuit has held an officer who failed to warn a suspect that a dog was going to be deployed was entitled to qualified immunity because the "duty to warn" was not clearly established by constitutional law. See *Kuha v. City of Minnetonka* 328 F.3d 427 (8<sup>th</sup> Cir. 2003).

Other areas of litigation include the repeated applications of force, inadequate report writing, post bite interviews, and

*continued next page*

accidental bites. With regard to accidental bites, it is key that they be settled immediately. The definition of an accidental bite is biting a person that was not intended to be bit, or simply put, biting the wrong person. You can do everything right and still have an accidental bite.

One effective technique for dealing with accidental bites is to establish an instant settlement procedure. The effectiveness of such a settlement and liability release depends on three elements. First, a supervisor must have immediate access to funds up to a predetermined amount for a cash settlement, and an ability to charge emergency medical bills. Second, the agency's legal advisor must have a written settlement agreement prepared in fill-in-the-blank format. Third, the agency must settle with the bite victim promptly, before legal action is taken. This type of quick settlement may significantly reduce the cost of an accidental bite and save administrators and political officials from public relations headaches.

Virtually all trial and appellate court opinions addressing liability for canine-related injuries address the issue of verbal control of the dog by the handler. The necessary degree of control can only be achieved and maintained by regular training. Handlers must train under the circumstances they and their dogs are likely to encounter. Non-handler officers should also be trained in containment and canine techniques so that they will be prepared to support the canine deployment without interfering and potentially causing injury.

Some states offer liability protection for all political entities with police canine programs. Under Utah Code Ann. section 18-1-1, no agency will be liable for an injury caused by a police canine if the canine is trained as a police service dog and the injury occurs in the course of a reasonable apprehension, arrest, search for a suspect, or crowd control. Alabama does not have any statutory liability protection specific to police entities with canine programs.

Agencies that wish to maintain a police canine program must be prepared to pay the cost. Such costs include training, training, training, the initial modification of a patrol vehicle, home kennel facilities, harnesses and leads, food, regular grooming and veterinary care, and, did we mention, training. Further, canine programs involve investments of a great deal of time for the handlers for ongoing care and training.

Finally, it is vital that departments utilizing canine units keep meticulous records. At a minimum, the following records should be maintained:

- Selection criteria and basic training of handler and canine

- In-service training
- Validity tests for narcotics detection
- Patrol officer containment training
- Deployments and apprehensions
- Bites, including accidental bites and any corrective actions
- Supervisory inspection of training and deployment
- Awards and certifications
- Public relations appearances

In conclusion, police departments beginning or maintaining a canine program can significantly reduce their department's liability relating to the program. Such departments should commit to training for the dogs and officers involved, just as firearms qualification and familiarity; use of force; and emergency vehicle operations require significant training commitments. Document the selection and training process and maintain complete records, taking care to create successful public relations at the same time. Consult with departmental legal counsel to draft policies that steer canine activities away from known liabilities. When the accidental bite occurs, be prepared to make it a legal and practical success for the citizen and the police department. Canine programs can be cost-effective and nearly liability-free with proper planning, documentation and supervision. For more information, please visit [www.policek9.com](http://www.policek9.com). ■



Leslie Hines of the Demopolis Police Department with "Jenny"



By Ken Smith  
Deputy Director/Chief Counsel

# Legal Notes

## Court Decisions

**Employees - Courts:** In *City of Dothan Personnel Board v. Devane*, 860 So.2d 881 (Ala. Civ. App. 2002), cert. denied, 860 So.2d 894 (Ala. 2003), the Alabama Court of Civil Appeals held that the Dothan Personnel Board is not a party to an appeal to the circuit court from its quasi-judicial determination to uphold the termination of an employee, and thus the Board does not have standing to appeal from a circuit court ruling overturning the Board's decision.

**Police:** The United States Supreme Court has held that a roadblock to obtain information concerning a hit-and-run homicide that occurred a week earlier at the same time and location as the roadblock was constitutional. In this case, the Court determined that special law enforcement concerns such as the gravity of the crime and the fact that the roadblock advanced that concern to a significant degree justified the stopping motorists, even though the stops were made without individualized suspicion. *Illinois v. Lidster*, 72 LW 4120 (2004).

**Police:** The United States Supreme Court has held in *Fellers v. U.S.*, 72 LW 4150 (2004), that statements made by a defendant may not be admitted into evidence if the statements were "deliberately elicited" by police officers after the defendant was indicted and made in the absence of the defendant's attorney.

## Citations to Cases from Other Jurisdictions

**Liability:** The Indiana Supreme Court has held that municipal allegations that gun manufacturers knowingly failed to take steps to protect consumers from risks of harm state valid claims for negligence and public nuisance under Indiana law. *Gary, Ind. v. Smith & Wesson Corp.*, 72 LW 1417 (Ind. 2003).

**Curfews:** An Indiana nocturnal curfew law was stricken as having an impermissible chilling effect on protected First Amendment speech by the Seventh Circuit Court of Appeals. *Hodgkins v. Peterson*, 72 LW 1444 (7<sup>th</sup> Cir. 2004).

**First Amendment:** The Tenth Circuit Court of Appeals has held that zoning ordinances are not subject to challenge by an adult business as prior restraints on First Amendment rights. *Tool Box, Inc. v. Ogden City, Utah*, 72 LW 1448 (10<sup>th</sup> Cir. 2004).

**Americans with Disabilities Act:** The Seventh Circuit Court of Appeals has held that compensatory and punitive damages are not recoverable in retaliation claims made under the Americans with Disabilities Act. *Kramer v. Banc of America Securities, LLC*, 72 LW 1431 (7<sup>th</sup> Cir. 2004).

## Attorney General's Opinions

**Fire Prevention:** Section 40-9-13, Code of Alabama, 1975, exempts volunteer fire departments from paying building inspection fees. 2004-044.

**Elections:** A newly incorporated municipality must hold a general municipal election in August, 2004 pursuant to Section 11-46-21, Code of Alabama, 1975. 2004-046.

**Ordinances:** A general and permanent ordinance that is introduced at a regular meeting may subsequently be considered and voted on at a properly called special meeting. 2004-053.

**Councils and Councilmembers:** Where a municipal council consists of five councilmembers and the mayor, four members constitute a quorum, even if a vacancy exists. The mayor may be counted as a member for purposes of determining a quorum since this is a municipality with a population under 12,000. 2004-054. *continued page 25*

## Mark Your Calendars

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# Federal Legislative and Regulatory Issues

Mary Ellen Wyatt Harrison  
Staff Attorney

## Congress Omnibus Spending Bill

Congress recently finished work the 2004 omnibus spending bill. It is a \$373 billion bill that offers the good and bad for municipalities. Additionally, the bill includes an across the board cut for all programs except Military Construction funds and the Department of Defense.

Homeland Security funding is one of the programs that will receive a cut. The homeland security spending bill, H.R. 2555, was passed last September. It included a \$1.7 billion bill that provided for first responder formula grants. Eighty percent of those grants were to be directed to local governments; however, with the across the board cuts, that budget will be decreased by .59 percent. The Department of Homeland Security is expected to release figures that will reflect the cuts in the first responder programs soon.

Funding for No Child Left Behind is \$30 million dollars behind what is required by law; however, funding for the 21<sup>st</sup> Century Community Learning Centers, which the President wanted to cut by 40 percent, has been restored back to \$1 billion. The \$1 billion is still \$750 million below what is called for by law.

The Community Oriented Policing Services (COPS) Program has been cut by \$227 million from the fiscal year 2003 levels. More specifically, the COPS hiring program was cut by \$80 million, COPS technologies grants was cut \$30.3 million, methamphetamine grants were cut by about \$2 million, COPS police integrity grants were cut by \$6.85 million, safe schools initiative was cut \$10.51 million, and law enforcement armored vest grants were cut by \$200,000. Surprisingly, the COPS telecommunications interoperability grants funding increased by \$10 million. The program is designed to make it easier for public safety personnel to talk with one another via radio.

The Local Law Enforcement Block Grant program was also hit with budget cuts for the fiscal year 2004. Funding for the grant program is down \$172 million from fiscal year 2003.

The VA-HUD bill was funded at a \$408 million increase over the fiscal year 2003 level. The funding includes \$150

million for the HOPE VI program, which funds the improvement of public housing.

Congress did not accept the Administration's proposal to cut funding for the Clean Water State Revolving Fund by \$550 million. The funding level is the same as fiscal year 2003, which was at \$1.35 billion.

Highway Trust Fund spending hit a record high of \$33.8 billion. That is up 6.6 percent from 2003.

New Starts, a program for the funding of heavy and light rail commuter buses received \$1.3 billion.

The FAA will receive \$13.9 billion, which is a 3.2 percent increase.

Mass transit is funded at \$7.3 billion.

Amtrak squeezed a \$182 million increase in funding from last year, which puts them at \$1.2 billion; however, Congress will withhold \$60 million until July to ensure that commuter rail service will continue in the event Amtrak has problems with finances.

The .59 percent cut will be on transportation discretionary spending. Before the cut discretionary spending was at \$27.5 billion.

## Ridge Testifies Before Congress

Homeland Security Secretary Tom Ridge testified before Congress in early February regarding the proposed budget for the Department of Homeland Security (DHS).

The President has proposed a 10 percent increase in homeland security funding. Five percent would apply to DHS priorities to strengthen border and port security, bioterrorism preparedness, aviation security and immigration. The remaining 5 percent would go to other federal departments that are responsible for homeland security.

The Administration has requested \$40.2 billion for Department of Homeland Security. Of that \$40.2 billion, \$3.6 billion is allocated to first responder grants. The DHS has proposed shifting grant funding from one program to another, specifically, the State Homeland Security Grant Program would be reduced from \$1.7 billion to \$750 million

*continued next page*

next year. Most of the difference would increase the funding for the Urban Area Security Initiative grant program from \$725 million to \$1.45 billion.

Some senators have expressed concern in funding for the firefighter grant program, which will be decreased from \$750 million to \$500 million. Funding for the Urban Search and Rescue would be discontinued. Ridge defended the cuts as appropriate under the fiscal and security concerns under which DHS must operate in Fiscal Year 2005.

In his report, Ridge acknowledged that between \$8 and \$9 billion in homeland security grants are not making from state capitols to local governments and first responders. Ridge reported that some of the 2002 funding has not made it to the local levels.

The problem with channeling the grant money has arisen because states are left to determine how they will transfer homeland security funds to subgrantees at the local levels. Ridge plans to address this problem with governors when they attend their National Governors Association meeting.

### **Department of Homeland Security Offers Guidance on Disaster Proofing Buildings**

Four new publications are available from the Department of Homeland Security (DHS). The publications are in its Multi-Hazard Risk Management Series developed by FEMA. They include guidance on designing, constructing and engineering high-occupancy buildings that are more resistant to damage caused by a terrorist attack.

Along with these publications, FEMA is sponsoring an outreach campaign. The goal of the campaign is intended to promote the use of these materials by members of current and future emergency management and building science professional communities.

The primary users of the materials should be public policy officials at all levels, facility managers and owners, emergency managers, architects and building construction officials. For more information, visit [www.fema.gov/fima/rmsp.shtm](http://www.fema.gov/fima/rmsp.shtm).

### **Alternative to Internet Access Bill Introduced**

Senators Lamar Alexander (R-Tenn.) and Thomas Carper (Del.) recently introduced an alternative to the Internet Tax Non Discrimination Act (S. 150). The alternative to S. 150 is entitled the Internet Access Tax Ban Extension and Improvement Act.

The Internet Access Tax Ban Extension and Improvement Act calls for a two-year extension of the existing Internet tax moratorium. The extension would allow state and local governments, as well as Congress and industry leaders, to define new technologies and address their treatment under current tax laws. The bill would also allow local governments to continue to levy existing taxes

on telecommunications and rights-of-way and preserves the ban on e-mail or Internet access taxes as well as multiple discriminatory taxes.

### **TEA-21 may be Postponed Four Months**

Reauthorization for the Transportation Equity Act for the 21<sup>st</sup> Century could be postponed four additional months. This extension was introduced by Rep. Don Young, R-Alaska, chairman of the House Committee on Transportation and Infrastructure. It followed an announcement that President Bush would be encouraged to veto any bill that included an increase in gas or other federal taxes, funding through bonding or other mechanisms, or financing from the government's general fund.

The House plan, H.R. 3550, proposes spending \$375 billion over the next six years on surface transportation. Of this amount \$298 billion would support highway programs; \$69.2 billion would fund transit activities; and \$7.5 billion would be provided for safety programs.

The Administration's proposal, titled the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003 (AFETEA), would authorize \$247 billion in funding through Fiscal Year 2009.

### **Increases and Cuts Included in Health and Human Services FY 05 Budget**

President Bush has proposed a \$15 billion increase in the budget for Health and Human Services. The majority of this increase would support Medicare, the Food and Drug Administration, research at the National Institutes of Health and abstinence education.

The only downfall of this increase is that in exchange for these increases, programs of the Health Resources and Services Administration (HRSA), the Centers for Disease Control and Prevention (CDC) and the Administration for Children and Families (ACF) would be cut by approximately \$3 billion. Reductions have been proposed for the Health Care Facilities Improvement program, the Healthy Communities Access program, state planning grants and rural health initiatives of HRSA, the Public Health Improvement Program, and the Community Services Block Grant (CSBG) program.

The CSBG program did not demonstrate results under the Administration's rating system; therefore, the Department for Health and Human Services wants CSBG funding cut by \$147 million, for a total of \$495 million in Fiscal Year 05

A \$112 million increase in funding for community-based abstinence education also has been proposed. This level would provide up to 440 grants to public and private nonprofit organizations to develop and implement abstinence programs

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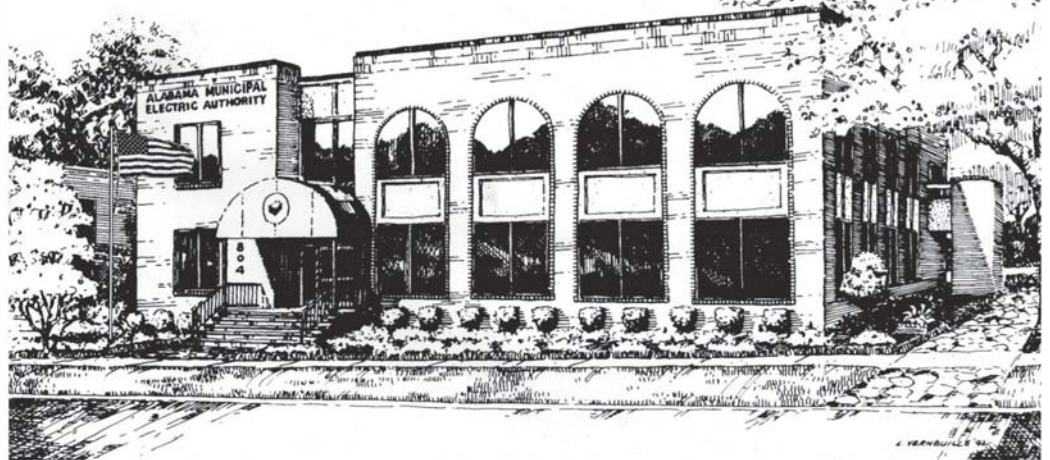
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# Municipal Overview

continued from page 12

- **AAMA Mid-Year Meeting** – September 24-25, 2004
- **Inauguration Day** – October 4, 2004
- **Year-End Executive Committee** – October 21, 2004
- **Committee on State & Federal Legislation** – November 9, 2004

League Deputy Director Ken Smith and League Finance Director Steve Martin gave a report on a proposed bond program for League members. Following the report, Mayor Roy Dobbs of Berry made a motion that the League President appoint a subcommittee to study the issue in greater detail and report their findings back to the Executive Committee. The motion, which was seconded by Mayor Bobby Payne of Tallassee, was approved unanimously. President Williams stated that he would appoint the subcommittee.

Mayor Wayne Tuggle of Graysville, Vice Chair of the Alabama Municipal Insurance Corporation, and Mayor Ted Jennings of Brewton, Secretary-Treasurer of the Municipal Workers' Compensation Fund, presented the reports on the activity of their respective programs that were distributed in each packet.

League Legislative Liaison Hal Bloom discussed the outlook for the 2004 Regular Session. Mr. Bloom stated that he expects the session to be a very tough one as members of the legislature deal with the state's funding problems. The Special Education Trust Fund appears to be in better shape than the General Fund. Medicare causes significant budget problems for the state. Greg Cochran presented a report on the recently approved Federal Budget. Ken Smith reported on the significant increase in amicus briefs requested by member cities and towns. He also reported on plans for the 2004 municipal elections. ■



## Vendor Profile

### Local Government Data Processing Corporation

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FAX: 931-381-0678  
E-mail: [marketing@lgdpc.com](mailto:marketing@lgdpc.com)  
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**Contact: Stacy Hardy**

Local Government Data Processing Corporation was established in 1977 as a private, not-for-profit corporation chartered to provide computer services to local governments. These services are provided on an at-cost basis. LGDPC's current line of municipal software packages include General Ledger, Purchasing, Payroll, Business License and Tax, Court Case Management, Utility Billing and Miscellaneous Receipting. LGDPC software runs on a variety of platforms, including Microsoft Windows and UNIX. At LGDPC, customer service is top priority.

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## Legal Notes

continued from page 19

### Ethics Commission Rulings

**AO No. 2004-03:** A sheriff may receive compensation for teaching law enforcement related subjects provided that teaching these subjects is not part of the normal duties of the office, the teaching is performed when off-duty, and no county materials or labor are used to assist the teaching. **NOTE:** This Ruling would apply to municipal officers as well.

**AO No. 2004-04:** A former municipal firefighter may not represent his new private employer in any dealings with the municipality for which he used to work. ■

for youth between the ages of 12 and 18. It is proposed that additional money for these grants would come out of the government's general fund.

Bush also has proposed doubling the budget of the Access to Recovery program to provide 100,000 individuals who have drug and alcohol addictions with vouchers to pay for treatment services. A total of \$200 million would be needed to support this number of participants.

HHS is asking for more than \$4 billion to prepare the nation's public health system for bioterrorism and other public health risks, including:

- \$181 million for food security initiatives;
- \$476 million for bioterrorism hospital preparedness grants; and
- approximately \$130 million for a new biosurveillance initiative that HHS plans to carry out in conjunction with the Department of Homeland Security.

### **President Bush's Reentry Program**

President Bush proposed a four year, \$300 million initiative to prevent ex-offenders from committing more crimes when released. The program will help inmates find work and foster their return to society. The President's proposal will use the resources and experiences of faith-based and community organizations.

The United States Department of Labor, Housing and Urban Development, and Justice will work together in assisting ex-offenders in finding and keeping employment, obtaining transitional housing, and receiving mentoring.

The City of Memphis has a similar program and in its three years of existence, it has served more than 1,500 ex-offenders. Only four have returned to prison.

### **Department of Education Grants for Migrant Workers and their Children**

The Department of Education has announced the availability of \$5.9 million under its High School Equivalency Program to help migrant and seasonal farm workers and their children obtain a general education diploma that meets the state's guidelines for high school equivalency.

The High School Equivalency Program (HEP) helps migratory and seasonal farmworkers (or children of such workers) who are 16 years of age or older and not currently enrolled in school to obtain the equivalent of a high school diploma and subsequently to gain employment or begin postsecondary education or training. Competitive, five-year grants for HEP projects are made to institutions of higher education or other nonprofit private agencies that cooperate with such institutions. The program serves more than 8,000 students annually. The deadline for the grant application is

April, 5, 2004. The contact for the application is Mary Suazo, (202) 260-1396.

### **Rural Renting Housing Program Applications**

The Rural Housing Service (RHS) is accepting applications for funding under the Rural Rental Housing Program. Funds will be used to assist low-income families residing in rural rental housing.

The Rural Housing Service guarantees loans under the Rural Rental Housing Guaranteed loan program for development of multi-family housing facilities in rural areas of the United States. Loan guarantees are provided for the construction, acquisition, or rehabilitation of rural multi-family housing.

An applicant must be: A citizen of the United States or a legally admitted alien for permanent residence in the United States; a nonprofit organization such as a local government, community development group or American Indian tribe, band, group, or nation (including Alaskan Indians, Aleuts, Eskimos, and any Alaskan native village); or a for-profit corporation.

Eligible lenders are those currently approved and considered eligible by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank members, or the Department of Housing and Urban Development for guaranteed programs supporting multifamily housing. State Housing Finance Agencies may also be considered eligible lenders. Other lenders have the opportunity to enter into a correspondent bank relationship with approved lenders in order to participate in the program.

Occupants must be very-low-, low- or moderate-income households, elderly, handicapped, or disabled persons with income not in excess of 115 percent of the area median income. Very low income is defined as below 50 percent of the area median income (AMI); low income is between 50 and 80 percent of AMI; moderate income is capped at \$5,500 above the low-income limit. The average rent of all units is 30 percent of 100 percent of the median income of the surrounding area (adjusted for family size). The application deadline is May 14, 2004. The contact person is Arlene Nunes, (202) 401-2307. ■

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# Goshen's New Town Hall \_\_\_\_\_ continued from page 5

“USDA, Rural Development was proud to be a part of Goshen’s goal of having a new town hall for the citizens of their community. Our goal is to help rural areas by providing financial assistance to hopefully improve the quality of life for their citizens,” explained Rural Development specialist Kim Haines. “We accepted their application for funding and began processing their request. We were able to determine, based on population and median household income of the area to be served, that they qualified for a portion of the funding in the form of a grant. At the time of their application, grant funds were available in the amount needed to make this project possible for the Town of Goshen.”

Meanwhile plans for the new building had been drawn up that would include the municipal offices, a spacious kitchen and a room large enough to hold community activities. The council had also hoped the building could house a senior nutrition center. “For a long time we had recognized the need for a nutrition center in town but we just never had a place for it,” said Mayor Sanders. “Of course, our main goal was the town hall and community center, but all through the planning stages we kept a senior nutrition center in the back of our minds. Our application for that program was accepted the same month we moved into the building. So now we have it all and it worked out just the way we’d hoped and dreamed.”

Montez McLeod, a senior in Goshen, remembers back to the early days of the old town hall. “The only thing we ever used it for was town meetings and voting. You couldn’t have any activities in there, with the exception of quilting one night a month,” she said. “What we have now is just the best thing that has ever happened to Goshen. There’s just no comparison to this and the way it was back then.”



Goshen’s town hall building as it appeared just prior to it being torn down for construction of the new facility.



Built in the late 1800s, the old town hall building served as a bank prior to becoming the town hall.

But even with all the excitement of the new building, the council recognized that there was a lot of sentimentality for the old building and, despite its decrepit condition, some townsfolk hated to see it go. Cricket Snyder said, “That’s why we saved some of the old brick from the old building and had it placed around the marker and the flag pole out in front – so people who remember could enjoy seeing the old brick.”

A ribbon cutting and dedication ceremony for the new Goshen Town Hall was held on December 21, 2003. A proud community joined in on the festivities. Mayor Sanders said, “This building is a new beginning ... a gateway of growth for the future of Goshen.” ■

*Originally from a small community outside Alabama, Kathleen Ryan writes a column for the Troy Messenger titled “From The Land Of Goshen.” She’s been a freelance writer for 15 years and has written features for the Fort Lauderdale Sun-Sentinel and the Miami Herald as well as magazines in the collectibles industry. In all, she’s written more than 650 people and company profiles. She also provides public relations writing for Seventh Impression, an advertising agency in Goshen. Ryan, who has lived in Goshen for five years, was appointed to the Goshen Town Council six months ago when one of the members moved. She’s excited about this new responsibility and very eager to do all she can to help the town she’s adopted as her own.*

# Environmental Outlook — continued from page 13

Natural Resources Defense Council checked water quality tests from 101 U.S. cities. Comparing data with National Academy of Sciences guidelines as well as EPA's maximum contaminant level goals, the magazine issued a national 101 city report card.

The two Alabama cities on the list, Birmingham and Montgomery, received an "A." In the South, Nashville and Atlanta received "Bs". Nationally, scores ranged from Washington D.C. - "F", Raleigh, N.C. - "C", Chicago "B" and Seattle - "C".

## Additional Cuts in ADEM Budget

Governor Riley's administration proposed an additional 7 percent cut in the Alabama Department of Environmental Management's (ADEM) general fund operating budget for FY 2005. This is largely due to the poor financial shape of the general fund. The FY2005 General Fund is projected to have a \$330-\$350 million shortfall. Governor Riley has proposed cutting 7 percent from most state agencies in order to shave costs. The new proposed cut will decrease ADEM's annual general fund appropriation from \$3.9 million to \$3.6 million. Last year, ADEM's general fund budget was reduced 18 percent, resulting in a sharp decrease of activities in the general fund dependent solid waste program.

Historically, ADEM's appropriation from the legislature is the lowest in the Southeast. In 1991, ADEM was appropriated \$5.6 million. The Department has not experienced numbers this low since FY 1988 when the appropriation was \$3.1 million. During that time, the department has had to incorporate many additional environmental responsibilities without additional funding.

## Rep. Davis to Launch Environmental Justice Initiative

According to *The Birmingham News*, Congressman Artur Davis will be launching an environmental justice initiative this spring. Environmental justice refers to the fight against unequal distribution of environmental hazards among populations. Historically, poor or minority communities have had more of a burden. Rep. Davis' district includes parts of the Black Belt, the poorest section of the state.

Some of the issues of concern include, housing contaminated with lead, polluted waterways and landfills. Currently, according to the *News*, in Perry County, the county commission will decide soon whether to allow a landfill to be built near Uniontown that could receive up to 7500 tons of solid waste a day from Alabama and 15 other states as far as New York. Perry County is in Davis' district. ■



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# Speaking of Retirement

## Announcements Regarding Your Retirement

### Legislative Update

With the legislature now in session, the quickest way to find out which bills have been proposed that affect your retirement and healthcare benefits is to log onto the RSA Web site at [www.rsa.state.al.us](http://www.rsa.state.al.us). Click on Legislation and then click on Current Legislation. There is a link to the State Legislature where you can read the bill in full, and links on how to get in touch with your State Representative and Senator. The RSA newsletter, *The Advisor*, also has updates on legislation affecting our members.

### Employee Updates

The new schedule of dates and locations and registration forms for the ERS Retirement Preparation Seminars were mailed to every agency on March 1. Anyone within 4 years of retirement eligibility is encouraged to attend a free, full-day seminar designed to help plan your retirement. Spouses are welcome. Topics to be covered are health insurance, RSA-1, Social Security, Medicare, retirement benefits, DROP and other important retirement issues. Registration is required. The schedule and registration form can also be downloaded from our Web site. Just click on the Retirement Planning, Seminars and Counseling Services button.

If you are planning on applying for retirement this year, **all** of your paper work must be received by the ERS at least 30 days and not more than 90 days prior to the effective date of retirement. The RETIREMENT APPLICATION PACKET is in two parts. Part I includes the Form 10, Application for Retirement; Form 12, Insurance Authorization Form (for state employees only); Direct Deposit Authorization Form; and Insurance Premiums and Coverage information. You may receive Part I by contacting your payroll officer, the ERS, or downloading the form from our Web site.

Once the ERS receives Part I, they will send you Part II which includes your retirement benefit calculation, Retirement Benefit Option Election Form, Withholding Certificate for Pension or Annuity Payments, and Postretirement Employment Options. **Remember**, if you do not select a retirement option prior to your effective date of retirement, you will, by law, automatically receive the Maximum Retirement Allowance.

### Employer Update

The ERS sent out to each agency in February a new FORM 7, NOTICE OF FINAL DEPOSIT AND REQUEST FOR REFUND, and a new FORM SB, APPLICATION FOR SURVIVOR BENEFIT. The SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS accompanies both of these forms. It is imperative that your employees receive this tax notice prior to completing one of these forms to be in compliance with the IRS and to make educated decisions concerning their taxes.

Please contact the ERS with any questions you may have about your retirement benefits at 1-800-214-2158, extension 399 or email the ERS at [ersinfo@state.al.us](mailto:ersinfo@state.al.us).

*Prepared by the Communications staff of the Retirement Systems of Alabama. To have your questions answered in "Speaking of Retirement", please address them to:*

*Mike Pegues, Communications, Retirement Systems of Alabama, 135 South Union St., P. O. Box 302150, Montgomery, Alabama 36130-2150.*

## Edward Lee Goodson

**Edward Lee Goodson**, former mayor of Leeds, died December 22, 2003. He was 76.

In December 1976, Goodson was appointed mayor by the Leeds City Council following the death of the current mayor. He served as the administrator for the Leeds Hospital for more than 20 years and was an assistant football coach and the basketball coach for Leeds High School. He taught mechanical drawing, junior high school English and literature and served as senior class sponsor. He served on the boards of numerous other civic and community organizations.

He is survived by his wife, three sons, five grandchildren and two great-grandchildren. ■

## T.J. Lockhart

**T. J. Lockhart**, former mayor of Jemison died December 24, 2003. He was 77.

Lockhart served 21 years as a law enforcement officer in Chilton County before retiring as sheriff, a post he had held for several terms, in 1979. He later served as mayor of Jemison and was considered one of the county's top Democratic Party officials for several decades. ■

## Willie Mae Elmore

**Willie Mae Elmore**, former councilmember of Forkland, died January 10, 2004. She was 77.

Elmore moved to Forkland in 1966. She was very active in her community throughout her life. She served as the Chair of the Greene County Board of Registrars in the 1980s. She served two terms on the Council from 1980 to 1983 and from 1996 to 2000.

She was a member of the Forkland United Methodist Church and is survived by her son, two grandchildren and one great-grandson. ■

## George E. Hickey

**George E. Hickey**, former town councilmember of Oak Grove, died January 11, 2004. He was 90.

A Clay County native, Hickey was a member of the Oak Grove Town Council from 1980 to 1996. He was a member of First Nazarene Church of Sylacauga and retired from Avondale Mills.

He is survived by his daughter, two sons, four grandchildren, eight great-grandchildren and two great-great-grandchildren. ■

## Jerry C. (Peaches) Thompson

**Jerry C. (Peaches) Thompson**, former mayor of Gurley, died January 29, 2004, after a long illness.

A native of Madison County, Thompson served four terms on the town council and two terms as Mayor.

He is survived by two daughters, two sons and five grandchildren. ■

## John P. Roberson

**John P. Roberson**, former mayor of Rogersville, died January 15, 2004, from injuries sustained in an automobile accident. He was 74.

Roberson served his hometown as Mayor from 1968 to 1988 and as a member of the council from 1996 to 2004. He was an Army veteran and served in the Korean War. A civic leader, he was active in the Jaycees and Civitan clubs. He was a teacher in the Lauderdale County school system for 16 years and was former owner and operator of The 4-R's Family restaurant.

He is survived by his wife, a daughter, a son and four grandchildren. ■

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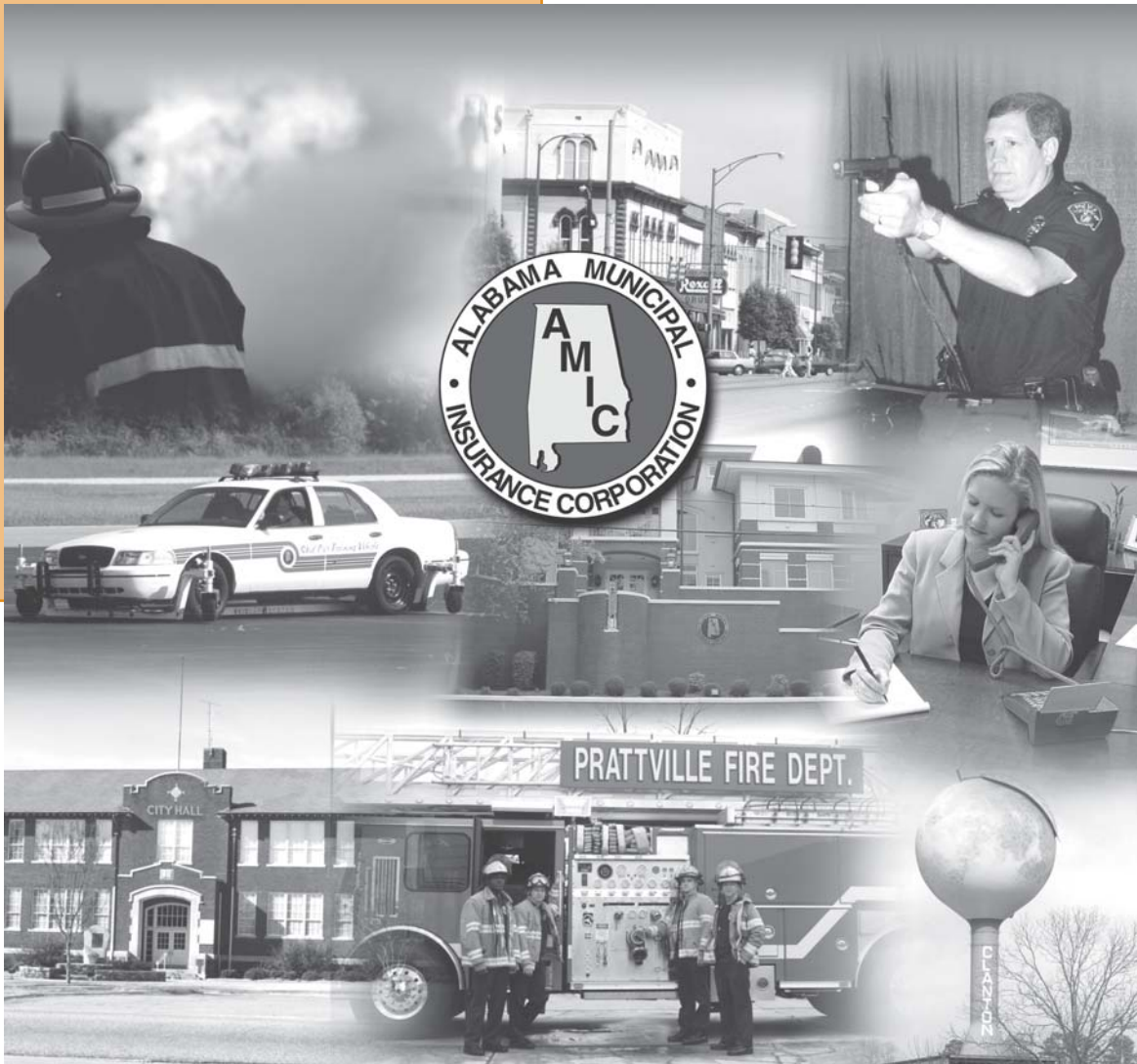
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