

THE ALABAMA MUNICIPAL JOURNAL

January 2006

Volume 63, Number 7

Congratulations, Cynthia!!

Councilmember Cynthia McCollum of Madison was elected 2nd Vice President of the National League of Cities (NLC) during the Congress of Cities held in Charlotte, NC December 13 through 17. She is in line to become president of the NLC in 2008. (Story, page 4.)



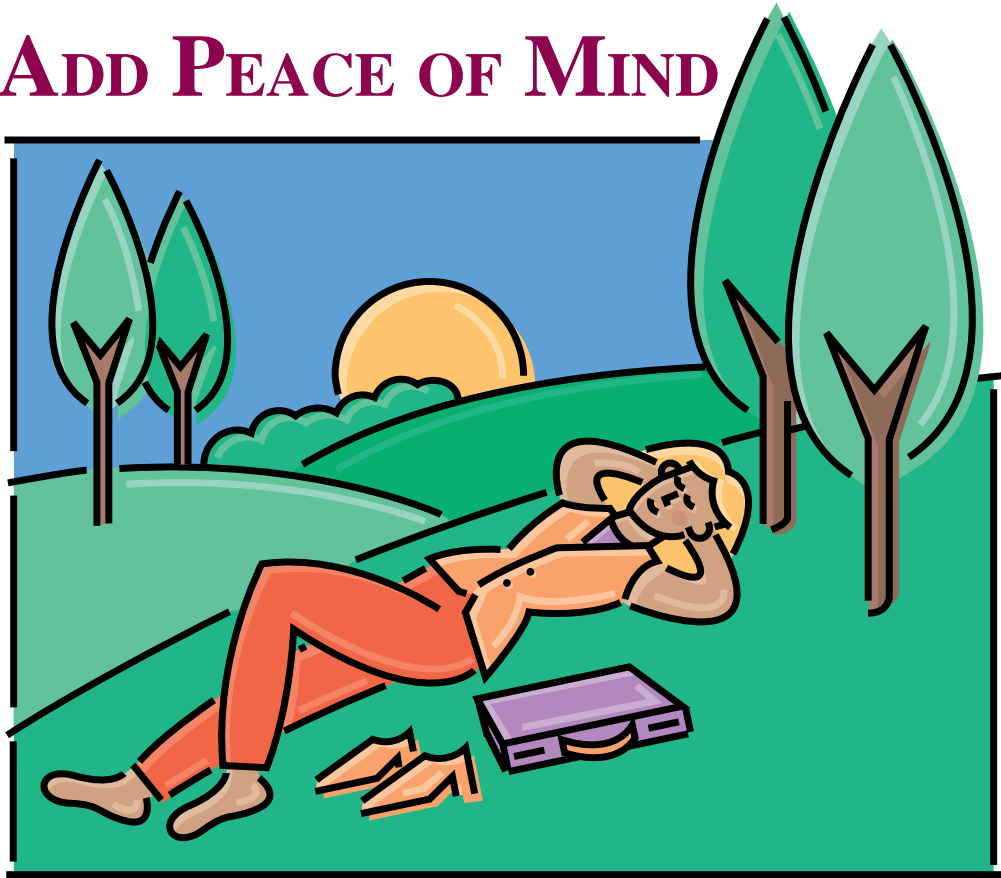
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Cynthia McCollum Elected 2nd Vice President of the National League of Cities

By Carrie Banks, Communications Director, ALM

This past December, Councilmember Cynthia McCollum of Madison made municipal history when she became the first official from Alabama to be elected 2nd Vice President of the National League of Cities (NLC) in the 82-year history of the organization. In addition, she is only the eighth woman – and the third African-American female – to hold this position.

McCollum, who was elected during NLC's annual Congress of Cities held last month in Charlotte, NC, joins the leadership team of Clarksburg, West Virginia, Councilmember James C. Hunt, as NLC president, and Indianapolis, Indiana, Mayor Bart Peterson as NLC 1st Vice President. She is in line to become president of the National League of Cities in 2008.

Accepting the honor, McCollum told delegates attending the Congress of Cities: "My growth within the National League of Cities afforded me the opportunity to gain a better understanding of the importance of networking. As a result, when issues came to the council table in Madison, I was better prepared to formulate solutions such as: tighter controls in our planning and zoning laws; better forecasting a comprehensive plan that met the needs of our growing community; stricter equal employment opportunities and hiring practices and personnel policy; a more diverse workforce; and a cadre of committee and board members that is more reflective of our community. Most importantly, I learned through my work within the NLC that to get anything accomplished, the art of building consensus is key to the process."

McCollum thanked the many people who helped her achieve a key leadership spot within NLC.

"If I stand out in a crowd, it's because I stand on the shoulders of others," she told delegates. "First I want to thank God for all the many blessings that have been bestowed upon me; I am truly blessed. I also want to thank Governor Bob Riley, Lieutenant Governor Lucy Baxley, Senator Jeff Sessions, Senators Tom Butler and Jeff Enfinger and (Huntsville) Mayor Loretta Spencer. And I owe a very special debt of gratitude to Perry Roquemore, the Executive Director

of our Alabama League of Municipalities and his staff members Carrie Banks, Greg Cochran and Ken Smith. You were the greatest and I truly appreciate the special support given to me. But it doesn't stop there. To the entire Alabama delegation who has been supportive in the process of uplifting me, not only are you my colleagues, you are my friends and I would like the entire delegation to stand with me as I accept this nomination. Thank you all so much."



She also extended special thanks to NLC Past President Karen Anderson "who has served as a role model for me and other women" as well as Women In Municipal Government (WIMG), an organization that provides a great deal of support to the women within the NLC.

She credited NLC for guidance and support saying "I represent everything that this knowledge-based, information sharing, municipal advocacy champion organization stands for. I am NLC and I

thank each and every one of you."

Perry Roquemore, executive director of the Alabama League of Municipalities (ALM) praised McCollum's abilities and success.

"The Alabama League and all its members are extremely proud of Cynthia for being elected to this high position," he said. "It's a great honor for our League as it's the first time the Alabama League has ever had a 2nd Vice President. Cynthia has done an extremely good job for her city as well as all positions she's held with the League and the National League of Cities and we know she'll do a tremendous job as a future leader of NLC."

McCollum's platform, "Emergency Preparedness," will be her primary focus as NLC president; however, she said her first responsibility as 2nd Vice President is to work closely with current president James Hunt to ensure that his "Inclusive Communities" agenda is fulfilled.

"His is an important agenda," said McCollum. "We should all work to make each and every person in our community feel that they are as important as they can be and should be. McCollum chose "Emergency Preparedness" for obvious reasons. "I want to keep emergency preparedness on the

continued page 18



The President's Report

Bobby Hayes
Mayor of Pelham

Alabama Municipal Officials Elected to NLC Leadership Roles

As you all know, since more than 250 of you attended, the 82nd Annual Congress of Cities was held last month in Charlotte, NC. I was so pleased to see as many of you in Charlotte as I did, and I look forward to even more of you helping us represent Alabama's municipalities at next year's gathering.

I am also pleased to congratulate Councilmember James Hunt of Clarksburg, WV, on his election to president of the National League of Cities. I'm sure you remember Jim from his address at the League's 2005 convention during the opening session on Monday. I am confident he will, over the next year, prove a strong and thoughtful NLC president.

Closer to home, Councilmember Cynthia McCollum of Madison was elected 2nd Vice President of NLC. Cynthia has been a Madison councilmember since 1989 and is a member of the League's board of directors. If she continues on her course and becomes president of NLC, she will be the first Alabamian elected to this position. Needless to say, her election as second vice president was a proud moment for our League.

I also want to congratulate Mayor James Perkins, Jr., of Selma on his election to NLC's board of directors, and Councilmember Debbie Quinn of Fairhope on her becoming co-vice chair of NLC's Energy, Environment and Natural Resources Committee. Mayor Ted Jennings of Brewton joins Mayor Leon Smith of Oxford on NLC's advisory committee after his two-year term on NLC's board of directors. Alabama's placing these outstanding individuals in such prestigious places speaks well for our League and our state.

Again, I was pleased to see so many of you last month at the annual Congress of Cities. Our League always has a strong showing at NLC gatherings, but did you know Alabama has the sixth-highest number of NLC direct-member cities? That is impressive, and something I am proud of. In coming years I would like to see our state climb even higher on the list.

We have seen, through the victories NLC has won for municipal governments nationwide, how powerful a united voice can be. Congratulations again to all of you in NLC positions, and I know you will represent our state and its citizens well. ■



Councilmember James Hunt of Clarksburg, WV, president of the National League of Cities; Councilmember Cynthia McCollum of Madison, second vice president of NLC; and Mayor James Perkins, Jr., of Selma, NLC board of directors.

Alabama's Driven Economy

A Profile of Alabama's Automotive Industry

By Niko Corley, Communications Coordinator, ALM

Editor's Note: This is the first in a series of articles to be published over the next several months about Alabama's growing automotive industry.

Move over cotton, the car is king in Alabama these days. According to a 2003 Economic Development Partnership of Alabama study, "motor vehicles have become Alabama's top export," totaling 23 percent of goods shipped out of state and generating \$2.1 billion a year in revenue.

For a state that had never produced an automobile before 1997, Alabama has come to the forefront of the automotive industry in a remarkably short time. In recent years, auto manufacturing – a traditionally "northern" industry – has moved steadily south following better investment incentives and opportunities. The industry filled the void left by textiles, paper and steel manufacturing, which fled the region in search of cheaper production costs elsewhere.

David M. Miller, professor of management science at the University of Alabama and director of the Alabama Productivity Center, said the steady disappearance of these industries from Alabama caused concern as companies struggled to maintain a cost and quality-competitive domestic manufacturing capability. Miller said a "great sucking sound" could be heard as these industries withdrew to areas offering incentives like lower labor costs and that the "factory of the future" may well be China.

The effects were drastic; Alabama lost tens of thousands of jobs as plants and mills statewide closed. Miller said Mercedes-Benz's decision to locate to Vance to build its M-Class sport utility vehicles was a turning point for the state, as it jumpstarted Alabama's auto industry and bolstered a weakened manufacturing economy.

"The state's economy was saved by the emergence of the auto industry," Miller said. "Mercedes opened the door to auto manufacturing, and success breeds success."

Following Mercedes' lead, Honda and Hyundai soon built auto plants in Alabama, and Toyota and International Diesel built engine manufacturing facilities in the state. Most have

increased production since locating to Alabama, proof that the state's auto industry is thriving. But what brought auto manufacturing to Alabama and what keeps the industry the fastest-growing segment of the state's economy?

For one, Alabama is located in the center of the Southern Auto Corridor, an area stretching from Texas to Maryland and south to Florida. Southern Business and Development calls I-65 the "spine" of this corridor, adding that "states in and around that spine continue to garner more auto-related projects than states farther from it."

With the spine of the Southern Auto Corridor running the length of the state, Alabama is ideally located for success in the southern auto industry. However, it takes more than good geography to lure investors to a state. Labor costs, tax incentives and quality of and access to infrastructure are all factors auto manufacturers and their suppliers consider when deciding to build plants in an area. Miller said in Alabama, employees' exceptional work ethic and the support of state and local government also helps draw investors.

Lew Watson, League Vice President and mayor of Lincoln, echoed Miller's sentiments regarding Alabama's attractiveness to investors. When Honda was looking for a location to build a new plant, he worked with organizations from around the state to convince company reps Lincoln was ideal for the new plant site. Watson said the key to landing such large-scale projects is preparedness.

"When the opportunity comes you need to be able to respond at that point," he said.

Specifically, Watson said being knowledgeable about available property and having it ready for development puts municipalities a step ahead. When a potential investor inquires about the status of a site's water and power capabilities, for example, having even basic utilities in place might mean the difference between landing and losing a project. There is, however, no exact formula for success.

"You can have everything perfect and still miss," Watson said.

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Municipal Overview

By
PERRY C. ROQUEMORE, JR.
Executive Director

2006 NLC Congressional City Conference Revised Schedule

The National League of Cities recently announced that next year's Congressional City Conference will be held on a different schedule than in the past. This article provides information to help our officials plan their flights and hotel accommodations based on the revised schedule.

Why was the schedule changed? Based on requests by many members of the National League of Cities, the schedule of the 2006 Congressional City Conference will be different from past conferences to allow more time for city leaders to meet with their congressional delegations. Past conferences have started on Saturday and ended on Tuesday. However, since Leadership Training Institute (LTI) seminars - which provide skill development opportunities for attendees working on federal advocacy issues - were traditionally held on Friday and on the first day of the conference, city officials had little time to meet with members of Congress.

The 2006 Congressional City Conference, held in Washington, D.C., will start on Sun., Mar. 12, and end on Wed., Mar. 15, providing attendees with two full days when members of Congress are available to meet with city officials in general sessions and meetings on Capitol Hill. LTI seminars will be held Sat., Mar. 11, and Sun., Mar.12.

"The Congressional City Conference is a time for NLC members to do more than just learn about the issues," Donald J. Borut, NLC executive director, said. "It's also a time to voice your opinions to Congress and develop relationships with its members. Taking this into consideration, NLC decided to give conference attendees more opportunities to do so."

To kick off the conference on Sunday, city officials will gather at the Hilton Washington and Towers for leadership meetings, policy discussions and legislative briefings, giving attendees the opportunity to learn about current federal issues

and priorities for U.S. cities and towns. The Alabama League will hold its state caucus the afternoon of Sun., Mar. 12. The League's traditional dinner with congressmen (by district) will be held on Mon. evening, Mar.13, at different locations throughout the city. Delegates will be contacted concerning the time and location of their district's dinner at a later date. A breakfast with Senators Richard Shelby and Jeff Sessions will be held on Wed., Mar. 15, at the Hilton Washington and Towers. Please note this is a change from previous years when the breakfast was held on Tuesday morning.

Monday and Tuesday will be filled with general sessions and workshops. City Lobby Day - which promotes the importance of a strong federal-local partnership and the need to support specific advocacy priorities - will be held on Wednesday. On behalf of the 225 million people NLC collectively represents, Borut believes the conference will help motivate local officials to speak up regarding priorities for the second session of the 109th Congress. Key issues on next year's federal agenda include local government franchise authority, federal tax reform and eminent domain for economic development.

"NLC depends on local officials coming together to speak with a unified voice on a shared set of priorities," Borut said. "Addressing critical issues is the first step in strengthening cities and towns in the United States."

Register for the Congressional City Conference online at www.nlc.org or by filling out the registration form and returning it to NLC Meeting Services, postmarked by Feb. 6, 2006.

Holiday Wishes

The League officers and staff wish all municipal officials and employees a purposeful and Happy New Year. Hopefully, 2006 will bring prosperity to Alabama's cities and towns. ■

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Driven Economy


continued from page 6

So far though, Alabama has been right on target. Each year since 1998, the state has expanded and increased its auto manufacturing capabilities. Ten years ago Alabama didn't produce a single automobile. Just two years later, Mercedes rolled out 68,000 vehicles at the end of its first full year of production. As more car manufacturers found a home in Alabama that number grew, and in 2004 the state produced 250,000 automobiles. Most impressive, however, is the predicted jump in production capacity between 2004 and 2005/2006, when, according to EDPA estimates, the state will manufacture 760,000 vehicles.

A production capacity of three-quarters of a million vehicles per year in 2005/2006 would make Alabama the third-largest auto manufacturer in the Southeast, behind Tennessee and Kentucky, with capacities of 820,000 and 1.2 million vehicles per year, respectively. Both Tennessee and Kentucky have been manufacturing cars since the early '80s, with Kentucky having one auto plant dating back to 1955. Considering these states' long-established vehicle manufacturing capabilities, Alabama's ascent to third on the list would be noteworthy.

As of 2003, the auto industry was responsible for more than 86,000 new jobs in Alabama, two-thirds of which were created indirectly as a result of goods and services bought by the industry's companies and its workers. The arrival of automotive firms and their first and second-tier suppliers to the state brought in wage levels higher than what many Alabama workers are used to. In order to compete and be able to keep their workers Miller said, "other industries must raise wages or enhance other quality-of-work-life factors, such as benefits packages [but] at a cost."

Municipalities have benefited greatly from the auto industry's presence in the state, and if current growth trends continue, the industry will have a greater and greater impact on local economies in coming years. At a time when many states are losing their manufacturing jobs, Alabama continues to catch investors' eyes. Where agriculture formerly reigned supreme, industry has taken its place. Cotton may have once been king, but in Alabama at least, the car now wears the crown. ■



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ENVIRONMENTAL OUTLOOK



By Gregory D. Cochran
Director, Intergovernmental Relations

FEMA Aid in Alabama Nears \$500M

FEMA's Hurricane Katrina-related spending in Alabama is nearing a half-billion dollars, officials said last month. According to FEMA statistics, the agency has spent \$468 million on everything from reimbursement to local governments for debris removal to the cost of providing ice, water and meals to victims immediately after the storm. That figure includes \$26.5 million in low-interest loans approved by the Small Business Administration for storm victims in Alabama.

Those numbers will continue to grow as FEMA funds Public Assistance Programs to reimburse state, county and municipal governments for infrastructure repairs and other storm-related expenses. FEMA has spent roughly \$79.8 million in Alabama on housing assistance to victims displaced by the storm and another \$32.6 million on other needs in the state, such as burial expenses, health care and transportation. FEMA expenditures in the state so far are comparable with amounts paid to Alabama victims of Hurricane Ivan last year.

In Alabama, aid to families, individuals and local governments, as well as the cost of the emergency response, totaled \$407.8 million. A FEMA spokesperson said that figure does not include loans from the Small Business Administration. Alabama totals from Hurricane Katrina pale in comparison to Mississippi and Louisiana, however.

FEMA's total Katrina-related spending in Louisiana has exceeded \$3.5 billion. That figure includes about \$1 billion in reimbursements to local governments, \$2.4 billion for housing assistance and \$181 million in other needs. FEMA also has shelled out more than \$365 million in housing assistance and \$56 million in other needs to victims of Hurricane Rita in Louisiana.

In Mississippi, FEMA has provided almost \$1.3 billion in direct assistance, according to the most recent figures. That includes almost \$784 million to individuals and families

for housing and other needs and almost \$500 million in reimbursements to local governments. The Small Business Administration, meanwhile, has approved \$184.6 million in loans to Mississippi residents and businesses. FEMA officials say they cannot predict how much higher spending will go, but this hurricane season has become America's costliest natural disaster. FEMA announced Public Assistance Programs are still issuing funds from Ivan's aftermath.

Shelby Secures Environmental Funding

Through his leadership position on the U.S. Senate Appropriations Committee, Sen. Richard Shelby was instrumental in securing funding for vital state environmental programs and projects. The following is a list of environmental projects released by the senator's office that have been approved by the Commerce, Justice and Science (CJS) House/Senate conference committee. Sen. Shelby is chair of the Senate Commerce, Justice and Science Appropriations Subcommittee. Also included in the list below is an Alabama Wildlife Federation project that secured funding through Agriculture Appropriations. That bill passed the Senate earlier this month 81 to 18.

Commerce, Justice and Science Projects

Gulf Coast Fisheries and Ocean Research Facility - \$5 million - These funds will be used to construct a NOAA fisheries lab at Dauphin Island. The new facility will focus on issues and concerns associated with the Gulf of Mexico and its fisheries.

Orange Beach Coastal and Estuarine Land Acquisition - \$800,000 - These funds will be used by the City of Orange Beach to purchase 84 acres of fringe marsh wetlands and wet pine flatwoods. The acquisition will protect this area from development.

continued next page

Baldwin Educational Program - \$1 million - These funds will be used to develop estuarine educational programs in coordination with Weeks Bay National Estuarine Research Reserve and Dauphin Island Sea Lab.

Village Point Park Preserve - \$1 million - These funds will be used for land acquisition for Village Park Preserve along Mobile's eastern shore. The 54-acre historic park, home to seven Alabama State Champion Trees, will be open to the public.

Coastal Ecosystem - \$5 million - These funds will be used for land acquisition, from willing sellers only, along the Perdido River in Baldwin County and coastal wetlands near Grand Bay in Mobile County. This project would protect biologically sensitive lands in coastal Alabama.

Alabama Environmental Educational Education Center - \$500,000 - These funds will be used to expand the 4-H Environmental Education Center in Shelby County.

Agriculture Appropriation

Alabama Wildlife Federation Conservation Education Center - \$446,000 - These funds will support a cooperative program with the Alabama Department of Conservation and the Alabama Wildlife Federation to provide a hands-on education program on a variety of ecosystems and how they can be conserved. For more information about Senator Shelby's efforts on the Appropriations Committee, go to <http://shelby.senate.gov>

Federal Appropriations for Municipal Projects

The Alabama Congressional Delegation has worked diligently to secure federal funds on behalf of municipal government projects. Below is a sample of the appropriations secured for 2006. For more information on these projects and federal appropriations, contact Greg Cochran at gregc@alalm.org or (334) 263-1042.

- Atmore- up to \$1.9 million for flood control; \$160,000 for police department technology improvements
- Clarke County- \$400,000 for an economic development project
- Robertsdale- \$150,000 for police department improvements
- Luverne- \$100,000 for improvements to civic center
- Auburn- \$100,000 for police department improvements; \$18.4 million for construction of a new interchange; \$400,000 for technology improvements
- Jasper- \$1.83 million for improvements to Airport Road
- West Alabama Economic Development Authority- Lamar County, \$500,000 for industrial park
- Fayette- \$400,000 for industrial park
- Center Point- \$550,000 for sidewalk improvements
- University of Montevallo- \$250,000 for facilities renovation and expansion of Ramsey Conference Center

- Wilcox County Industrial Development Authority- \$200,000 for planning and development of an industrial park

Texas Executive Order Creates State Agency Energy Savings Program

Citing higher energy costs and the need to diversify the state's means of generating electricity, Texas Gov. Rick Perry issued an executive order in October requiring state agencies to submit energy conservation plans and set percentage goals for reducing their usage of electricity, gasoline and natural gas; submit quarterly reports on progress toward their conservation goals; and develop new ideas to conserve natural gas, electricity and gasoline. The first drafts of these plans are due Dec. 1, 2005.

The order also directs the state's Public Utilities Commission to educate consumers about retail electricity provider choices and requires the Texas Commission on Environmental Quality to prioritize and expedite the processing of environmental permit applications protecting public health and environment. It also proposes using Texas' natural resources to generate electricity and requires the State Office of Administrative Hearings to expedite hearings of contested applications for permits for electric generating facilities. Perry noted Texas has been a leader in wind-energy and clean coal technologies, two power sources that help reduce the state's dependence on natural gas to produce electricity.

The executive order is available at: www.governor.state.tx.us/divisions/press/exorders/rp49/view. The governor's press release is at: www.governor.state.tx.us/divisions/press/pressreleases/PressRelease.2 State and local officials interested in additional information about developing and implementing cost-effective clean energy and environmental strategies that help further environmental and clean energy goals and achieve public health and economic benefits may visit: <http://www.epa.gov/cleanenergy/stateandlocal>. ■





THE LEGAL VIEWPOINT

By Ken Smith
Deputy Director/Chief Counsel

AAMA Midyear Meeting

The Alabama Association of Municipal Attorneys (AAMA) recently completed another outstanding training seminar in municipal law at its 2005 Midyear Municipal Law Conference. This year's conference, held Oct. 6-8, provided continuing legal education for attorneys, prosecutors and, for the first time, municipal judges.

Thanks to exceptional work from League staff members Lori Lein, Mary Ellen Harrison, Sharon Carr and Edey Goertz, the meeting was a huge success. Special thanks also to AAMA's conference planning committees, whose members take time from their busy schedules to plan the sessions for both attorneys and prosecutors. The speakers they selected for this year's conference gave outstanding presentations and provided terrific handouts on timely and beneficial topics.

One of AAMA's goals is providing the best legal CLE at the lowest cost possible for those practicing municipal law. Without the contributions of AAMA conference planning members and speakers this would not be possible. AAMA is grateful for their assistance.

AAMA will provide two training seminars over the next year and is working with municipal judges from around Alabama to re-establish the Municipal Judges' Association and include judges in planning upcoming seminars. We are also reviewing ideas for newsletters, e-mail lists and the like to make keeping updated and practicing municipal law in Alabama easier and more convenient for AAMA members.

As AAMA membership runs from January to December, it is time to renew those for 2006. Applications have been mailed; however, if you did not receive yours, visit www.alalm.org or call the League office at 334-262-2566 and ask for Sharon Carr. I urge all municipal lawyers, prosecutors and those practicing municipal law to complete an application and return it to our office. I also ask all elected officials to forward this application to the attorneys,

prosecutors and judges representing your municipalities and to ask them to consider joining other legal professionals from around the state in working to help make Alabama's municipalities outstanding. Now, let's take a closer look at some of the issues confronting AAMA this year.

Judges' Association

As mentioned above, AAMA is working with municipal judges from around Alabama to re-establish the Municipal Judges' Association. For many years, the Municipal Judges' Association worked closely with the League to provide training and assistance to Alabama's municipal judicial officers. The Administrative Office of Courts took the lead role in working with judges but was unable to continue performing this function due to financial issues. The judges participating recognized the association was too valuable to allow it to vanish. They requested help from the League and AAMA and we were pleased to assist them.

In somewhat of an experiment, several municipal judges helped AAMA plan the prosecutor's session at the 2005 midyear meeting. All municipal judges were invited to attend the seminar and a large number were present during the session. From all indications, the experiment was a resounding success. The issues facing prosecutors mirror those affecting judges, and the topics discussed proved applicable to both groups.

Presentations at this year's seminar for prosecutors and judges included Brad Bishop's DUI update; David Whetstone's presentation on evidentiary concerns; Gary Davis' "The Electronic Municipal Court: From Citation to Sentence"; Assistant Attorney General Scott Rouse's "Dealing with Sex Offenders in Municipal Court"; and a panel discussion on the relationship between judges and prosecutors.

continued next page

At the same time these topics were being presented, municipal attorneys were conducting their own session. Topics at this session included a panel discussion of the new eminent domain law; an overview of the new open meetings law by Charlanna Spencer; drug testing public employees by Jeffrey L. Thompson; Laurence Sutley's presentation on handling sexual harassment by public officials; a telecommunications law update by Adrian Herbst and Wanda Cochran; and a look at breed-specific dog ordinances by Timothy R. Lyons.

Prosecutors and judges were welcome to attend any of the attorneys' sessions if interested and attorneys were also welcome to attend any presentations for prosecutors and judges. Two presentations were made to all attendees, DeWitt F. McCarley's address on dealing with the media and Bill Brinton's discussion on litigating billboard cases (First Amendment and related issues).

Bylaw Concerns

Another issue facing AAMA involves amending the organization's bylaws. In the past, AAMA has conducted its annual meeting at the League's annual convention. AAMA and the League have jointly agreed to move the attorney's seminar to another date. AAMA's bylaws, though, refer to meeting "on one or more dates of the annual convention of ALM, and at the same general location."

This year's meeting, instead of taking place at the League convention in Mobile, is scheduled for Mar. 24 at the Marriott Hotel on Highway 280 in Birmingham. These bylaw amendments will be considered at this meeting. Additionally, possible changes to the annual, as well as the midyear meeting, will be discussed. We hope all AAMA members will make an effort to attend.

Conclusion

AAMA was created by the League to assist municipal attorneys and prosecutors who often face unique legal issues. AAMA helps these attorneys and prosecutors in sharing information by means of meetings, through an e-mail listserve, through direct communications with each other and through AAMA. The organization only succeeds, however, through the contributions and efforts of its members. The more attorneys and prosecutors who join AAMA and participate in the organization, the stronger and more useful it will become. I urge all those eligible for membership to send in an application and participate fully in AAMA. ■

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By Lorelei A. Lein
Staff Attorney

Legal Notes

COURT DECISIONS

Courts: The question of whether a vote by “a majority of each house” necessary for the passage of a bill constitutionally requires a bill to pass each legislative house by a majority of a quorum, rather than by a majority of the votes cast in the presence of a quorum, is a non-justiciable political question is properly left to the legislative branch of government rather than the courts. *Birmingham-Jefferson Civic Center Authority v. City of Birmingham*, 912 So.2d 204 (Ala. 2005).

DECISIONS FROM OTHER JURISDICTIONS

Schools: Parents’ fundamental right under the 14th Amendment’s due process clause to control the education and upbringing of their children and their constitutional right to privacy in their intimate family decision-making does not include the right to prevent public schools from providing their children information about sexual matters. *Fields v. Palmdale School Dist.*, 427 F.3d 1197 (9th Cir. 2005)

Employees: The state of Alaska’s grant of health insurance and other employment benefits to married employees’ spouses but not to employees’ same-sex domestic partners (who are legally barred from marrying under state law), facially discriminates against employees with same-sex partners but is not substantially related to the state’s legitimate interests in cost control, administrative efficiency and promotion of marriage, and thus violates the Alaska Constitution’s equal protection clause. *Alaska ACLU v. State*, 122 P.3d 781 (AK 2005).

ATTORNEY GENERAL OPINIONS

Conflicts of Interest: A member of the board of directors of a water authority established pursuant to Section 11-88-

1, *et seq.*, of the Code of Alabama 1975, does not hold an office of profit and therefore is not prohibited from serving on a county civil service board. 2006-012. NOTE: This decision applies specifically to the Walker County Civil Service Board; however, it does support the opinion that members of the board of directors of a water authority do not hold an office of profit.

Community Development Districts: Under Section 35-8B-1 of the Code of Alabama 1975, a community development district qualifies the municipality or the county, depending on where the district is located, but not both, for a share of the alcoholic beverage taxes. 2006- 013. NOTE: This opinion further clarifies opinion 2005-065 to the Hon. Todd Greeson, member of the House of Representatives, dated Feb. 4, 2005.

Library Boards: Pursuant to Section 11-90-2 of the Code of Alabama 1975, a public library board is limited to five members. However, a joint library board created pursuant to Section 11-90-4 of the Code of Alabama 1975, may have more than five members. 2006-018.

Cemeteries: A municipality may not spend municipal funds for the upkeep of a non-municipal cemetery. If a municipality wishes to provide for the upkeep of ancient family cemeteries or burial grounds, it may seek a public dedication of those cemeteries or grounds. 2006-019.

Industrial Development Boards: An industrial development board established pursuant to Sections 11-54-80, *et seq.*, of the Code of Alabama 1975, is not authorized to adopt an attendance policy stating members can only be absent from regular meetings a specified number of times or face involuntary resignation from the board. 2006-020.

continued next page

Courts: A municipal judge has no authority to order the abatement of a nuisance for the violation of a municipal nuisance ordinance. 2006-022.

Tobacco Taxes: A municipality may amend its tobacco tax ordinance to decrease the rate of the tax on tobacco products without violating Section 40-25-2 of the Code of Alabama 1975. 2006-024.

Industrial Development: Under the Cater Act, found at Sections 11-54-80, *et seq.*, of the Code of Alabama 1975, an industrial development board must actually acquire title to property for it to be exempt from taxation. Further, under the Tax Incentive Reform Act of 1992 (TIRA), found at Sections 40-9B-1, *et seq.*, of the Code of Alabama 1975, property acquired by an industrial development board after the effective date of TIRA, pursuant to an inducement agreement entered into before TIRA, becomes exempt from taxation on the date of the acquisition of the property. 2006-026.

Open Meetings Law: At least seven days' notice is required by Act 2005-40, for a regularly scheduled meeting

of a city council or standing committee of a city when a meeting is established by organizational ordinance or resolution. As to meetings of a city council or standing committee that does not have regularly scheduled meetings set by ordinance or resolution, as well as meetings called pursuant to Section 11-43-50 of the Code of Alabama 1975, notice is to be posted as soon as practicable after the meeting is called, but no less than 24 hours before the meeting is scheduled to begin. 2006-027.

Open Meetings Law: The posting by a municipal governing body of its organizational ordinance or resolution specifically stating the place, date and time of regular council meetings and standing committee meetings and a general description of the nature and purpose of those meetings is sufficient to meet the notice requirements of Act 2005-40. If there is a preliminary agenda of the meeting, it must be posted as soon as practicable in the same location as the notice of the meeting. 2006-027.

Noise Ordinances: Absent an exemption, barking dogs may be included in a noise ordinance. 2006-028.

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Federal Legislative and Regulatory Issues

Mary Ellen Wyatt
Staff Attorney

Rural Economic Development

The Senate passed its tax relief package, 64-33, including a provision authorizing \$200 million in bonds for economic development and infrastructure construction in rural areas. Bond proceeds will go to rural communities of 50,000 or fewer people.

The bill was co-sponsored by Arkansas Sen. Mark Pryor (D) and Minnesota Sen. Norm Coleman (R). The goal was to have House approval for the measure and have it sent to Pres. Bush before the end of 2005.

Scenic Byways Program

State, local and tribal governments and nonprofit organizations are eligible for funding to implement projects on roads designed as National Scenic Byways or All-American Roads, state scenic byways or Indian tribe scenic byways. The deadline is Mar. 31, 2006.

For more information contact Bethaney Bacher at (202) 366-4196 or by e-mail at bethaney.bacher@fhwa.dot.gov. Also visit <http://fedgrants.gov/Applicants/DOT/FHA/HAAM/FHWA-2006-HEP/Grant.html> for more information.

Rural Airports Given a Year

Smaller airports, many of which are struggling to regain their 9/11 ridership levels, will be given an additional year to become eligible for certain federal grants under a provision approved by the Senate. To qualify, airports must have 10,000 annual passengers. Some airports have been granted exemptions to the ridership requirement since 2001. Under the Senate's measure, small airports will be given a one-year extension and made eligible for \$500,000 from the Airport Improvement Program.

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2nd Vice President

continued from page 4

forefront because the recent events with the hurricanes and the flooding in New Orleans and the Gulf Coast of Mississippi and Alabama certainly illustrate the need for us *all* to be ready when and if any type of disaster should occur.”

McCollum stressed that emergency preparedness is not limited to hurricanes or tornadoes. It includes mud slides, falling rocks, fires, terrorist attacks and any other sort of natural or unforeseen disaster.

“To see it on television and to see how another community reacts is one thing,” said McCollum, “but when it happens to us personally, it’s a different story. Where do we go? What do we tell our citizens? Our responsibility as elected officials is to our citizens. Therefore, we need to be prepared so that they can feel confident in dealing with any emergency that should befall us.”

McCollum said she believes her leadership role with NLC will mean different things to different people: “My presidency will, I think, for all women be a step forward in the history of NLC. I think I’ll serve as a beacon to them – a woman from small-town America who is now at the helm of a national organization.”

In addition she said she hopes to serve as an inspiration to young black women. “Anytime a black female is put into a position of prominence, we have the responsibility to serve as a role model to other young black females,” said McCollum. “My success will add credence to what they’re trying to accomplish in their lives. As a black elected official, I always keep in the forefront of my mind that whatever I do reflects on my race. Whether it should be that way or not, that’s the reality and, therefore, I act accordingly.”

McCollum identified the Alabama League as her “home base” and said the training and advice she’s received has been invaluable throughout her political career.

“It’s home – and I say that because I’ve been with the Alabama League, serving on the executive committee for at least half my elected career. I’ve formed relationships and friendships and I’ve learned from the other elected officials,” said McCollum. “We have some wonderful, active elected officials in Alabama who I’ve received sage advice from – advice that has helped me and my community. And that’s the same that we do across the country through our participation in NLC. We interact with each other and call each other and discuss issues.”

She also stressed the importance of the League’s Certified Municipal Official (CMO) Program: “I went through the League’s CMO training and learned about various aspects of our elected duties, how best to do what we do, as well as what not to do, which was probably even more important. That program provided a wealth of knowledge and I would encourage all our elected officials to take the CMO training

and become a Certified Elected Official if they aren’t already participating in the program.”

McCollum first won election in 1989 and has served several terms both as Council President and President Pro Tem. Her public life began in 1976 as executive director of the Huntsville Girls Club, an affiliate of Girls Clubs of America. From 1985 to 1990, she worked at the New York Life Insurance Company. McCollum is currently employed by the U.S. Army Material Command Logistics Support Activity at Redstone Arsenal, Alabama, where she works in the office of the Chief of Enterprise Integration Center.

McCollum’s commitment to her community is exemplified by her active service on numerous boards and committees. She is the vice chair of the US Space and Rocket Center Foundation and is a board member of the North Alabama Gas District. She currently serves as one of five trustees for the League’s Municipal Workers Compensation Fund, Inc. (MWCF). Past board affiliations include Madison County Senior Center, Volunteer Center, Community Action Agency of Madison/Limestone Counties, Kids on the Block and Family Services Center. She was a founding member of the Madison County, Alabama Big Brothers/Big Sisters, and the Madison Drugs Offer No Tomorrow Program.

McCollum is a native of Huntsville, Alabama, with undergraduate degrees in psychology and sociology from Alabama A&M University and graduate studies in executive management from Emory University in Atlanta, GA. She is a graduate of the ninth Huntsville/Madison county leadership class as well as a 2002 graduate of Leadership Alabama and a member of Delta Sigma Theta Sorority, Inc.

McCollum and her family are members of the Madison Church of Christ. ■

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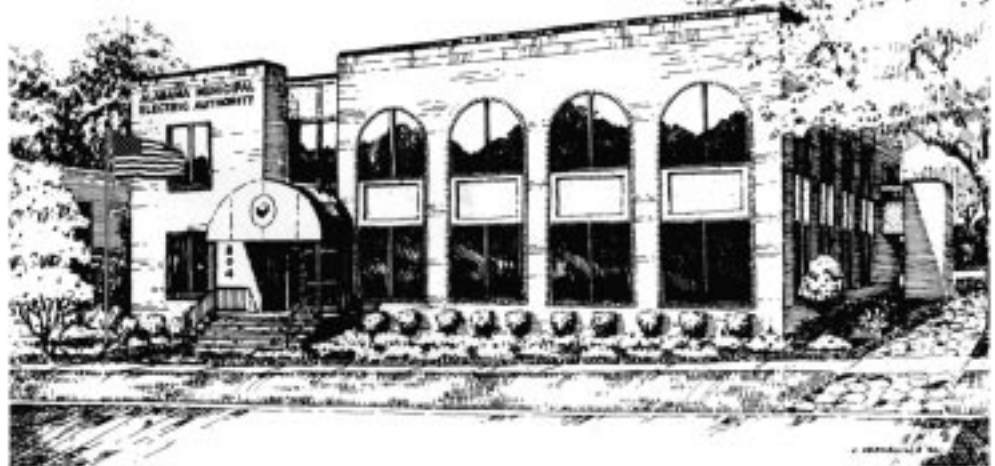
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Speaking of Retirement

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Attend a **Retirement Preparation Seminar** at a location near you. In mid-February RSA Communications will mail out the new schedules for 2006 and post the dates on our Web site at www.rsa.state.al.us. To guarantee yourself a seat, complete the registration form early. To obtain a registration form, ask your personnel/payroll officer or download the form from our Web site when it becomes available.

As well as attending a seminar, you may schedule an **Individual Counseling Appointment**. These are 20 minute appointments with an ERS counselor at locations all over Alabama. To schedule an appointment ask your payroll/personnel officer for a registration form or download the form from our Web site. You may also visit the ERS in Montgomery and meet with a retirement counselor, Monday –Friday, 8 a.m. – 5 p.m. and no appointment is required. At least 10 months prior to retirement, request an **official estimate of benefits** from the ERS. This will inform you not only of your retirement benefit options but whether you have the necessary service credit for retirement.

Request a **RETIREMENT APPLICATION PACKET PART I** from your payroll/personnel officer or the ERS or download the form from our Web site at least five months prior to your retirement date. The application must be received by the ERS no less than 30 days nor more than 90 days prior to the effective date of retirement.

Ensure you understand your **health care benefits** from the State Employees’ Insurance Board (SEIB) if a state employee or your local insurance carrier if not covered by SEIB before completing your retirement application. Contact SEIB at 800-513-1384 or 334-833-5900 to receive information on your premiums and if eligible for Medicare what additional steps you need to take.

If you have an account with the **RSA-1 Deferred Compensation Plan**, contact RSA-1 to receive information about distribution or DROP rollover options that will pertain to you when you retire. To contact the ERS and RSA-1, call 800-214-2158 or 334-832-4140. Please listen carefully to the phone menu to select the department you wish to speak with.

To enjoy a successful retirement, plan and educate yourself early on the retirement process!

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**

Hoyt Warsham

Hoyt Warsham, former Gadsden public works commissioner, died Aug. 29, 2005. He served on the Gadsden's then-city commission from 1963 to 1970. During his time in office, the commission cut costs and saved the city more than \$100,000. City employees' salaries and benefits improved as well while Warsham was in office. A public library branch in Gadsden was also named for the late commissioner.

Tommy G. Nelson

Tommy G. Nelson, mayor of Red Bay, died Oct. 26, 2005, at his home. He was 64. Nelson, who was in his third term as Red Bay's mayor, had battled pancreatic cancer for two-and-a-half years. Nelson also served his city as superintendent of the water and gas board, street department, sewer board, cemetery board and parks and recreation department. He is survived by his wife, twin brother, sister, mother, four daughters, two stepdaughters and 10 grandchildren.

Carolyn Dennis

Carolyn Dennis, mayor of Grant, died Nov. 21, 2005, of natural causes at her home. She was 68. Dennis was elected to the town council in 1992, became mayor in 2000 and was re-elected in 2004. During her time in office Dennis secured funding for Grant's sewer system and oversaw the construction of a walking trail and scenic overlook. She is survived by two sisters, two sons, a daughter and six grandchildren.

William L. Shuttlesworth, Jr.

William L. Shuttlesworth, Jr., West Jefferson councilmember, died Nov. 30, 2005. He was 66. Shuttlesworth was a retired crane operator and a member of West Jefferson Baptist Church. He is survived by his wife, brother and three sisters.



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