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January 2010

Volume 67, Number 7



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The Alabama Municipal JOURNAL

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On the Cover:

The Alley Water Tower • Downtown Montgomery
By Elmore DeMott (www.elmoredemott.com)
Winner: 2010 League Photography Contest

In a downtown rich with history, a misplaced water tower provides a clever entry to "The Alley", a key component in Montgomery's revitalization effort to establish a downtown entertainment district abundant in restaurants, shops and loft apartments and within walking distance to destinations such as the Convention Center, Riverwalk Stadium and Riverwalk Amphitheater.

A Message from the Editor



Making the Old New Again – see page 9

Happy New Year! 2010 marks an exciting milestone for the Alabama League of Municipalities – the organization’s 75th anniversary! Each month throughout this anniversary year, I’ll be sharing interesting historical information from the League’s archives, beginning with a 1945 perspective on the League’s initial 10 years written by the League’s first president, Mayor John Burton of Jasper (page 8) as well as a speech delivered by long-term Mayor Guthrie Smith of Fayette during the League’s 1992 convention and published in the *Congressional Record* (page 7).

Our League has a dynamic and compelling history filled with intriguing personalities and significant accomplishments. My goal is to present excerpts of this unique history over the next year so you’ll have an even greater appreciation for the necessity of our fine organization and the monumental impact it’s had on municipal government in Alabama for the past 75 years.

Annual Convention Will Celebrate 75th Anniversary

Be sure to mark your calendars for the **League’s Annual Convention May 15-18 in Mobile**, at which we will be celebrating the League’s anniversary. **NOTE:** registration forms will **NOT BE MAILED** this year. Instead, you can register online at www.alalm.org or by using the registration forms provided on pages 23-26 of this publication. *Online registration will be available by February 1, 2010.* Contact Theresa Lloyd at theresal@alalm.org with any questions regarding registration and please make every effort to attend this year’s convention!

Congratulations League Staff Member Theresa Lloyd

Theresa, who has been with the League since 1992, was named League Member Services Director following Edye Goertz’s retirement last month. Many of you already know Theresa through the League’s CMO program, which she will continue to oversee in her new position. Congratulations, Theresa!

Municipal Photography Contest Winners

I’d like to thank everyone who shared their municipal photos for our third annual contest. With 62 entries, selecting the winning images was quite a challenge. Congratulations to **Elmore DeMott** of Montgomery who won the League’s 2010 Photo Contest and whose photograph “The Alley Water Tower” appears on the cover of this issue of the *Journal* as well as the *2010 Directory and Vendor Listings* (a copy of which will be sent to all mayors and clerks later this month). Congratulations also to 1st Runner Up **Theresa Lee** of Prattville for her entry, “Mobile Horticulture Display,” which reflects Prattville’s use of a retired city fire truck as a roving horticulture display, and 2nd Runner-Up **Mayor Roy Dobbs** of Berry for “Finale” which depicts the culmination of Berry’s 20-year journey to implement a sustainable waste water system.

Making the Old New Again

This year’s winning photo of The Alley Water Tower in downtown Montgomery inspired me to further research the City’s ongoing revitalization projects. In an area rich with architectural detail, this historical water tower serves as a unique destination marker to “The Alley,” a key component in Montgomery’s revitalization effort to establish a downtown entertainment district abundant in restaurants, shops and loft apartments and within walking distance to destinations such as the Convention Center, Riverwalk Stadium and Riverwalk Amphitheater. Last month I had the opportunity to visit with Mayor Todd Strange and Deputy Mayor Jeff Downes to learn more about the City’s efforts to provide compelling destinations for both tourists and residents. That article begins on page 9 with photos by Elmore DeMott, who was extremely gracious with her time and talent when I asked her if she’d be willing to submit a few more pictures. Enjoy!

Carrie

The President's Report

Roy H. Dobbs
Mayor of Berry



Our League Celebrates 75 Years Serving Alabama's Municipalities!

Established in 1935 as a full-time, voluntary association of Alabama's cities and towns, the Alabama League of Municipalities will celebrate its 75th Anniversary during its annual convention this May.

Prior to May 1935 there was a part-time organization of local officials known as the Alabama Association of Mayors and City Commissioners which was formed at a gathering in Fairfield in 1926. Mayor Sidney Reaves of Anniston was its first president. Because the organization had no full-time office or staff, it communicated with its membership through the president and secretary-treasurer. In 1928, a meeting was held in Selma and the name was changed to Alabama League of Municipalities to make it an association of municipalities instead of officials. During the 1935 convention in Montgomery, with the assistance of grant funds from a foundation arranged by the American Municipal Association (predecessor to the National League of Cities), the current Alabama League of Municipalities was established with a full-time staff in the City of Montgomery.

Mayor John Burton of Jasper was elected President of the new organization. He along with Hon. M.L. Robertson of Cullman and Birmingham City Comptroller C.E. Armstrong were appointed as a nominating committee to find the League's first Executive Director. Acting on the strong recommendation of Governor Bibb Graves, they nominated Ed E. Reid, a dynamic, energetic young man with a background in journalism and government who was elected during the Montgomery 1935 Convention to be the League's full-time Executive Director. Hon. M.L. Robertson of Cullman was elected to serve as Secretary/Treasurer, and, with a membership of 24 member cities and towns, the foundation was laid for the tremendously fine municipal service organization the Alabama League of Municipalities soon came to be.

The beginning was far from easy. The year 1935 was a time when Alabama, like the rest of the nation, was trying to fight its way out of the Great Depression. Unemployment was the rule rather than the exception. Municipalities had kept services going on borrowed money and were heavily in debt. Sources of revenue were scarce and pay scales for

municipal employees were pathetically inadequate. There was a tremendous need for improving the revenue condition of cities and towns – a need to revise the municipal borrowing powers, a need to enable cities and towns to engage in projects that would improve the economic climate and provide for the health of local communities. There was also a need to unshackle local governing bodies so they could actively participate in the recovery that President Roosevelt and the Congress were stimulating through special public works programs. The League played an important role in moving municipalities forward during a critical time in early 20th century history.

Following Ed Reid's untimely death from cancer in 1965, Staff Attorney John Watkins became the League's second executive director. Many landmark pieces of legislation for the betterment of Alabama cities and towns were passed during his years as director. In addition, he was responsible for the creation of several critical League member programs, including the highly successful Municipal Workers Compensation Fund. During his tenure, the League acquired property on Adams Avenue in Montgomery, a block from the State Capitol, and built a new headquarters building. The original building, which opened in 1970, was expanded in 1989-1990 and continues to serve League members today.

John Watkins retired in May 1986 at which time Staff Attorney Perry C. Roquemore, Jr. was named executive director. Under his leadership, additional League member programs were added, including the Alabama Municipal Insurance Corporation, the Alabama Municipal Funding Corporation and the extremely popular Certified Municipal Official (CMO) program, which was only the second such program in the country when it was established in 1994. In addition, a Loss Control Department was developed and the League staff tripled.

The League's founding fathers courageously pursued their goal to empower municipal government during a formative time in Alabama's history. Seventy-five years later, the Alabama League of Municipalities remains unwavering in this goal – continuing to enable local government to serve the people and promote the welfare of all. ■



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- Judge
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- Emma G., Defendant
Florida State Court

"...thank you for getting me into a treatment program. I'm loving my sobriety. It's a wonderful life. It does work One Day At A Time."

- Danny B., Defendant
Marshall County, Alabama

"Thank you for everything. Even though you did not have to do it, you did it anyway and it was much appreciated. You kept me out of jail."

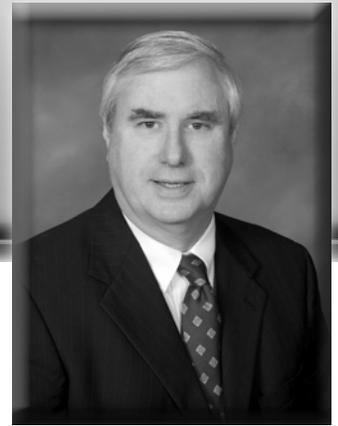
- Craig A., Defendant
Foley, Alabama

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Municipal Overview

Perry C. Roquemore, Jr.
Executive Director



We Must Move with the Tides of Change

Happy New Year! Everyone at the League wishes all our municipal friends a most prosperous year ahead. The year 2010 will be a very special one for the Alabama League of Municipalities as we celebrate our 75th anniversary. During this year of celebration we hope to bring to our member officials a number of items of interest to remind all of us why our League is a very special organization.

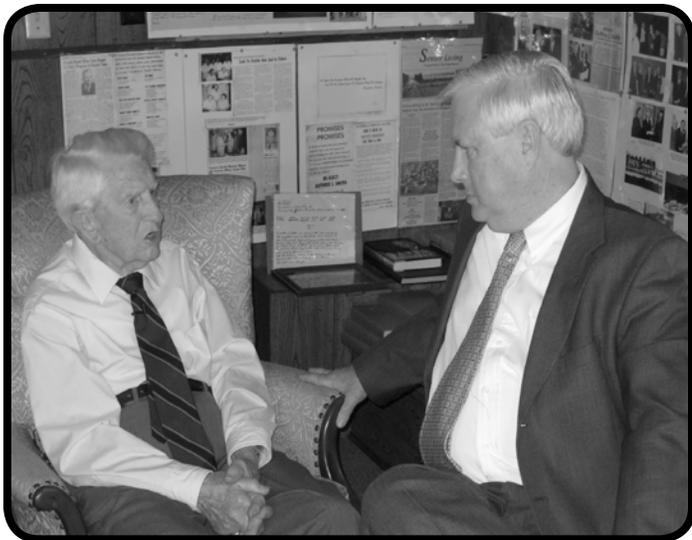
In 1992, Mayor Guthrie J. Smith was nearing retirement after 44 years of consecutive service as an elected official to the City of Fayette. Mayor Smith served as League President in 1965-1966. During his tenure in office, he worked with all three League Directors – Ed Reid, John Watkins and myself. I asked Mayor Smith to speak during the Opening Session of the Annual Convention on May 2, 1992.

On May 14, 1992, U.S. Senator Howell Heflin, who had heard Mayor Smith's speech at the League Convention, made the following remarks concerning the speech on the floor of the U.S. Senate: "His address to that body on May 2, 1992, in my judgment, is one of the most impressive statements about government I have ever read. While it is directed toward local government, many of his thoughts are applicable to Federal and State governments. Therefore, I ask unanimous consent that his speech entitled *We Must Move with the Tides of Change* be printed in the CONGRESSIONAL RECORD in order that all Members of this body and all readers of the CONGRESSIONAL RECORD will have an opportunity to share the wisdom of a great leader in government."

Several months ago Carrie Banks and Ken Gabehart of the League staff and I traveled to Fayette and spent the day with Mayor Smith and his wife, Dot. Guthrie is 97 years old and still works for the betterment of his city and fellow man. To kick off the League's 75th year, it is my pleasure to provide you with Mayor Guthrie Smith's remarks from 1992 which are just as valid today as they were nearly 18 years ago.

WE MUST MOVE WITH THE TIDES OF CHANGE

When Perry Roquemore asked me to speak at this opening session, I hesitated to give him an answer. I did considerable thinking about it. I wondered, is he asking me just because I am a survivor, that I have lasted 44 years in this business, that I am some sort of a rare bird or does he think I might have something worthwhile to say?



Perry Roquemore visits with 97-year-old former Mayor Guthrie Smith in his home museum in Fayette, Alabama. Mayor Smith served as League president in 1965 and is one of the few surviving former officials to have worked extensively with all three League's executive directors.

These questions are at present unanswered, but here I am. You will have to judge whether Perry is to be shamed or praised.

I am deeply honored to have been asked to appear before you.

How have I survived all these years in this business?

That's a good question, and one I have pondered.

Forty-four years ago Fayette really had no tax revenue, and city hall was one room next to the city jail. From that beginning, over the years, we followed a strict policy of informing Fayette citizens of our revenue needs for specific services as they arose. We saw to it that the money collected was spent for the projects we specified. Looking ahead during the past 40 years, we prepared for our future by building a revenue base which enables us to improve the quality of life for everyone. These improvements are there for all to see and enjoy.

For instance, we have a fine 100-acre recreation park with over 200,000 visitors a year, and a 65-year-old school building converted to an award winning civic center supported by a tax-free endowment fund of one-half million dollars. On display in

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A 1945 Perspective from the League's First President

By: John G. Burton, Mayor, City of Jasper



Editor's Note: *This article, originally titled "The League Ten Years Ago and Today," appeared in the May 1945 issue of the Alabama Local Government Journal, a precursor to The Alabama Municipal Journal.*

This month – May – my thoughts and memory turn back to a day exactly ten years ago when a group of forward-thinking municipal officials gathered in Montgomery to plan the future course of the Alabama League of Municipalities. I was Mayor of my home city, as now, and was vitally and keenly interested in seeing developed a strong and effective state organization of city and town governments. The heads of the other 27 member municipalities felt the same way.

At our Montgomery conference three thoughts were uppermost in our minds – (1) we realized that the municipal governments were a potentially strong, unorganized group; (2) without organization and strength that accompanies it, we were fast losing every degree of self-government authority at the municipal level; and (3) the future destiny of local government was in jeopardy.

We realized that unless something was done, and done promptly, to rebuild the governmental structure of our cities and towns, the time would soon be at hand when the municipal governments would be mere administrative agencies for a strong and inhuman state government. The Legislature at that very time – while we were attending the Montgomery conference – was preparing to move deeper into our local governmental domain and pluck off more and more of our local prerogatives and authorities.

Decision Reached

After much discussion, the Montgomery conference went on record as favoring (1) a full-time League office in Montgomery, (2) a full-time executive secretary to direct the activities and programs of the organization and (3) an aggressive legislative policy aimed at restoring lost powers to the city and town governments and winning for them the legislative recognition we had long deserved and so badly needed.

The first step in effectuating our program was to find the best available person to fill the executive secretary's place. I had been elected president of the League and charged with naming a committee to find the person around whom the organization was to be built in our drive for service and assistance to the municipal governments of the state.

When the committee met, I offered the name of Ed E. Reid, then private secretary to the Speaker of the State House of Representatives and a young weekly newspaper publisher. He had impressed me in the Legislature by his endless enthusiasm for legislative work and his boundless energy and ability. In the end, he was agreed upon by the committee and promptly installed in office. Subsequent events and developments have certainly justified the great confidence I had in his ability to do a superior job. He was, in my judgment, the finest choice we could have made.

The League's Growth Starts

We started out with 28 municipalities enrolled as members. We were in the midst of a regular quadrennial session of the Legislature. Our energies necessarily had to be turned fully behind our legislative committee in efforts to head off the passing of legislation considered hurtful and injurious to municipal government operations.

continued on page 10

Making the Old New Again

Montgomery's Downtown Revitalization Efforts

By Carrie Banks, ALM Communications Director • Photos by Elmore DeMott (www.elmoredemott.com)

The lingering economic downturn has impacted nearly every community in the country. Despite the difficult financial climate, however, Montgomery continues to move forward with its downtown revitalization projects in an effort to stimulate commerce and job development while providing unique destinations for tourists and residents.

“Whether it’s a time of economic downturn or a good economy, the lifeblood of any community is jobs,” said Mayor Todd Strange. “Therefore, job creation should be at the heart and soul of every city. Jobs create income which increases tax revenue for the cities, counties and the state, which encourages the funding of education, law enforcement and cultural activities – all which help job creation.”

Entertainment District Created Through Planning and Partnerships

“The Alley,” a planned downtown entertainment district located within walking distance of Montgomery’s Convention Center and Riverwalk Stadium, is home to multiple restaurants, loft apartments, offices, banquet facilities and future retail establishments. It’s a progressive project several years in the making and a prime example of a successful partnership between the public and private sectors. Originally comprised of warehouses, loading docks and storage buildings, The Alley has been transformed to include free-flowing open air spaces with comfortable patios overlooked by New Orleans-style balconies. Entrances are strategically located off Commerce Street by the Renaissance Hotel and Convention Center and Tallapoosa Street, marked by a unique icon – the antique water tower that originally straddled two rooftops along The Alley and needed to be removed due to safety concerns.

According to Deputy Mayor Jeff Downes, the concept for The Alley began with a group of visionaries, some of whom were investors, who thought it would be a good idea to connect the Riverwalk and baseball stadium with the new convention center. “There had been general talk about an extensive downtown revitalization project for years,” Downes said. “Really, the

continued on page 11



1945 Perspective, *continued from page 8*

At the close of the 1935 legislative session, our executive secretary visited municipal officials up and down the state in an effort to enlist their aid in building up the type of League that we long had envisioned. We carried our message directly to the city and town halls. The result was an increase in membership from 28 to 74 municipalities. The League was firmly on the road to progress and was then assured of sufficient support to continue functioning as a full-time force in the affairs of our state's public life.

Membership Growth Constant

The steady increase in the League's membership attests the abiding interest on the part of municipal officials generally in the organization's welfare. Following my term as President, Mayor Lucien Burns of Selma served a year, during which time the official membership moved up to 94. In the next year – 1937 – under leadership of Mayor Cecil Bates, Mobile's brilliant chief executive, 104 cities and towns were actively affiliated with the League. Membership in 1938, during the presidential term of Mayor W.S. Coleman of Anniston, was increased to 116 municipalities.

In 1939 the Executive Committee faced squarely the

problem of revisiting the dues schedule so as to obtain needed revenues to service an expanded program on the part of the League for its member municipalities. This action increased the budget by 60 percent, but the membership dropped from 116 to 106. This was during the presidential year of the late Mayor Jimmy Jones of Birmingham. By the next year, in spite of the sharp increase in the dues schedule, our membership had risen to 120 municipalities. During the following year – 1941 – under the able leadership of Mayor W.B. Mahan of Russellville, the most remarkable growth yet experienced in membership took place when 181 member municipalities were enrolled. This was due in large part to the active and untiring interest of Vice President Bowen Simmons of Opp who personally wrote strong letters of invitation to all nonmembers. His letters were followed up by similar appeals from all district vice presidents.

In 1942 membership dropped back to 166 municipalities, but the next year – during the term of Mayor J. H. Meighan of Gadsden – it was up again to 182, the highest in the organization's history to that time. Today (in 1945) our membership stands at 205 cities and towns. Just about every actively functioning municipality is enlisted with the League to aid itself by keeping the organization in position to render every possible service and assistance to the municipal governments. ■

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Originally comprised of warehouses, loading docks and storage buildings, The Alley has been transformed to include free-flowing open air spaces with comfortable patios overlooked by New Orleans-style balconies.

Revitalization, *continued from page 9*

first time it was put in writing was in the 2001 version of our downtown plan, which included The Alley as well as provisions for a stadium, riverfront redevelopment, the amphitheater, a convention center and a hotel. In 2006 Dover, Kohl & Partners (www.doverkohl.com) further refined that downtown plan, and, as part of that plan, a Tax Incremental Financing (TIF) District was conceived.”

TIF is a financing tool that uses future gains in taxes to finance current improvement projects. As explained by Downes, prior to a major redevelopment effort, property taxes are benchmarked. Then, as redevelopment occurs and as property values increase, the incremental growth in property taxes (city and county) is set aside to pay for redevelopment efforts in the target area, which for Montgomery was its downtown. The TIF funds designated for that purpose are then used to pay the debt service for a bond issue.

“The City (in partnership with Montgomery County) floated bonds for three major projects through the TIF: The Alley, the Coosa parking deck and the Dexter Avenue parking deck,” Downes said. “The idea was that these three projects would drive private sector investment. With roughly \$1.6 million on The Alley and \$5 to \$6 million on each of the parking decks, you’re talking about quite a bit of public investment. If the City and County had not, through the use of the TIF, created something special out of The Alley, I don’t think the private sector would have followed.”

Downes estimated that the private sector has already invested \$12 to \$15 million in The Alley project in addition to the City’s \$1.6 million in the common area. He expects the private sector investment to reach \$20 to \$25 million when the project is completed with The Alley businesses easily generating, in gross sales, \$10 million a year. In addition, the City’s developing Entertainment District is helping to fill a need that was created when the Convention Center was built – attracting people to the City of Montgomery and then providing additional destinations for them when they arrive. It’s also contributing more than dollars to the area.

“Outside of a direct economic impact, more than anything else, in my opinion, has been the intangible good feeling it’s brought to Montgomery – that we have something exciting, something new, something unique,” said Downes. “Often times people have thought of Montgomery as a place where their kids had a nice experience growing up but the minute they got out of college they darted off to the next best city. We want this to be a place where our young people stay – where our young people make the best of themselves in their hometown community. So the revitalization efforts not only impact tourism and are fun for people visiting, they have a direct impact on the people living and working in Montgomery. It’s an investment in everyone, not just one segment.”

Antique Water Tower Creates Unique Entryway

Featured on the cover of this publication as the winning entry

continued on page 28

Tides of Change, *continued from page 7*

this center at all times are 300 pieces of art from our 1,500 piece art collection valued at one-quarter million dollars.

For the year 1989, Fayette led the State of Alabama in new jobs announced. By the end of next year this new industry will employ 1,000 people. Their capital expenditures will exceed \$23 million and the City of Fayette will upgrade water and wastewater treatment facilities at a cost of \$5 million. During the past 10 years, Fayette city and industrial capital expenditures have exceeded 92 million dollars.

We are a small city of less than 5,000.

I tell you this, simply to illustrate a very significant point.

You, in this audience, have the honor to have been chosen to service in a leadership and decision-making capacity. I challenge you to live up to your responsibility and duty. Don't be afraid to chart a course of progress and development. Be sure the need is worthwhile – explain that need – never fear to ask for the money, and then spend it wisely. As long as the taxpayer sees genuine benefit from his taxes and we act responsibly, we can survive. I believe my long tenure proves this to be true.

During my years in office there have been many times when friends advised me not to propose a new tax or fee – that it would beat me at election time.

I replied that my primary concern is not reelection – that we need this project and if our citizens are unwilling to provide the funds to move forward they can send me home.

They did not send me home. Today they are not complaining to me and the city council about fees and taxes. Most of them

thank us for their improved quality of life.

In my humble opinion, sound, efficient, strong local government is the bulwark of our democracy. How can America remain strong with weak, bankrupt, inefficient or corrupt government at the local level? We dare not sit on our hands, waiting for someone else to do that which we should do for ourselves.

As dedicated municipal officials I salute all of you. One of the more rewarding experiences of my life has been my privilege to know and be associated with so many outstanding public servants as you. The foundation and hope for all that is good in American rests upon municipal officials just like you.

This is a profound statement but it is true. You should feel proud and honored to be so classified.

I know there are times you become discouraged, disappointed, and depressed. Such low times are expected, but let me remind you that the periods of success and accomplishment will more than make up for the times of frustration. I know, because I, also, have experienced the lows and the highs.

I assure you, public service at the municipal level is most honorable and victories won are the most rewarding you will ever experience.

Your lot as a city official is not a happy one, except on those rare days when nothing goes wrong. To be certain, some folks we serve generally sit in judgment on the most trivial of decisions. But this is the price we pay for our democratic way of life.

One great fact is that men and women like you come forward to service, lead, and devote yourselves, for small returns, to a most difficult task. The administration and leadership of a 1992

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community.

Your daily activities in municipal government, the leadership you exercise to meet new and difficult problems, seldom make headlines; but they are really what determines Alabama's future.

Two weeks ago, April 19, was the 217th anniversary of the first shot at Concord, Mass. for freedom in our Revolutionary War of 1775. That shot signaled our soon-to-come Declaration of Independence; later our Constitution; and our enduring faith in individual freedom.

I can think of no better place to dedicate ourselves again to that faith than in our cities and towns where we live.

But freedom is not only the bells we ring and the speeches made. It is the officer of government by the people, even in our smallest community, helping to make the wheels of local government turn efficiently and economically.

As public officials we have no political axes to grind. Constant political battles are sure to ultimately hinder our effectiveness. We must concentrate on services to be provided; facilities to be maintained and rebuilt; and the long list of daily problems to be solved which, if not met, could make a farce of democratic freedom.

We must move with the tides of change or risk municipal decay. Although we look back upon our recent past with what an eloquent lady columnist called, "The Fragrant of Mellow Memories of Yesterday: we must live and act for our own new times.

The FBI maintains a list of America's 10 most wanted people. They are undesirable; they need to be put out of circulation. In other words, the public welfare would be improved if we were rid of them. I hasten to assure you that we don't have one of these characters here today.

I would like to suggest to you that there is another group of the most wanted men and women in America. They are most wanted in every community and city of our land because they are needed in leadership roles. The greatest need of today's cities and towns is effective leadership.

We have men and women who are dedicated to the success of their business, their profession or their job and that is as it should be. But the most wanted men and women are those who are willing to extend their interest and service beyond their personal responsibilities; people who are willing to go a step further and devote some of their time, and some of their talents to the betterment of the community in which they live. The most wanted men and women of any community are those who offer dedicated leadership in the church, education, recreation, health, business, government, and other civic projects aimed at community improvement.

No community can be any better than the citizens who make up that community. Neither can any community rise above its leadership. Our cities and towns will be no better than we want them to be.

Let's ask ourselves this question: What kind of community would we have if no one contributed anymore of their time or service to its betterment than I do?

I am speaking of the need – the serious need – for all of us

to become really involved in this business of local government and community improvement projects. The leading men and women of every city and town, who once tended to think of local politics as a necessary evil must begin to see the conduct of their communities as the highest type of personal challenge and responsibility.

Qualified men and women of our communities must become personally involved if our children and grandchildren are to live in environments for which they will thank us rather than condemn us. This generation, you, I and our neighbors know and can foresee that our towns and cities must plan ahead; they must be expertly managed or miss the bus of tomorrow's high promises; or perhaps be run over by that bus.

We hear a lot of talk these days about rights – we hear others say: "I know what my rights are; I am going to insist upon my rights."

But – wait a minute – our rights are not everything – don't we have some responsibilities as well as rights? I think it is high time we talk and think about our responsibilities and duties for a change. It has been said that every right carries with it a duty. If every citizen realized the two-sided nature of citizenship, we would be better off. Too many people talk too much about their rights and forget the corresponding duties. Two of our most fundamental duties are obedience to lawful authority and service to our community and fellow citizens. If some citizens refuse to respect the laws which they dislike, why couldn't other citizens do the same? If we make such allowances for our likes and dislikes, you can be assured that very few laws will be respected.

Now, I don't wish to sound like a flag waver, but I would like to say this: Our Forefathers have given us our democracy – a system of government under which we may govern ourselves through representatives of our own choosing. It is a system which depends upon us – the people – for its very life. Because it is government by the people, government by us, it can be no better than we, the people, are willing to make it.

Our democracy is a challenge. It is a challenge to all of us, and not just to all of us some of the time. If we are to maintain, enjoy and develop our democratic system, we must meet this challenge. We simply must work to make democracy work, to make democracy live.

Democracy in the United States involves more than government by the people through elected representatives. In a very real sense, our democracy is government by public opinion. It is obvious that government by public opinion works best when the opinions held by the public are informed opinions. Therefore, it is our duty to keep ourselves informed on public affairs. Keeping informed is not always an easy task, but it is an essential one. Corrupt political machines and selfish interest breed on public indifference. Democracy flourishes with citizen interest and enlightenment. I like this statement taken from one of our weekly news magazines, "A well informed public is American's greatest security."

I do not doubt that our Nation is entering a new era. Particularly is this true in Alabama. Whether the future, which really begins tomorrow, finds us morally spiritually and culturally

continued on page 27

tough times call for
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The Legal Viewpoint

By Ken Smith
Deputy Director/ General Counsel



Municipalities and State-Shared Fuel Taxes and Inspection Fees

Alabama has various taxes on gasoline, lubricating oil and motor fuels as well as an inspection fee on motor fuels. Sections 40-17-30 through 49-17-124, Code of Alabama 1975, levy a gasoline tax of 7-cents per gallon and 5-cents per gallon on gasoline used in internal combustion engines. Sections 40-17-220 through 40-17-225, Code of Alabama 1975, levy an additional tax of 4-cents per gallon on gasoline and lubricating oil and 6-cents per gallon on motor fuels. Section 8-17-87, Code of Alabama 1975, imposes an inspection fee of 2-cents per gallon on gasoline and diesel fuel, with some exceptions for diesel fuel, and inspection fees in varying amounts for other fuels and lubricating oil. The revenues derived from these taxes and fees are shared with counties and municipalities.

The major portion of this article deals with the 7-cents and 5-cents per gallon gasoline tax and its impact on municipalities. A brief overview of the 4-cents per gallon tax on gasoline and lubricating oils, 6-cent per gallon tax on motor fuels, and the 2-cents per gallon inspection fee is also provided.

Different Tax Rate on Aircraft Fuels

In addition to the various taxes on gasoline, lubricating oil, and motor fuel, a different tax rate for aircraft fuels is provided for in Section 40-17-31, Code of Alabama 1975. Gasoline or other fuel used to propel aircraft powered by reciprocating engines was initially taxed at a rate of 1.5 cents per gallon. Fuel used to propel aircraft powered by jet or turbine engines was initially taxed at the rate of one-half of one cent per gallon. Section 40-17-31, as amended, requires the commissioner of revenue to annually adjust these tax rates on aircraft fuels to maintain the net level of collections at \$600,000 per year.

Section 40-17-50 prohibits any municipality from levying new or additional taxes on aviation fuel after May 10, 1967. However, the bulk of the revenue derived from the state aircraft fuel tax has been used to construct, improve and maintain municipal airports. Today, because of this tax, Alabama has one of the best systems of municipal airports in the United States.

Section 40-17-31(d)(4), Code of Alabama 1975, provides an exemption from the aircraft gasoline tax for fuel used by a certified or licensed carrier with a hub operation in Alabama. A hub operation is defined as one which originates, from a location, 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year, and passengers or property are regularly exchanged at the location between flights of the same or a different certified or licensed air carrier.

State's Use of Revenue from Gasoline Tax Restricted

Provisions in Title 40 restrict the state's use of revenue collected under the state gasoline excise tax. The revenue, less the cost of collection, derived from the tax on aviation fuel is required to be paid into the state treasury and to be used exclusively to pay the cost of acquisition, engineering, construction, improvement and maintenance of existing or proposed airports and other air navigation facilities within the state; for salaries and other expenses of the Department of Aeronautics; and to create a sinking fund for the payment of the interest and retirement of the principal of all bonds lawfully issued, sold and delivered after July 1, 1967, for funds to be used exclusively for the airport purposes listed above.

Funds derived from the 7-cents gasoline excise tax on the sale of marine gasoline must be used to improve boating and boating facilities, seafood, and salt water sport fishing.

Funds derived from the 7-cents tax on the sale of highway gasoline can only be used for the construction, improvement, maintenance and supervision of highways, bridges and streets, including the retirement of bonds for the payment of which such revenues are pledged.

A municipality may not use gasoline tax proceeds to repair and restore the runway of a regional airport. AGO 1998-179.

Municipalities and Gasoline Taxes - Exemptions

Section 40-17-31, Code of Alabama 1975, exempts counties and municipalities from paying the state 5-cents and 7-cents per gallon tax on gasoline purchased by a municipality. Counties and municipalities are exempt from paying the federal excise tax on gasoline. Municipalities currently pay the federal gasoline tax and then apply for a refund. Counties and municipalities are also exempt from paying the 4-cents per gallon state tax on gasoline and lubricating oil and 6-cents per gallon on motor fuels levied by Sections 40-17-220 through 40-17-225, Code of Alabama 1975, as amended. Title 40 of the Alabama Code contains several exemptions to the state gasoline excise taxes.

Distribution Formula – 7 and 5 cents Gasoline Taxes

Sections 40-17-70 through 40-17-82 of the Code, as amended, provide for the distribution and use of the 7-cents gasoline tax. Proceeds from the tax are distributed as follows: 45 percent to the State Highway Department and 55 percent to the counties and municipalities of the state.

The 55 percent which goes to counties and municipalities is



divided in the following manner: 25 percent is divided equally among the state's 67 counties and the remaining 30 percent goes to the counties pro rata on the basis of the ratio of the population of each such county to the total population of the state according to the last federal decennial census or any subsequent federal special census. There is a further provision that no county shall receive less than \$550,000 annually.

The state treasurer distributes monthly 10 percent of the county's share among the municipalities in the county. This distribution is based on the ratio of the population of each such municipality to the total population of all municipalities in the county according to the last federal decennial census. The remaining portion of the amount allocated or apportioned to each county is distributed monthly to the county by the state treasurer.

The amounts distributed by the state treasurer to the municipalities of the county represent 10 percent of the county's share except in the case of the following counties where municipalities share additional gasoline tax revenues from the county's share under special acts:

- Madison County – Act 708 of 1967 as amended by Act 919 of 1969
- Jefferson County – Act 329 of 1969
- Montgomery County – Act 364 of 1967; Act 176 of 1967 as amended by Act 1665 of 1971
- Mobile County – Act 476 of 1967
- Etowah County – Act 619 of 1967 as amended by Act 145 of 1969 and Act 813 of 1971
- Barbour County – Act 546 of 1967; Act 720 of 1967
- Russell County – Act 859 of 1969

- Calhoun County – Act 393 of 1971
- Dale County – Act 1954 of 1971
- Morgan County – Act 80-597 (4-cent tax only), as amended by Act 87-867

Local acts providing for the collection of gasoline taxes by the Alabama Department of Revenue were not repealed by Act 98-192 (the revised sales and use tax law). AGO 1998-210.

Section 40-17-31, Code of Alabama 1975, levies a supplemental excise tax of 5-cents per gallon on gasoline. Section 40-17-70, Code of Alabama 1975, provides that the proceeds from the 5-cents gasoline tax are to be distributed as follows:

Three-fifths of the tax proceeds (3 cents) shall be deposited in the state treasury to the credit of the Public Road and Bridge Fund of the State Highway Department. The remaining two-fifths of the proceeds from the 5-cents gasoline tax (2 cents) are to be distributed in the same manner as the proceeds of the 7-cents gasoline tax as provided by Sections 40-17-72, 40-17-73, and 40-17-74, Code of Alabama 1975, including those special distributions established by local act of the Legislature for distributing the 7-cents gasoline tax in certain counties.

Section 40-17-78(3), Code of Alabama 1975, specifically requires municipalities to keep their share of the 7-cent per gallon state gasoline excise tax in a special fund and specifically prohibits the commingling of these tax funds with other funds of the municipality, except the 2-cent state inspection fee with which it may be commingled. The 5-cents gasoline tax may be maintained in a separate account with the 4 cents per gallon tax on gasoline and lubricating oil and the 6 cents per gallon tax on motor fuels as discussed later in this article.

A municipality's share of the state highway gasoline

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tax must be kept and expended from a separate account and not commingled with other municipal funds. This law is not sufficiently complied with if a municipality merely utilizes accounting and bookkeeping methods which accurately reflect the amount of state-shared gasoline tax funds on hand and the purposes for which disbursements are made. AGO to Hon. Cecil Gardner, November 6, 1969.

Use of Funds Restricted

Both constitutional and statutory limitations have been placed on municipal use of state-shared gasoline tax funds. Amendments 93 and 354 (Section 111.06) Alabama Constitution, 1901.

Section 111.06 provides, in part, the following:

“No moneys derived from any fees, excises, or license taxes, levied by the state, relating to registration, operation, or use of vehicles upon the public highways except a vehicle-use tax imposed in lieu of a sales tax, and no moneys derived for any fee, excises, or license taxes, levied by the state, relating to fuels used for propelling such vehicles except pump taxes, shall be expended for other than cost of administering such laws, statutory refunds and adjustments allowed therein, cost of construction, reconstruction, maintenance and repair of public highways and bridges, costs of highway rights-of-way, payment of highway obligations, the cost of traffic regulations, and the expense of enforcing state traffic and motor vehicle laws. The provisions of this Amendment shall not apply to any such fee, excises, or license taxes now levied by the state for school purposes for the whole state or for any county or city board of education therein;”

According to the Attorney General, the section is not an affirmative grant of authority to the Legislature, counties or municipalities to expend gasoline tax funds. Rather, the purpose of the section is to prohibit the Legislature from authorizing that the funds mentioned may be expended in any manner other than that prescribed therein. 87 Quarterly Report of the Attorney General 15.

The Supreme Court of Alabama in *In Re Opinion of the Justices*, 96 So.2d 634 (1957), held that the restrictions contained in Section 111.06 apply only to proceeds derived from the state highway gasoline tax and in no way limit the use of taxes collected by virtue of a municipal gasoline tax ordinance.

The legislative limitation on the expenditure of 7-cent gasoline tax funds is found at Section 40-17-78(3), Code of Alabama 1975, and reads, in pertinent part, as follows:

“Where the use is by a municipality, such use shall be for transportation planning, the construction, reconstruction, maintenance, widening, alteration and improvement of public roads, bridges, streets and other public ways, including payment of the principal of and interest on any securities at any time issued by the municipality pursuant to law for the payment of which any part of the net tax proceeds were or may be lawfully pledged; provided, that no part of the net tax proceeds referred to in this section shall be expended contrary to the provisions of the Constitution.”

Section 40-17-79, Code of Alabama 1975, authorizes a county governing body to expend proceeds from the state-shared gasoline tax for the construction and maintenance of streets within the corporate limits of any municipality located within the county. **Note:** Municipalities in Jefferson County should consult their local act on this matter.

Opinions on the Use of 7-Cent Gasoline Tax Revenue

The Attorney General has been asked frequently to rule on the legality of certain uses by municipalities of the 7-cent gas tax. The following opinions are the most important ones issued on the subject:

- A municipality may invest surplus gasoline tax funds in U.S. Treasury notes as long as the gas tax funds are not commingled with other municipal funds. AGO to Hon. Bob A. Davis, October 30, 1969.

- Salaries of employees who perform work necessary for enumerated purposes listed in Section 40-17-78, Code of Alabama 1975, may be paid from funds derived from the state highway gasoline tax. If an employee works only part-time on such purposes, then a proportionate share of his salary may be paid from gasoline tax funds. AGO to Hon. Cecil Gardner, November 6, 1969.

- Improvement bonds were issued covering street improvements but the collections were insufficient to pay the principal and interest of such bonds. The Attorney General held that gasoline tax funds could be used to pay the installments AGO to Hon. W. H. McDermott, December 15, 1969.

- A city may purchase from gasoline tax funds a truck to service traffic control signals. AGO to Hon. Jack B. Rucker, March 24, 1970.

- Gasoline tax funds may be used in lighting streets. AGO to Hon. James M. White, April 30, 1970.

- Gasoline tax funds may not be used for “routine street cleaning” but can be used to pay the expense of removing objects interfering with traffic. AGO to Hon. John F. Watkins, May 21, 1970 and AGO to Hon. John Gaither, September 4, 1970.

- A city may not use gasoline tax funds to construct off-street parking facilities. AGO to Hon. H. E. Swearingen, May 31, 1971.

- State gasoline tax funds may be used to “rough-in and pave” a street if the street is dedicated for public use. AGO to Hon. Edward Minyard, December 2, 1971.

- Gasoline tax funds may not be put into the general fund and used for general purposes. AGO to Hon. B. H. Reynolds, March 10, 1972.

- Gasoline tax funds may be used to pay a portion of the cost of the annual audit provided the employee donates a part of his time to purposes which may be paid from gasoline tax funds. AGO to Hon. W. J. Coker, September 28, 1972.

- A municipality may use general funds for a paving project and reimburse the fund from future collections of gas tax funds. The minutes should reflect the arrangement. AGO to Hon. John A. Hughes, Jr., January 29, 1973.

- State gasoline tax funds distributed to a municipality may be used to improve, maintain and repair a street. AGO to Hon. A. N. Roberts, May 18, 1973.

- A municipality may use its state-shared gas tax funds to purchase machinery and equipment to be used in construction, reconstruction, maintenance, widening and improvement of public roads, bridges, streets and other public ways. AGO to Hon. Cecil Gardner, September 9, 1969 and AGO to Hon. Gene L. Hughes, May 26, 1977.

- Proceeds from the state gasoline tax fund may be used to

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LEGAL CLEARINGHOUSE

NOTE: Legal summaries are provided within this column; however, additional background and/or pertinent information will be added to some of the decisions, thus calling your attention to the summaries we think are particularly significant. We caution you *not* to rely solely on a summary, or any other legal information, found in this column. You should read each case in its entirety for a better understanding.

ALABAMA COURT DECISIONS

Courts: A trial judge did not abuse his discretion in denying a defendant's request for recusal where the defendant did not raise the issue of the trial judge's alleged bias until he had received an adverse judgment, failing therefore to afford the judge an opportunity to recuse himself before he heard the case. *Price v. Clayton*, 18 So.3d 370 (Ala.Civ.App.2008)

Courts: A defendant's probation could not be revoked based on his use of marijuana that occurred before he was sentenced and placed on probation. The defendant tested positive for marijuana use after being placed on probation and the drug test was the result of conduct that occurred before the defendant was placed on probation. *Benson v. State*, 17 So.3d 693 (Ala.Crim.App.2009)

Courts: A driver's conduct in allowing the passenger-side tires of his vehicle to cross over the shoulder for one second at a speed of only five or six miles an hour over the posted speed limit did not rise to level of reckless driving. A reckless driving charge requires proof of willful or wanton disregard for the rights or safety of others, or proof that the driver was driving without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property. *Zann v. State*, 17 So.3d 1222 (Ala.Crim.App.2009)

Public Records: A requester, under the Open Records Act, is not required to demonstrate good cause before he or she is entitled to inspect public writings. An inmate's right to inspect and copy judicial records, under the Open Records Act, as to cases involving criminal charges against a person who had testified as a witness for the state in the trial in which the inmate was convicted, was not dependent on the pendency or lack of pendency of any criminal proceeding. *Ex parte Perch*, 17 So.3d 649 (Ala.2009)

Search and Seizure: One basis for suspecting criminal activity is the location where the investigative stop is made. An individual's presence in an area of expected criminal activity, standing alone, is not enough to support a reasonable, particularized suspicion that the person is committing a crime, as required for an investigatory stop. A police officer had reasonable suspicion to conduct an investigatory stop, where

the officer observed a defendant at night in a high-crime area known for drug activity, and the defendant twice got out of his vehicle, left the engine running, knocked on a door, and returned to his vehicle when no one answered the door. *State v. Landrum*, 18 So.3d 424 (Ala.Crim.App.2009)

Streets and Roads: A public road is established in one of the following three ways: (1) by a regular proceeding for that purpose, (2) by a dedication of the road by the owner of the land it crosses and a subsequent acceptance by the proper authorities, or (3) by the road's being used generally by the public for a period of 20 years. A public road may be abandoned in several ways including but not limited to the following: (1) the commencement of a formal, statutory action, (2) nonuse for a period of 20 years, or (3) if one road replaces another, there can be an abandonment of a public road by nonuse for a period short of the time of prescription. *Darnall v. Hughes*, 17 So.3d 1201 (Ala.Civ.App.2008)

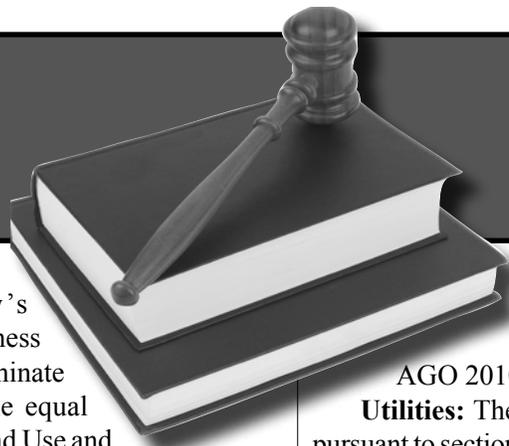
UNITED STATES COURT DECISIONS AFFECTING ALABAMA

Zoning: In order to prevail on a challenge to enforcement of a city zoning ordinance under the Fair Housing Act, a plaintiff must demonstrate unequal treatment on the basis of race that affects the availability of housing. A plaintiff can establish a violation under the FHA by proving (1) intentional discrimination, (2) discriminatory impact, or (3) a refusal to make a reasonable accommodation. *Bonasera v. City of Norcross*, 2009 WL 2569097 (11th Cir. 2009)

DECISIONS FROM OTHER JURISDICTIONS

Voting Rights Act: The at-large system used by Farmers Branch, Texas, to elect its five-member city council, under which candidates run for a particular numbered seat and voters may vote for all five slots, does not violate the Voting Rights Act. *Reyes v. City of Farmers Branch, Texas*, --- F.3d ---, 2009 WL 3591769 (5th Cir.2009)

Zoning: In determining whether zoning decision creates an effective prohibition of wireless services under Telecommunications Act, courts consider whether a significant gap in coverage exists within the individual carrier's network. When a carrier claims an individual denial of a wireless facility by a zoning board is an effective prohibition of wireless services under the TCA, courts must (1) find a significant gap in coverage exists in an area and (2) consider whether alternatives to the carrier's proposed solution to that gap mean that there is no effective prohibition. *Omnipoint Holdings, Inc. v. City of Cranston*, --- F.3d ---, 2009 WL 3592399 (1st Cir.2009)



Zoning: A municipality's exclusion of a church from a business revitalization district did not discriminate against religion in violation of the equal terms provision of the Religious Land Use and Institutionalized Persons Act. *River of Life Kingdom Ministries v. Village of Hazel Crest*, 585 F.3d 364 (7th Cir.2009)

ATTORNEY GENERAL'S OPINIONS

Appropriations: A county commission may appropriate funds to a local university, which is a state institution of higher learning, to be utilized in support of its football program, if the commission determines that the appropriation serves to promote economic development within the county. AGO 2010-010

Appropriations: A municipality, through the operation of its city gas and electric utility department, may institute a voluntary donation program whereby the city helps meet local needs by allowing utility customers the option of donating money through the bill payment process and the city may use these donations to provide funds to the utility department to assist low-income families having difficulty paying their utility bills if the governing body determines that a public purpose is served by such action. AGO 2010-014

Juveniles: A child may be charged with contributing to the delinquency, dependency, or in need of supervision of another child under section 12-15-111 of the Code of Alabama, and the juvenile court exercises jurisdiction. AGO 2010-012

Licenses and Business Regulations: Section 34-37-13 of the Code of Alabama imposes a requirement for posting a bond upon the individual master plumbers and master gas fitters, not companies. The willful failure to post said bond may be the basis for a revocation or suspension of a master plumber's and master gas fitter's certificate by the board. AGO 2010-013

Open Meetings Act: The Open Meetings Act permits the Alabama Aviation Hall of Fame Board to convene an executive session to discuss the general reputation and character of nominees for induction into the Hall of Fame and only those portions of the meeting that involve general reputation and character may be discussed in executive session. AGO 2010-011

Streets and Roads: Based on the facts presented, the City of Sheffield is not authorized to expend public funds for the maintenance and upkeep of an 1840's bridge, connecting

Colbert and Lauderdale Counties, which is located outside of its corporate limits.

AGO 2010-017

Utilities: The Water Works Board of a town, organized pursuant to section 11-50-310, *et seq.*, of the Code of Alabama, automatically dissolves and title to said system immediately vests in the town when the principal and interest on all of its bonds are paid in full. AGO 2010-009

ETHICS COMMISSION ADVISORY OPINIONS

AO No. 2009-11: A former member of the Bessemer Airport Authority may serve as part-time Airport Director after his resignation, if: (1) when he resigned from the Board, there was no prearranged understanding that he would be hired, (2) he did not use his influence as a Board member to obtain the position, (3) the Board, after reviewing qualified applicants, determines that the former member is the most qualified applicant for the position and (4) he was not involved in creating the vacancy.

AO No. 2009-13: The State Coordinator of Deaf and Hard of Hearing Services for the Alabama Department of Rehabilitation Services may not, for a period of two years after her retirement, contract back with the Alabama Department of Rehabilitation Services to coordinate the Southeast Regional Institute on Deafness conference on behalf of the Department of Rehabilitation Services, nor may she act as a consultant to provide consumer services and assist in program grants for the Department.



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construct a building to house those municipal vehicles which are used to construct and maintain the streets and other public ways of the municipality. However, the building may not be used to house other municipal vehicles. AGO to Mrs. Carole Dykes, August 14, 1972.

- The Attorney General has held that Alabama municipalities may expend state-shared gasoline tax funds for lighting and traffic control. AGO to Hon. Herman Nelson, March 20, 1968.

- State gas tax funds cannot be used on a city water project. AGO to Hon. J. W. Donahoe, November 9, 1977.

- State gas tax funds may be used to purchase a town map and erect street signs. AGO to Hon. Janice L. Gurley, October 27, 1977.

- Proceeds from the state gasoline tax cannot be used to pay off a loan for a police car and fire truck. AGO 1981-282 (to Hon. J. G. Morse, March 11, 1981).

- The 7-cents per gallon gasoline tax cannot be used for sidewalks. AGO 1983-115 (to Mr. James R. Stone, December 22, 1982).

- Proceeds from the 7-cents per gallon gasoline tax cannot be used to purchase computer equipment to process and record the tax proceeds. AGO 1984-085 (to Hon. Mac Smith, December 1, 1983).

- The 7-cents per gallon gasoline tax money may be used for drainage improvements if such improvements are directly connected with and necessary for the maintenance and repair of a road. AGO 1984-193 (to Hon. Kenneth Moss, March 5, 1984).

- The 7-cent gasoline tax may be used to maintain structures and equipment which control flood waters which cause road and bridge damage. AGO 1986-387.

- A county commission may not use gasoline tax funds to operate the sheriff's department or jail. AGO 1993-037.

- A county commission may not use gas tax funds to hire deputies or maintain sheriff's department vehicles absent local legislation authorizing the expenditure. AGO 1993-394.

- A municipality may use 7-cent gasoline tax funds to construct new curbs and gutters on existing municipal streets. AGO 1997-170.

- Seven-cent gasoline tax funds may be used to cut grass on the rights of way of public roads. AGO 1999-062

- A municipality may not use gasoline tax proceeds to repair and restore the runway of a regional airport. AGO 1998-179

- Four and 7-cent gasoline tax funds may be used to repair, maintain and construct ditches and culverts along street rights of way. AGO 1998-189.

- Proceeds from the 2-cent fee and the seven-cent gasoline tax may be used by a municipality for a one-time cleaning of the street and the adjoining sidewalk and parking area. These funds may also be used for landscaping along a state right-of-way. AGO 2001-078.

- Gasoline tax funds cannot be used to purchase scales and hire personnel to enforce weight limits on county roads. AGO 1989-442.

- Labor costs, including pension increases and insurance premiums, associated with the general scheme of constructing,

maintaining and supervising public roads may be paid from appropriate gasoline tax funds. AGO 1991-267.

- A municipality may use the proceeds of the seven cent gasoline tax to purchase a leaf vacuum truck. AGO 2006-083.

4-Cents per Gallon Tax on Gasoline and Lubricating Oil and 6-Cents per Gallon Tax on Motor Fuels

Sections 40-17-220 through 40-17-225, Code of Alabama 1975, levy an additional 4-cents per gallon state tax on all gasoline and lubricating oils sold in Alabama and a 6-cents per gallon tax on all motor fuels sold in Alabama. Motor fuels are defined as: "Diesel fuel, tractor fuel, fuel oil, distillate, kerosene, jet fuel or any substitute or devices therefore." *See*, Section 40-17-2, Code of Alabama 1975. The proceeds of 4-cents per gallon tax on gasoline and lubricating oil are distributed in the same manner as the 7-cents gasoline tax described above, including the special distribution formulas provided for certain counties by local law. The proceeds of the 6-cents per gallon tax on motor fuels are distributed as follows:

- (1) 4.69 percent shall be distributed equally among each of the 67 counties of the state monthly. These funds shall be used by counties for the purposes specified in Section 8-1791(a) (2)a.;

- (2) .93 percent shall be allocated among the incorporated municipalities of the state and distributed and used as provided in Section 8-17-91(a)(2)c.; and

- (3) The balance shall be paid to the state treasury to be used for highway purposes by the State Department of Transportation."

Provided, however, for the first five full fiscal years following the effective date of Act 2004-546, if distributions to the counties and municipalities provided for in subdivisions (1) and (2) above are insufficient to ensure, in combination with the distributions provided in Section 8-17-91, Code of Alabama 1975, that said counties and municipalities receive no less than the distributions received for fiscal year 2003 under the previous provisions of Section 8-17-91, then the above percentages shall be adjusted accordingly. After the first five full fiscal years, the above percentages shall not be adjusted.

These funds can only be used by the recipient municipality for resurfacing, restoration and rehabilitation of roads, bridges and streets, for bridge replacement and for the construction of new roads within the municipality. These funds shall be used for the same purposes and may be deposited in the same municipal funds as the 5-cents per gallon gasoline tax. These funds cannot be commingled with other funds of the municipality, including any other gasoline tax revenues and shall be kept and disbursed by such municipality from a special fund only for the purposes specified. Municipalities and counties are not required to pay the 4-cents per gallon tax on the gasoline and lubricating oil or the 6-cents per gallon tax on motor fuels purchased for municipal and county vehicles. *See*, Section 40-17-220, Code of Alabama 1975.

Use of Funds Restricted

Section 40-17-224, Code of Alabama 1975, imposes even more severe limitations on municipal use of state-shared revenue from the 4-cents per gallon tax on gasoline and lubricating oils

than the restrictions on the 7-cents per gallon gasoline tax. **Note:** These restrictions also apply to the 6-cents per gallon tax on motor fuels provided for in Section 40-17-220, Code of Alabama 1975. Prior to 2004, the tax on motor fuels was 4 cents but was increased in 2004 to 6 cents per gallon. The section provides that revenue from the 4-cent (and 6-cent) tax may only be used for resurfacing, restoration and rehabilitation of roads, bridges and streets, and for bridge replacement within the municipality. A 1987 amendment allows the proceeds of the 4-cents per gallon tax to be used to construct new roads.

A municipality's share of the proceeds from the 5-cent tax shall be used for the same purposes and deposited in the same municipal fund as the 4-cents per gallon gasoline and lubricating oil tax and the 6 cents per gallon motor fuels tax.

Opinions on the Use of the 4-Cent and 5-Cent Tax Revenues

- Proceeds from the 4-cent per gallon gasoline tax may be used for equipment rental for the purposes of restoring, resurfacing, and rehabilitating roads. AGO 1981-254 (to Hon. Hiram Pitts, February 19, 1981).

- Proceeds from the 4-cent gas tax may be used to repair culverts as well as highways and bridges. AGO 1982-030 (to Hon. William P. Smith, October 21, 1981).

- A town may spend 4-cent gas tax revenues to pay a note for monies borrowed in anticipation of such revenues to be used for resurfacing the main street in town. AGO 1982-155 (to Mrs. Martha F. Kelley, January 26, 1982).

- A county may not use 4-cent gas tax revenue to cut and maintain a right of way. AGO 1982-332 (to Hon. Gerald Dial, May 11, 1982).

- Proceeds from the 4-cents per gallon gasoline tax may be used to pay for labor and fuels needed to repair or restore streets. AGO 1982-469 (to Hon. Kenneth H. Sanders, July 23, 1982).

- Four-cents gasoline tax funds may not be used to pay for water pipe. AGO 1985-238 (to Hon. Glenn Fuller, March 5, 1985).

- Five-cent gasoline tax funds may not be used to cut grass on the rights of way of public roads unless the mowing is part of the rehabilitation or restoration of the road. AGO 1999-062

- Four and 5-cent gasoline tax funds may be used to construct curbs and gutters on existing streets if the curbs or gutters would serve to preserve the streets or return them to a condition of adequate structural support. AGO 1997-170.

- Four-cents gasoline tax funds may be used for restriping and re-signing county roads. AGO 1985-241 (to Hon. Richard H. Ramsey, III, March 12, 1985).

- Four-cents gasoline tax funds may be used to widen the shoulders of a Federal Aid Security Secondary Route in advance of a resurfacing project. AGO 1985-409 (to Hon. F. R. Albritton, Jr., June 26, 1985).

- Four-cents gasoline tax funds cannot be used to mow the shoulders of a road for normal road maintenance. AGO 1985-493 (to Hon. Jack Floyd, September 3, 1985).

- Four-cents gas tax funds may be used for repairing storm drains. AGO 1986-020 (to Hon. David Money, October 23, 1985).

- Funds from the 4-cent gas tax cannot be commingled with funds from a Community Development Block Grant. AGO 1986-314.

- A municipality may not use proceeds of the 4-cent tax to resurface, restore and rehabilitate driveway accesses located on the city's right-of-way. AGO 1989-159.

- Both the 7-cent gasoline tax and the 4-cent gasoline tax may be used to build an access road to the municipal fire station. AGO 1991-071.

- The 4-cent gasoline tax may be used to pave a dirt road. AGO 1993-046.

- Five-cent gasoline tax proceeds cannot be used to convert the fuel systems of city or utility board vehicles to natural gas. AGO 1993-160.

- A county commission may use 4-cent gasoline tax funds to remove debris, resulting from the recent winter storm, from county roads. AGO 1993-172.

- A city may not use four-cent gasoline tax funds to purchase property on which a private road is located. AGO 1996-022.

- Four and 7-cent gasoline tax funds may be used to repair, maintain, and construct ditches and culverts along street rights-of-way. AGO 1998-189.

- A municipality may not use 4-cent gasoline tax proceeds to repair and restore the runway of a regional airport. AGO 1998-179.

- A municipality may not use four-cent gasoline tax proceeds to pay for the removal of trash and debris from public streets on a daily basis, nor may a municipality use 4-cent money to pay for the operation and maintenance of lighting along an interstate highway or public street. AGO 1999-270.

- The 4-cent and 5-cent gasoline tax proceeds may not be used for landscaping alongside state highways because this is not restoration or rehabilitation of a road. The 4-cent and 5-cent gasoline tax proceeds may be used for a one-time cleaning of the street and adjoining parking and sidewalk area only if this work is part of the restoration, rehabilitation or resurfacing of the road. AGO 2001-078.

- Four-cent gasoline tax funds can be used by a municipality to purchase a dump truck for street repair work and for removing debris from streets when the restoration, rehabilitation or resurfacing of streets is involved. Four-cent gasoline tax funds can be used to pay for lighting along an interstate road for streets within the municipality when the lighting is part of the construction of the road, or when it is part of the restoration, rehabilitation or resurfacing of the street or road. AGO 1999-252.

- Proceeds from the 2-cent fee and the 7-cent gasoline tax may be used by a municipality for a one-time cleaning of the street and the adjoining sidewalk and parking area. These funds may also be used for landscaping along a state right-of-way. The 4-cent and 5-cent gasoline tax proceeds may not be used for landscaping alongside state highways because this is not restoration or rehabilitation of a road. The 4-cent and 4-cent gasoline tax proceeds may be used for a one-time cleaning of the street and adjoining parking and sidewalk area only if this work is part of the restoration, rehabilitation or resurfacing of the road. AGO 2001-078.

- A municipality may use the proceeds from a four cent gasoline tax to install speed bumps on streets. AGO 2007-125.



State Inspection Fee on Motor Fuels and Motor Oils

Section 8-17-87, Code of Alabama 1975, imposes an inspection fee of 2-cents per gallon on gasoline and diesel fuel sold and it imposes a varying tax rate on other petroleum products. Municipalities receive a portion of this revenue each month. A municipality's share of the revenue must be used for transportation planning or for the construction, reconstruction, maintenance, widening, alteration and improvement of public roads, bridges, streets and other public ways, including payment of principal and interest of any securities at any time issued by the municipality pursuant to law for the payment of which any part of the net proceeds of the tax were or may be lawfully pledged.

Funds distributed under this statute shall not be commingled with other funds of the municipality, except the municipality's share of the 7-cent highway gasoline tax. The funds shall be kept and disbursed by the city or town from a special fund only for the purposes enumerated above.

Separate Accounts and Co-mingling of Funds

By way of summary, municipalities must maintain the proceeds of the various gasoline taxes and inspection fees in separate accounts. Municipalities are authorized to co-mingle the proceeds of the 7-cent gasoline tax and the 2-cent inspection fee in a separately maintained account. Further, municipalities are authorized to co-mingle the proceeds of the 4-cent per gallon tax on gasoline and lubricating oils with the 6-cent per gallon tax on motor fuels and the 5-cent per gallon tax on gasoline. ■



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SMALL TOWNS AND DOWNTOWNS

2010 : Year of Alabama's
Small Towns and Downtowns

Information collected by the Alabama Tourism Department

www.alabama.travel

February Event

2/20 I Love Trussville Week, Trussville, AL

March Events

3/01 Year of Small Towns & Downtowns, Lanett, AL

3/06 Celebrate Chelsea, Chelsea, AL

3/13 Festival of Art at Waterfront Park, Orange Beach, AL

3/26 Dedication of Government Plaza, Tuscaloosa, AL

3/27 Talladega's 175th Birthday Celebration, Talladega, AL

2010 Annual Convention

Celebrating 75 Years

Arthur R. Outlaw Convention Center
Mobile • May 15-18, 2010



NOTE: Registration materials will NOT be mailed this year. Either use the forms provided on the next page or SKIP THESE STEPS entirely and register online at www.alalm.org (online registration will be available February 1)!

It's that time of year again – when the League staff begins preparing for our annual convention. Please note that **municipal officials are responsible for making their own hotel reservation at their choice of hotel.** Also, **online registration will be available at www.alalm.org beginning February 1, 2010.** To speed up convention registration, delegates are encouraged to **pre-register online** or via the attached registration form. Pre-registration will assist the League staff in making arrangements for the record attendance expected at this year's convention. The deadline for convention pre-registration is **April 23, 2010.** After April 23, delegates must register at the convention registration desk in the Arthur R. Outlaw Convention Center. It is also important for delegates and their spouses who plan to participate in the golf tournament to register as soon as possible.

Hotel Accommodations: Hotel information was mailed in September to all municipal officials and clerks. Each delegate is responsible for making their hotel reservations. Please visit www.alalm.org for hotel contact and room block information.

Convention Registration (SKIP THIS STEP by visiting www.alalm.org to register online!!)

NO CONVENTION REGISTRATIONS BY PHONE WILL BE ACCEPTED.

IF NOT REGISTERING ONLINE:

1. Complete the convention registration forms on the next page to register yourself and your spouse (if applicable). **USE ONE FORM FOR EACH DELEGATE REGISTERED.**
2. Complete Golf Tournament Registration (provided on convention registration form) if applicable.
3. Enclose a payment for the appropriate convention registration fee and golf fee (if applicable). ***Payment in full must accompany each registration form.***
4. Return the forms and payment or Credit Card number to Alabama League of Municipalities, Attention: Convention Registration, P.O. Box 1270, Montgomery, AL 36102. (You may fax your forms with credit card payment to 334-263-0200.)

Note: Although a separate convention registration must be completed for each delegate, the municipal clerk may send registration forms and a payment for all municipal officials and employees to the League in a single envelope.

Continued next page.

CONVENTION REGISTRATION FEES

- **\$300** through April 9, 2010
\$20 nonrefundable registration fee for spouses.*
- **\$325** from April 10 through April 23, 2010
\$30 nonrefundable registration fee for spouses.*
- **\$375** after April 23, 2010 (on-site registration)
\$50 nonrefundable registration fee for spouses.*

**Spouse registration cannot be paid by the municipality; therefore, registration must be paid by the official at the time of registration.*

Envelopes **must** be postmarked by the aforementioned dates. There is no extra charge for children under 6. **However, children must be pre-registered.** The full convention fee covers the following events for each delegate and children under 6: Saturday night Welcome Party, Sunday night Delegate Reception, Monday luncheon, Tuesday luncheon, and pre-banquet reception and banquet for Monday evening. The registration fee for spouses covers the Saturday night Welcome Party; Sunday night Delegate Reception; the Monday spouses breakfast; the Monday luncheon, Monday reception and banquet; and the Tuesday luncheon.

The astronomical cost of putting on a convention makes it **impossible** to allow free admittance of guests of delegates at any function. Delegates who bring a guest may purchase additional tickets for the various events at the registration desk.

For children ages 6 and over and guests, the full registration fee must be paid or single tickets to events may be purchased at the registration desk at the following discounted prices:

Monday Luncheon – \$25.00

Monday Banquet – \$40.00

Tuesday Luncheon – \$40.00

For additional guest information, please contact Cindy Price with the League at 334-262-2566.

GOLF TOURNAMENT FEE - \$60 for each participant, which includes riding cart, green fees, breakfast and lunch. The deadline for refunds is **April 30, 2010.**

PAYMENT IN FULL MUST ACCOMPANY EACH REGISTRATION FORM.

Mail or fax the completed form and payment to Alabama League of Municipalities, Attention: Convention Registration, P.O. Box 1270, Montgomery, AL 36102. Fax: 334-263-0200. **Registrations postmarked after April 23, 2010, need to register on site.**

If you need assistance due to a disability or other special services, please call Theresa Lloyd at League Headquarters (334-262-2566) before **April 30, 2010.**

Conference Refund/Cancellation Policy

In order to receive a partial refund of your registration fee, your cancellation request must be received *in writing* by April 30, 2010. A \$60 administrative fee will be charged for all cancellations, regardless of the reason for the cancellation (including medical emergencies). No refunds will be given after this date. Registration fees for spouses are nonrefundable. ALM cannot make exceptions to this policy.

Distinguished Service Awards

This year, the League will present its Distinguished Service Awards to elected municipal officials, attorneys, judges, mayors, administrative assistants and clerks who have served for 20, 30 or 40 years in municipal office. Service in multiple positions may be combined to make the required number of years. These service awards will be presented at the Annual Convention during the luncheon on Tuesday afternoon, May 18. Please help us prepare for the presentation of the League Distinguished Service Awards by notifying League Headquarters **before March 20, 2010** of any official who has served for 20, 30 or 40 years in municipal office and **has not previously received a service award for the number of years submitted.** You can download a form for this purpose at www.alalm.org.

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To Register and Pay Online

DELEGATE
 (Mayors, Council Members and Clerks)
 Please Print or Type All Information

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**REGISTRATION FORM FOR CONVENTION DELEGATES
 2010 ALABAMA LEAGUE OF MUNICIPALITIES CONVENTION**

Name _____ Municipality _____

Name (to appear on badge) _____ Title _____

Daytime Phone Number _____ E-mail _____

Address _____ City/Town _____ Zip _____

Spouse (see registration fee below) First _____ Last _____

DELEGATE and GOLF REGISTRATION

See Registration and Golf Tournament Materials for Additional Information
 Visit: www.alalm.org

Through April 9, 2010

- \$300 Delegate Registration (Cancellation request must be received in writing by April 30, 2010)
- \$ 60 Golf Registration/Choose a Category A, B, C, or D Category _____ (Email Required for Foursome Info)
- \$ 20 Spouse Registration (Non-refundable)

April 10 – April 23, 2010

- \$325 Delegate Registration (Cancellation request must be received in writing by April 30, 2010)
- \$ 60 Golf Registration/Choose a Category A, B, C, or D Category _____ (Email Required for Foursome Info)
- \$ 30 Spouse Registration (Non-refundable)

After April 23, 2010 (On-site registration only)

- \$375 Delegate Registration (Cancellation request must be received in writing by April 30, 2010)
- \$ 60 Golf Registration/Choose a Category A, B, C, or D Category _____ (Email Required for Foursome Info)
- \$ 50 Spouse Registration (Non-refundable)

PAYMENT INFORMATION

CHECK VISA MC AMEX

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Billing Address _____ Signature _____

Notes:	For Office Use Only	Date Received _____
		Amount Paid _____
		Check # _____
		Check # _____



2010 Annual Municipal Golf Tournament
May 16, 2010 at 7:30 a.m.
TimberCreek Golf Club (www.golftimbercreek.com)
For additional information go to www.alalm.org

- \$60 per player
- ALL skill levels welcome!
- Great networking with fellow officials
- Door Prizes
- Four Player Scramble with a shotgun start
- Breakfast served prior to Tournament
- Awards Luncheon following Tournament
- Must be registered for the Convention

Additional information will be sent to you upon receiving the paid registration fee.

Prize Eligibility/Awarding Prizes:

- A complete listing of Prize Eligibility and Awarding Prizes information is available at www.alalm.org.
- All prizes will be awarded at the Awards Luncheon. You must be present to win a door prize.
- All players are presumed to know their eligibility for prizes. Other than door prizes, no player will be awarded more than 1 individual prize.
- To be eligible to win an individual prize, a participant must be a municipal official, a municipal employee or their spouse and the participant must be registered for the convention.

2010 Annual Convention EXPO – May 16 – 17, 2010

The League’s Annual Convention will bring 1000 – 1200 delegates and spouses to Mobile to discuss common issues affecting Alabama’s municipalities. The EXPO Hall will open with a Reception on May 16. On May 17 breaks will take place in the EXPO Hall and the luncheon dessert will be held in the Hall.

For additional information, please go to www.alalm.org or contact Laura Whatley at lauraw@alalm.org or 334-386-8138.

2010 SERVICE AWARDS

NOTE: Service as Mayor, Clerk, Commissioner, Council Member, Administrative Assistant, City Manager, City Administrator, Attorney or Judge may be combined.

Please print the name, office and number of years of each eligible official to receive a Service Award.

Please return form by March 15, 2010. Please keep a copy of this form for your records.

NAME	OFFICE	YEARS OF SERVICE

IF YOU HAVE NOT RECEIVED A CONFIRMATION LETTER BY April 15, 2010, NOTIFY THE LEAGUE HEADQUARTERS IMMEDIATELY.

FORM COMPLETED BY: _____

City/Town of: _____

Date Completed: _____

Tides of Change, *continued from page 13*

better off – whether we guide our towns and cities in their growth along planned lines of dignity and decency – depends upon the quality of leadership we exert now, in each and every local community. Most of our communities, even the smallest, grew up during horse and buggy times. Much of our thinking today, our political thinking, is still horse and buggy, too. In olden times when one day was like another, we came to see local politics and local offices as rewards for political leaders, the aim being only to keep taxes down and to balance the books. It was a modest variation of the spoils system, with modest fringe benefits to the men who could get enough votes in the ballot boxes. Some of that thinking is still with us.

But those days are really over. We face problems right now in the conduct of even our small communities that require the same shrewd management, the same mature thinking and planning, the same vision, the same courageous leadership as in business. There is also the need for informing, teaching, and leading all citizens to support quality leadership at the polls. Business does not put its operations in the charge of people who can provide the tastiest barbecue, or think up the fanciest words on a platform. Business seeks those of proven ability to enlarge the operations and put black ink on the operating statement. It seeks those with the wisdom to see opportunities up ahead; to keep abreast of the times; and to be ready for changes that are sure to come.

Our modern communities are facing important changes, important challenges, and even possible dangers that are inherent in growth. We cannot meet these problems without discarding our old fashioned, outworn approach to local politics and local government

The leading citizens of every city and town, the best minds, those who once tended to think of local politics as a necessary evil, must begin to involve themselves in the affairs of their communities and view their involvement as the highest type of personal challenge and responsibility. We, as public officials, must set the example for all to follow.

The revolution of change is upon us, fundamentally changing our way of life, our approach to civic problems and our political thinking. Think back 5, 10, 15 years ago – think of all the changes which have taken place in this short time. There is no such thing as a Berlin Wall around us to keep change away from our doors.

The challenge is how shall we meet this change? Will it be with thinking that suited the days of the horse and buggy, or with the best minds we can find – minds sharpened in the competitive fields of business, finance, or otherwise?

Every President of the United States in these days of crisis and change feels at liberty to tap an entire battalion of leading minds from business, from finance, from universities, to sacrifice the most productive years of their lives in dedicated service to their country. Nobody says “No.” The call of the President is a command. What a shambles we would be in if our government were filled with men whose only thought was feeding at the public trough.

Looking ahead to the complexity of the problems of growth and development, and I can’t stress this too much, we need on our town boards and committees...those who are not anxious or even willing to serve, but who have much to offer

the nonpartisan conduct of our community affairs. The rewards, monetarily, are trifling, or zero – or even less than zero. There are always the perennial critics who can make any decision a hazard. Accomplishing a given desirable end is not always a rewarding experience, but often full of bricks and scars. Even the most talented mayor and council member must know when and how to duck.

People of talent must respond to the needs of our communities to meet the challenges of tomorrow and exploit the glorious opportunities for our future good. I plead today for new thinking to meet our new age; community thinking. I plead for the draft of men and women who try to hold themselves aloof from matters unrelated to their own business affairs. Their reward, your reward, and the rewards for our progeny of later years, will be in brighter and better centers of life and living as you help to guide our towns and cities toward the Promised Land. I dare you to exercise strong leadership to meet these new challenges.

Mahatma Gandhi once said, “There go my people. I must hurry to catch up with them, for I am their leader.” I have, many times, felt the same as Gandhi.

We love our country. We love our State. However, it is in our towns and cities that the American spirit will live and thrive and expand, or wither and fade – not in Washington, not in Montgomery, but right in our own hometowns.

If we measure up – if we meet the high expectations we set for ourselves, we can be entering a new period of enlightenment, or progress and prosperity.

The challenge is ours. Do we fumble the ball or do we run with it?

Today I leave with you these parting words:

My town is the place where my house is found. Where my business is located and where my vote is cast. It is where my children are educated, where my neighbors dwell, and where my life is chiefly loved. It is the home spot for me.

My town has a right to my civic loyalty. It supports me and I should support it.

My town wants my citizenship, not my partisanship; my friendliness, not my dissensions; my sympathy, not my criticism; my intelligence, not my indifference.

My town supplies me with protection, trade, friends, recreation, education, schools, churches, and the right to free, moral citizenship; it has some things better than others.

The best things I should seek to make better; the worst things I should help to suppress.

Take it all in all it is my town and it is entitled to the best there is in me.

Mr. Heflin. Mr. President, I yield the floor. ■



Revitalization, *continued from page 11*

for the League's 2010 Photography Contest, the historical water tower marking the The Alley's Tallapoosa Street entrance was added late to the project. According to Downes, the concept was the inspiration of architect Mike Watson, the City's architectural representative for The Alley project as well as one of The Alley's private sector investors.

"As the architect on this project, Mike felt there needed to be an icon – something unique and special," Downes said. "At the time he was helping us resolve the issue of a water tower straddling two rooftops of the Commerce Street buildings along The Alley. The engineers felt it was unsafe and something needed to be done with it before we completed The Alley project. Mike had seen similar use of an old water tower in the Durham, North Carolina area and thought the idea would be a good fit for our project."

Erecting the water tower at the Tallapoosa Street entrance was not without a challenge. "The historical purists felt we were misusing the structure and, therefore, recreating or changing history," Downes said. "However, the City recognized that there can be a collaboration between the old and new – combining those elements to make something special. When Mayor Strange came into office, he could have done away with the tower but instead he consulted with all the business owners in The Alley project who had invested millions of their own dollars. Every person wanted the tower to stay. Since the tower is located on the sidewalk and is not part of a structural façade, the City took the position that the tower was excluded from review by the ARB (Architectural Review Board) because it was located on the public right-of-way."

After much public back and forth between the City and the ARB, the tower will remain in its new location and will eventually feature specialty colored lighting and distinctive signage marking the entrance to this unique downtown destination. In addition to common areas and right-of-ways, Montgomery has also ramped up pedestrian lighting and created the River District Police Precinct, which focuses on the downtown area. The River District Substation will be located in the core of The Alley and will be equipped with surveillance equipment to monitor the common areas.



Riverwalk Stadium, home to the Montgomery Biscuits



Montgomery's Riverwalk Amphitheater

Directing Motorists and Rearranging Streets

The City has hired an area advertising firm, LWT, to assess downtown signage – to direct people that enter the downtown perimeter to the Visitor's Center as well as other venues and unique destinations in the downtown area. "The Chamber and the Convention and Visitor's Bureau has to be in sync with the City and vice-versa," Downes said. "And so when it comes to the signage project we recognize the fact that the CVB knows the marketplace even though the City technically controls the right-of-way and the signage. Therefore, we understand we need to work together with a common theme to make it look nice and, ultimately, to make it a success. LWT will work with the specs that we bid for the downtown signage/way-finding project. Following the bid, we'll have an outside contractor come in and install the signage."

Part of the 2006 plan called for eliminating nearly all the one-way streets in downtown Montgomery. According to Downes: "One-way streets are good for getting a bunch of people into downtown and a bunch of people out of downtown. We want people to stay in downtown. We feel like part of redevelopment involved resurrecting the two-way streets. We're now at the point where we're having some funding issues, so only two of the streets have been through the conversion process; however, as we have the funding, we'll continue this process."

Retail Development Coordinator

This past July, Montgomery created a new position devised solely for retail development and hired Ken Reynolds as the City's first Retail Development Coordinator. According to Mayor Strange, this position is tasked with creating core incentives to encourage all forms of retail possibilities throughout the entire city. "The Chamber is geared up for industrial and corporate recruiting," Strange said. "Retail is a different niche and our problem was we had no one responsible for retail recruitment. We needed somebody waking up every day thinking about retail – city-wide. For instance, we need grocery stores downtown as well as grocery stores to fill up the empty Bruno's locations." He said at the end of a year, the position will be judged by the "number of business opportunities generated, not necessarily the closings, because in economic development it's not whether you win or lose, it's whether you're in the game or not."

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A construction crane lifts a pallet of tiles to the roof of a building located on the Commerce Street side of The Alley in downtown Montgomery.

Effect of Economic Downturn on Revitalization Efforts

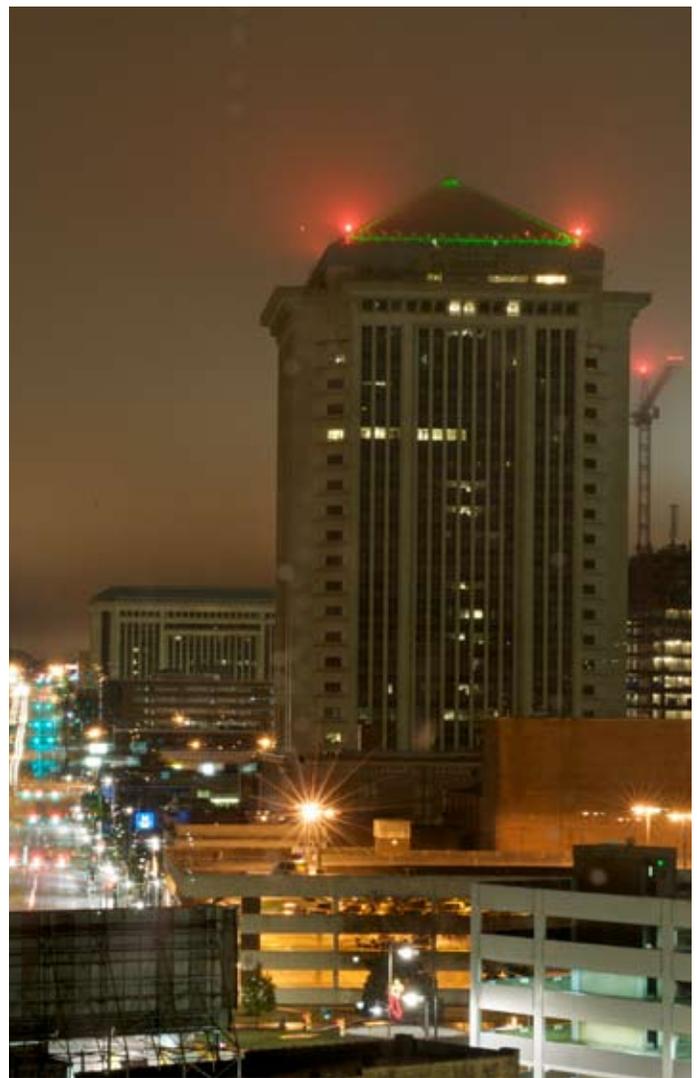
While the on-going economic downturn may have slowed progress on the current downtown projects, it has in no way killed them. “Amazingly, this is a sign that if you have the right partners coupled with the right projects, then the project can stand the test of the economic times,” Downes said. “When The Alley was conceived it was pre-recession but it has continued to be developed during the recession. The City, in addition to its \$1.6 million investment, used federal economic development funds to incentivize several businesses so they could become a reality and we had some really dedicated partners that had the wherewithal to make it happen.”

Downes said that in order for revitalization to be successful in downtown Montgomery, three catalyst projects had to happen: 1) The Riverwalk Stadium, home to Biscuits baseball, a nearly \$30 million investment; 2) a \$200 million investment by the RSA partnered by the City of Montgomery in the Renaissance Hotel and Convention Center; and 3) the Riverwalk and all the amenities associated with it (amphitheater, etc). “Without those in place,” Downes said, “The Alley, the area loft apartments, all the other things would not have happened. It took those catalyst

projects – all of which were conceived in our downtown plan and put into reality by various means with various partners.”

Advice to Other Municipalities

Mayor Strange advises other municipal officials who are trying to generate economic development to first realize you can’t have a great city without a great downtown. “It doesn’t happen overnight,” he said. “Montgomery started 10 years ago trying to redevelop downtown. So first, recognize the need to resurrect your downtown. Second, go find the best minds out there to help you do it. Don’t try to do it yourself. Don’t try to do it part-time. Don’t try to do it on a string. Hire somebody who understands urban downtown redevelopment. Even though we had people with urban planning backgrounds on staff, we hired Dover Kohl to help us create the vision. Once the vision is in place, then you start working the plan. Third, provide incentives. Government can’t do it all – and shouldn’t do it all. But government must prime the pump. For instance, we invested over a million in The Alley area so the entrepreneurs could take advantage of the infrastructure that government had produced. Government’s job is to provide the infrastructure for the business community.” ■



The Retirement Systems of Alabama (RSA) was an early partner in Montgomery’s downtown revitalization efforts. Photos for this article by Elmore DeMott.

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