

The Alabama Municipal JOURNAL

July/August 2017

Volume 75, Number 1



2017 Annual Convention



Birmingham, May 20 – 23





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The Alabama Municipal JOURNAL

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July/August 2017 • Volume 75, Number 1

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On the Cover:

The League had nearly 1,000 registrants for its 82nd Annual Convention in Birmingham May 20-23. Delegates had many educational opportunities throughout the convention, as well as time to network and discuss ideas with colleagues from around the state.

Active Members (450)

Abbeville, Adamsville, Addison, Akron, Alabaster, Albertville, Alexander City, Aliceville, Allgood, Altoona, Andalusia, Anderson, Anniston, Arab, Ardmore, Argo, Arton, Arley, Ashford, Ashland, Ashville, Athens, Atmore, Attalla, Auburn, Autaugaville, Avon, Babbie, Baileyton, Bakerhill, Banks, Bay Minette, Bayou La Batre, Beatrice, Beaverton, Belk, Benton, Berry, Bessemer, Billingsley, Birmingham, Black, Blountsville, Blue Springs, Boaz, Boligee, Bon Air, Brantley, Brent, Brewton, Bridgeport, Brighton, Brilliant, Brookside, Brookwood, Brundidge, Butler, Calera, Camden, Camp Hill, Carbon Hill, Carrollton, Castleberry, Cedar Bluff, Center Point, Centre, Centreville, Chatom, Chelsea, Cherokee, Chickasaw, Childersburg, Citronelle, Clanton, Clay, Clayhatchee, Clayton, Cleveland, Clio, Coaling, Coffee Springs, Coffeetown, Coker, Collinsville, Colony, Columbia, Columbiana, Coosada, Cordova, Cottonwood, County Line, Courtland, Cowarts, Creola, Crossville, Cuba, Cullman, Cusseta, Dadeville, Daleville, Daphne, Dauphin Island, Daviston, Dayton, Deatsville, Decatur, Demopolis, Detroit, Dodge City, Dora, Dordaville, Double Springs, Douglas, Dozier, Dutton, East Brewton, Eclectic, Edwardsville, Elba, Elberta, Eldridge, Elkmont, Elmore, Emelle, Enterprise, Epes, Eufaula, Eutaw, Eva, Evergreen, Excel, Fairfield, Fairhope, Fairview, Falkville, Faunsdale, Fayette, Five Points, Flomaton, Florala, Florence, Foley, Forkland, Fort Deposit, Fort Payne, Franklin, Fredonia, Frisco City, Fruithurst, Fulton, Fultondale, Fyffe, Gadsden, Gainesville, Ganit, Garden City, Gardendale, Gaylesville, Geiger, Geneva, Georgiana, Geraldine, Gilbertown, Glen Allen, Glencoe, Glenwood, Goldville, Good Hope, Goodwater, Gordo, Gordon, Gordonville, Goshen, Grant, Graysville, Greensboro, Greenville, Grimes, Grove Hill, Guin, Gulf Shores, Guntersville, Gurley, Hackleburg, Haleburg, Haleyville, Hamilton, Hammondville, Hanceville, Harpersville, Hartford, Hartselle, Hayden, Hayneville, Headland, Heath, Heflin, Helena, Henagar, Highland Lake, Hillsboro, Hobson City, Hodges, Hokes Bluff, Holly Pond, Hollywood, Homewood, Hoover, Hueytown, Huntsville, Hurtsboro, Hytop, Ider, Indian Springs, Irondale, Jackson, Jacksons' Gap, Jacksonville, Jasper, Jemison, Kansas, Kellyton, Kennedy, Killen, Kimberly, Kinsey, Kinston, La Fayette, Lake View, Lanett, Langston, Leeds, Leesburg, Leighton, Lester, Level Plains, Lexington, Lincoln, Linden, Lineville, Lipscomb, Lisman, Littleville, Livingston, Loachapoka, Lockhart, Locust Fork, Louisville, Lowndesboro, Loxley, Luverne, Lynn, Madison, Madrid, Magnolia Springs, Malvern, Maplesville, Margaret, Marion, Maytown, McIntosh, McKenzie, Mentone, Midfield, Midland City, Midway, Millbrook, Millport, Milbry, Mobile, Monroeville, Montevallo, Montgomery, Moody, Mooresville, Morris, Mosses, Moulton, Moundville, Mount Vernon, Mountain Brook, Mulga, Munford, Muscle Shoals, Myrtlewood, Napier Field, Natural Bridge, Nauvoo, Nectar, Needham, New Brockton, New Hope, New Site, Newbern, Newton, Newville, North Courtland, North Johns, Northport, Notasulga, Oak Grove, Oak Hill, Oakman, Odenville, Ohatchee, Oneonta, Onycha, Opelika, Opp, Orange Beach, Orville, Owens Cross Roads, Oxford, Ozark, Paint Rock, Parrish, Pelham, Pell City, Pennington, Perdido Beach, Phenix City, Phil Campbell, Pickensville, Piedmont, Pike Road, Pinckard, Pine Apple, Pine Hill, Pine Ridge, Pinson, Pisgah, Pleasant Grove, Pleasant Groves, Pollard, Powell, Prattville, Priceville, Prichard, Providence, Ragland, Rainbow City, Rainsville, Ranburne, Red Bay, Red Level, Reece City, Reform, Rehobeth, Repton, River Falls, Riverside, Riverview, Roanoke, Robertsdale, Rockford, Rogersville, Rosa, Russellville, Rutledge, Saint Florian, Samson, Sand Rock, Sanford, Saraland, Sardis City, Satsuma, Scottsboro, Section, Selma, Semmes, Sheffield, Shiloh, Shorter, Silas, Silverhill, Sipsey, Skyline, Slocomb, Smiths Station, Snead, Somerville, South Vinemont, Southside, Spanish Fort, Springville, Steele, Stevenson, Sulligent, Sumiton, Summerdale, Susan Moore, Sweet Water, Sylacauga, Sylvan Springs, Talladega, Talladega Springs, Tallassee, Tarrant, Taylor, Thomaston, Thomasville, Thorsby, Town Creek, Toxey, Trafford, Triana, Trinity, Troy, Trussville, Tuscaloosa, Tuscumbia, Tuskegee, Twin, Union, Union Grove, Union Springs, Uniontown, Valley, Valley Grande, Valley Head, Vance, Vernon, Vestavia Hills, Vina, Vincent, Vredenburgh, Wadley, Waldo, Walnut Grove, Warrior, Waterloo, Waverly, Weaver, Webb, Wedowee, West Blocton, West Jefferson, West Point, Westover, Wetumpka, White Hall, Wilsonville, Wilton, Winfield, Woodland, Woodstock, Woodville, Yellow Bluff, York



CMO 57 - 2017 Regional Training

Regional Training begins in Montgomery on Saturday, July 15 and August 12. Saturday training is offered once a year and limited to 50 registrations for each date. The League's legal staff will discuss important topics at each session, including elective core curriculum topics required to become a Certified Municipal Official.

Each regional training location has a separate registration. Visit www.alalm.org.

- **Montgomery** **Saturday, July 15** (limited to 50)
- **Montgomery** **Saturday, August 12** (limited to 50)
- **Alabaster** **Thursday, September 14**
- **Priceville** **Friday, September 15**
- **Loxley** **Wednesday, September 27**

Save \$25 by registering online: www.alalm.org!

Online registration is \$125 (includes lunch). Paper registration forms are available to download online. Fax or mail paper registration fee is \$150.00 (includes lunch). **Space is limited!**

Topics Include: Dealing with Meeting Disruptions: Keeping your Council out of Court and Off YouTube; Annexation and De-annexation of Municipal Property (Elective Core); The Open Meetings Act (Elective Core); Zoning in Alabama (Elective Core).

Questions? Contact Emily Sims, Alabama League of Municipalities, 334-262-2566.

This session has been approved for four and one half (4.5) Basic, Advanced or Emeritus hours in the Certified Municipal Official Program. Of the 4.5 approved hours, 2.5 hours meet core curriculum requirements. If you have already taken the core courses that are offered at this training, duplicate core hours WILL NOT be awarded. Any municipal employee may register, but only elected officials will be awarded credit hours in the CMO Program.

The President's Report

By Dr. Howard Rubenstein, Mayor, Saraland



Daunting Year for State Legislative Actions

President's Acceptance Address, May 22

I am honored and privileged to be chosen to represent you, my fellow mayors and councilmembers, as your League president for the upcoming year. I appreciate your support and confidence. I would like to thank my wife Tammy and my family for their love and support in allowing me the time to serve in this capacity. I would like to also thank my Saraland City Council and city staff for their help and support during the previous year and in advance for the upcoming year.

When I assumed the position of League Vice President a year ago, I had not expected to transition to the position of President halfway through my term. I would like to recognize and commend Phil Seagraves, the League's immediate Past President, for his hard work during his term as mayor; his dedication to the League; and his helpful spirit during the transition. I would like to also thank our League Vice President, Mayor Melvin Duran for stepping up to fill this role for the last several months. As a League Past President, Mayor Duran's counsel and experience have been very useful and

appreciated. I am also grateful to League Executive Director Ken Smith and our entire League staff for their help to me and for their tireless efforts to provide outstanding service to our municipalities. I know you appreciate the outstanding educational, informational and advocacy services our League provides. Many League programs such as AMIC, MWCF, AMFUND and the relatively new and successful Municipal Intercept Services provide invaluable help and benefit to municipalities large and small throughout Alabama.

I would like to recognize Council President Jesse Matthews of Bessemer who will be our League Vice President for the upcoming term. I know Jesse is an outstanding choice for this position and look forward to working closely with him during the next year. I would also like to thank the City of Birmingham for their warm welcome as our host city for this year's convention and for the wonderful reception they provided our attendees.

I feel very grateful to be standing here in front of you. Unlike most elected officials present, I did not have the opportunity to grow up here in Alabama. As a native of Chicago, and having lived and traveled in many other parts of this country, I am very appreciative of the wonderful state that we live in, its fine and welcoming residents and beautiful natural resources. I *chose* to make Saraland and Alabama my home and, 35 years later, remain proud that I live in an absolutely wonderful community in one of the best states in the nation. I appreciate the confidence my community has given me with election to six terms as an elected official, the last two as mayor. I am also thankful for all the League has allowed me to accomplish on both the local, state and national levels. As a family physician, I have always enjoyed helping people, and am grateful for the opportunity to continue to be of help in my capacity as League President.

This has been a daunting year for state legislative actions that have the potential to greatly harm our municipalities. Unfortunately, Alabama's cities and towns will continue to face significant challenges throughout the upcoming year. That being said, the League is one of our greatest resources for sharing our stories with our state elected officials and to advocate for our cities and towns – and ultimately for our



2017-2018 League President Mayor Howard Rubenstein of Saraland delivers his acceptance speech in Birmingham.



2017-2018 League President Mayor Howard Rubenstein with 2017 League Vice President Mayor Melvin Duran of Priceville.

citizens. State officials need to understand that *their* actions eroding our authority to govern – or that remove our revenue sources – will have devastating effects on our citizens. For instance, declining state support for mental health has had horrific results for many people and has shifted the burden of caring for these individuals to *all* our municipalities. Unfunded mandates result in the curtailing of essential programs and services for our residents.

One of my first acts during my past six months as League President was to work with our League staff and Executive Committee to organize and attend seven regional legislative appreciation dinners, one in each congressional district. This gave us the opportunity to informally discuss municipal issues with our legislators and strengthen relationships with

them. We plan to repeat and improve this program for the upcoming year. Another important endeavor I would like for the League to pursue over this next year is the commission and completion of a formal, professional strategic plan to ensure that we are not only taking care of immediate needs, but looking at the future with a long-term plan to continue and expand the League’s successful operation.

I also look forward to the League focusing on issues that we can all agree are essential for the continued success of our municipalities. In our society today, many divisive issues arise that polarize the functioning of government and hamper its ability to constructively legislate for our residents. In our non-partisan status as municipal elected officials, we have a unique opportunity to concentrate our efforts on important issues that we concur on as essential to the continued success of our municipalities. Let us work together as partners to make Alabama’s cities and towns *outstanding* examples of what can be accomplished by collaborating for issues essential to our municipalities.

It is a challenging yet exciting time to be a municipal elected official. All of us were given tremendous trust and responsibility when we were chosen to represent our communities as local elected officials. I know that everyone in this room wants to make their cities and towns shine as beautiful places to live, work and play. I look forward to working with you – my colleagues throughout our state – to optimize our communities and improve the lives of our citizens. I humbly ask for your help and support during the upcoming year and will do my utmost best to represent you well as your League President. May God bless you, your community, our wonderful state and our great nation! ■



More than 1,000 municipal officials, clerks, staff, vendors and guests attended the 2017 Annual Convention in Birmingham May 20-23. Concurrent and General Sessions were well attended. Many thanks to the City of Birmingham for hosting this year’s event!

Municipal Overview

By Ken Smith, Executive Director



Director's Report Annual Convention, May 22, 2017

I want to begin this year by giving a hearty thanks to our hosts, Mayor William Bell and the city council and staff here in the City of Birmingham. They've truly done an outstanding job making us feel welcome here in the Magic City. Please give them a round of applause.

I also want to take a moment here at the start to say a special word of thanks to your two Presidents this past year, Howard Rubenstein from Saraland and Phil Segreaves from Guin. Unfortunately, Phil lost his election bid this year. Fortunately, we had a man of Doc's ability to step in and serve. I appreciate all that these two men have done on your behalf.

Please join me in thanking them for their hard work.

I'm pleased to announce that our attendance figures for the Convention remain high. This year 862 officials, staff members and guests preregistered to attend. This does not include last minute registrations and walk-ups. In addition, over 300 exhibitors, representing approximately 400 companies and state and federal agencies, exhibited in our Expo Hall. These numbers are consistent with recent Conventions.

As I'm sure each of you know, most of our municipalities held elections since our last convention. We had an approximate 32 – 33% turnover among our municipal officials. While this may seem like a lot of turnover, this percentage is smaller than we've seen in previous municipal elections.

If you're a new elected official, please raise your hand. New official or incumbent, how many of you are attending your first convention?

Those of you who are new to office, or who are attending for the first time, have taken a promising step toward improving your ability to serve your communities back home.

Please give yourselves a round of applause.

Our membership remains strong. We currently have 450 municipal members, representing all but a handful of Alabama residents who live in those municipalities. To put our membership figures in perspective, all but approximately 3,000 people live in cities and towns that are members of the League. Our finances remain strong and our staff stands ready to serve you.

I hope you have enjoyed your time here at the Convention. This event is about you and your needs, and hopefully we've entertained, educated and prepared you for the upcoming year.

While these training sessions are important because of the structured training provided, I hope you have come to realize that the most valuable aspect of these training sessions may be the contacts you make with other officials. The informal discussions can add unexpected value to these seminars. You'll find that these casual conversations can often lead to solutions to issues you face and can even save your city or town money. You might even find new friends.

Where else will you have the opportunity to meet with so many of your peers and discuss common issues? Where else will you have the chance to learn from acknowledged experts how to be a better official?

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

In preparing this year's annual report, I have to admit to feeling something like a broken record. Beginning with the 2014, I tried to change the tenor of these reports from being just a review of the past year, to more of a look at the state of the League and a look forward.

Last year, much of my report centered around the dangers you face from an increasing number of bills at the Alabama Legislature designed to strip municipalities of authority and revenue.

Unfortunately, I have to do the same this year.

We continue to see a reactionary legislature. By this, I mean that someone back home is offended by an action of a municipality, or several municipalities, and instead of taking the issue up with their local officials, they ask a legislator to introduce a bill.

I'm also afraid that we continue to see numerous efforts by business interests to reduce or seeking tax breaks that will greatly reduce municipal revenues. Fortunately, many legislators recognize the dangers presented by these measures and promise to work with us to reduce their impact. We're grateful for their assistance.

We also know that their support is due in large part to the efforts each of you make in reaching out to them, expressing your concerns and explaining the impact these bills will have on your community. Thank you for taking the time to make

continued on page 16

Alabama Governor's Safety and Health Conference

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The Alabama Municipal JOURNAL: A 75-Year Journey

Carrie Banks • Communications Director • ALM

In October 1937, barely 18 months after the League formally organized, Ed Reid, the organization's 27-year-old executive director, published the inaugural issue of *The Alabama Municipal News*. Efficiency, modernity, and consistency were important for the new League, and the collecting and disseminating of information was not only critical to accomplishing the organization's goals but also a natural fit for Reid, who had been the editor of a weekly newspaper in Flomaton. His unique gift for communication and promotion aided him as he began regularly publishing the League's objectives, findings and accomplishments. The first issue of *The Alabama Municipal News* named the League's current officers, explained the phenomenon of "pressure groups" and their impact on legislative processes, explored the hidden costs of some legislative proposals and educated readers on the ins and outs of fire insurance for municipal properties. It also included a schedule of membership dues: \$10 for towns of less than 1,000; one cent per capita of population for cities and towns of 1,000 to 5,000; \$60 for cities 5,000 to 10,000 in population; \$75 for cities 10,000 to 50,000; and \$100 for cities above \$50,000.

Reid's intention, as this first issue illustrates, was to provide accurate information, informed opinions and pragmatic advice for running towns and cities. Seventy-five years later and nearly two decades into the 21st Century, those same goals continue to guide the League's official publication, *The Alabama Municipal Journal*.

1937 – Inaugural issue of *The Alabama Municipal News* is published

Printed on tabloid-sized newspaper stock, Reid included the following announcement just below the masthead on page 4 of the 8-page inaugural issue in 1937:

With this issue the Alabama League of Municipalities begins the publication of a monthly tabloid-size newspaper to be known as The Alabama Municipal News. It is to be the official organ of the League of Municipalities and is expected to be a most potent factor in the successes of the numerous endeavors on behalf of Alabama's cities and towns.

Through this newspaper, we will be able to facilitate the dissemination of authentic facts and figures and municipal close-ups of interest to the officials of the several municipalities in a more interesting manner. Articles will appear in each issue written by outstanding leaders of the many fields of municipal government. We hope to fill the columns of each issue with such information as will be valuable to the officials of each town and city in the state.

The concerns who will use the columns of this paper to advertise their products or their services are making possible its publication. As a proper reciprocation of this support, The Alabama Municipal News believes our municipal officials should support the advertisers who are making possible this publication each month.

Feedback regarding the initial issues was enthusiastic. A December 1937 note from Gadsden City Attorney Albert Rains reads: *I am very much pleased to receive The Alabama*



ALABAMA MUNICIPAL NEWS

OFFICIAL PUBLICATION OF THE ALABAMA LEAGUE OF MUNICIPALITIES

VOL. 1 OCTOBER, 1937 No. 1

Published monthly by the Alabama League of Municipalities, Exchange Hotel Building, Montgomery, Ala.

ED E. REID EDITOR

THE ALABAMA LEAGUE OF MUNICIPALITIES Exchange Hotel Building Montgomery, Ala. Organized in 1926

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INAUGURAL ISSUE (AN ANNOUNCEMENT)

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Municipal News. It is a fine publication and indispensable to those interested in municipal government in Alabama.

By August 1939, however, the time and expense associated with preparing and printing a monthly publication began to take a toll. During his report to delegates at the 1939 annual convention in Birmingham, Reid suggested the Alabama League partner with several other Southern Leagues to publish the Southern Municipal News, a brainchild of the North Carolina League of Municipalities under the direction of its executive secretary, Patrick Healy, Jr., who was a featured speaker during the 1939 Alabama League convention where he invited Alabama to join Arkansas, Georgia, Mississippi, North Carolina, South Carolina and Tennessee in this cost-saving endeavor. From Reid's report:

We continued during the year the publication of The Alabama Municipal News, monthly Journal of the League. We have succeeded in selling enough advertising to pay the publishing costs of the publication and defray a part of the mailing expense. We have been very much pleased with the favorable response from League members to this service.

The publishing of the magazine and the preparation of the material included in its issues draws heavily on the time of the League staff. We have devoted more time to this activity than we were perhaps able to do so. Such is the case with all the leagues issuing publications of this type. In that connection, I should mention a proposition that has been made to the Alabama League by the North Carolina League of Municipalities.

The North Carolina organization began the publishing of The North Carolina Municipal News about the same time we commenced our publication. It found that in order to do justice of the job of running a league on the one hand and operating a magazine on the other, separate and distinct staffs would be necessary.

To provide for this, however, would entail a greater expense than the North Carolina League could afford to bear. It then occurred to them that their state league publication might be turned into a regional publication serving the members of all the leagues in this region. This regional magazine would be divided into two sections - a general section and a section devoted to news and articles contributed by each of the leagues.

It is proposed that the Alabama League would be entitled to a minimum of 1,000 copies and a maximum of 1,200 copies per month for distribution among the officials of our member municipalities. At the present time, our resources do not permit us to mail more than 750 copies of The Alabama Municipal News. In the event you see fit to abandon The Alabama Municipal News in favor of the regional publication it is understood with the North Carolina League that the Alabama League shall not incur any financial responsibility for the publication, operation and management of The Southern Municipal News. It is further understood that the Alabama League would receive ten percent of the net profits from the operation of the regional magazine.

Acceptance of the North Carolina League's proposition would enable us to do the following:

- 1. Devote more time to our other services and activities.
2. Feature our magazine material in a publication of wider circulation in our own state.
3. Give our readers the benefit of information published from other states, thus giving them an opportunity to make comparisons of league services and activities.
4. Enable us to renew the publication of our weekly mimeographed news bulletin giving the latest developments within our state regarding municipal government.

I recommend the North Carolina proposition to you for your consideration.

By November 1939, the Alabama League had joined forces with Arkansas, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee in publishing Southern Municipal News. Ed Reid was listed as an associate editor and subscriptions were \$1. For several years, the Alabama League participated in this effort; however, by 1944 the League had pulled away from the regional tabloid to resurrect its own publication - a monthly magazine titled the Alabama Local Government Journal. In 1953, the name was changed to The Alabama Municipal Journal, which remains the League's official magazine.

Then and Now

Until his death in 1965, Ed Reid was the driving force behind the Journal. In an August 1965 tribute to Ed Reid, Birmingham News Editorial Page Editor E.L. Holland, Jr. wrote:

Ed Reid wove the thread of Alabama municipalities into the national fabric. This he did in



Memorial Issue AUGUST 1965 Vol. 23, No. 2

THE ALABAMA MUNICIPAL JOURNAL

specific ways. One such was his consistent, even persistent, editorial requirement that the League's Journal grasp at the substance of the city today and tomorrow. The publication cover to cover, regardless of byline, bore his personal imprint. Not only did it discuss immediate details of municipal government, its message was offered through governors, Congressmen, senators, cabinet and sub-cabinet level officers, authorities on highest national urban levels.

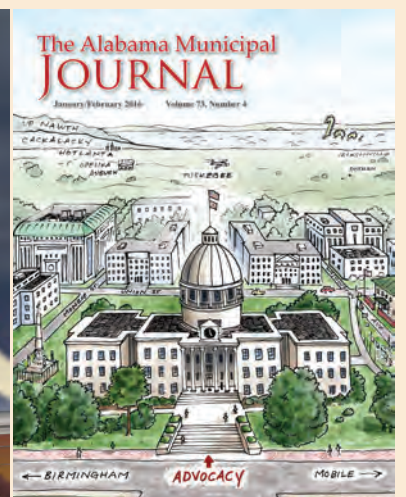
Mayors and other city officials could and did consume a Reid-selected steady diet of the best in municipal thinking, and viewpoint related to the municipal approach from city, state and federal officeholders or appointees. The consumption reared a host of healthful, enterprising communities.

Ed Reid was the Journal. Not that everything he accomplished is reflected therein; plainly it is not. But the architected urban-municipal philosophy of Ed Reid is clearly drawn in each issue. More than philosophy is balanced delicately but unobtrusively as between the larger and smaller municipality.

In 1970, the League hired Dan Dowe as its first full-time Publications Manager to oversee publication of all League materials. In addition to the *Journal*, the League was publishing a monthly newsletter – *The Alabama Municipal News* (named after the first League publication in 1937 and distributed to mayors, councilmembers, clerks and municipal attorneys from 1969 to 1997) – as well as manuals, directories, bulletins, special reports and a myriad of other informational pieces. Upon his retirement in 1986, he was succeeded by Anne Christensen, who relocated out of state in 1997.

In August 1997, then Executive Director Perry C. Roquemore, Jr., (who retired in 2011 after dedicating 37 years to the League – 25 as executive director) hired me as the League's first Communications Director to oversee public relations and marketing as well as strategic messaging and published materials. A North Carolina native with an undergraduate degree in journalism from East Carolina University and a master's degree in advertising and public relations from the University of Alabama, I had previously worked for several nonprofit organizations, including the Alabama Education Retirees Association (formally the Alabama Retired Teachers Association). Now 20 years on staff and two decades' worth of technology later, there have been many advances in the League's outreach and messaging efforts as well as how we communicate with our membership and the public; however, *The Alabama Municipal Journal*, which is now published bimonthly and mailed to nearly 5,000 readers, remains the flagship publication of the Alabama League of Municipalities. It is also available via the League's website, www.alalm.org, which was launched in 1997 and, at age 20, is a clearinghouse for an array of timely information, including current and previous issues of the *Journal* (dating back to 2002), as well as information on the League's history, staff, programs, special publications, legislative/advocacy endeavors, conferences, CMO training and a variety of legal and municipal topics.

Over the past decade, the look of the *Journal* has evolved significantly. Thanks to the exceptional talents of Karl Franklin, the League's graphic designer and webmaster, many of the *Journal's* front covers are frame-worthy works of art: capturing a horrific moment in time ("Monsters from the Sky", June, 2011); educating readers about a critical municipal issue ("Municipal Employees Under Attack", Nov/Dec, 2012); saluting Alabama's municipal clerks ("Super Clerk", March, 2013); illustrating the importance of the League's legislative function ("Advocacy", Jan/Feb, 2016). And, while the League fully embraces technology and uses various digital platforms such as social media, e-newsletters and e-blasts to deliver messages and share information, we remain extremely proud of our printed magazine and its impressive 75-year-history. We hope you do as well. ■





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Chief Charles Black

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“I’ll Take a Do-Over, Please.”

Are You Ready If Your Data is Compromised?

Chuck Stephenson, Director of Information Technology, ALM

Have you ever had one of those days? You know the one. Nothing goes right. Everything you try to accomplish is met with interruptions, problems or, even worse, failure. On those days, most of us wish we could go back to the days of do-overs, or if you are a golfer, a mulligan. We want a second chance to make it work. Sadly, there are very few times we get that kind of opportunity, but that, as the saying goes, is life.

There are other times when a do-over would be nice (or even mandatory). When something happens that compromises the integrity of your data, you will need a means to restore your data back to the way it was before it was compromised. The big question, of course, is *how*?

A little history...

A few years ago (never mind how many), when the PC was still relatively new, most computing for businesses was done via a mainframe or AS/400 system. These systems allowed businesses to use terminals to access the information stored on the main systems. As the usage and data entered in the systems grew, the consequences for any loss of that data also grew. The answer? Tape backup systems. These tapes were relatively small, ranging in size from a VHS tape to the size of a cassette tape, and the systems were carried forward to the PC/Server world as it grew. As new technologies came about, organizations started using external hard drives to backup their data. Hard drive space reached a point that was cheap enough to compete with tapes while providing a more long-term solution. For years, these were two of the most popular solutions for data backup for years. However, they had/have problems.

Backup tapes and external hard drives were great technology when they were first implemented, and they evolved and got better during their lifespan, but there were always issues with them. Backup tapes had a finite lifespan. As they were re-used, the tape media used to hold the data stretched and weakened. This meant that eventually the data on the tapes was no longer reliable. Hard drives used for backups are the same as the hard drive in your PC or server, and, like those, they would crash, become corrupted or just stop working. Another issue was where the tapes or

hard drives were stored once the backup info was written to them. To ensure viability in case of disaster, they needed to be kept somewhere other than the organization’s location.

As storage space costs continued to decrease, third-party companies began to offer hosted backup solutions. This afforded organizations the opportunity for more redundant backups with the added benefit of an offsite storage backup that is generally replicated to more than one location in case of disaster.

Currently

This brings us to present day. There are now many additional threats to our data – and, according to reports and trends, those threats are only going to continue to increase. There are new viruses, ransomware, and malware

Terms of the Trade (and elsewhere)

- **Datacenter** – a large group of networked computer servers typically used by organizations for the storage, processing and/or distribution of large amounts of data.
- **Backup** – a copy of computer data (such as a file or the contents of a hard drive)
- **Do-over** – to do something again. Example: If I had to do it all over again, I would have backed up my data.
- **Mulligan** – an extra stroke allowed after a poor shot, not counted on the scorecard.

instances discovered daily. There are also natural threats to contend with such as fire, floods and other weather threats. These are very real, very serious dangers that need to be guarded against when planning your organization's data backup solution.

The reality is that tapes and external hard drives are the products of the past. And that's where they need to remain. They have so many flaws it is not worth the risk to continue using them. A tape backup, according to a study by Veritas, is found to have discrepancies or completely fail 77 percent of the time. Offsite solutions that will run on your systems with a software client that is installed on the computer are much better options. There are a multitude of these services available. Some have a built in disaster recovery component that will allow you to bring your entire datacenter online at a remote site in a very short period of time rather than the days it would take to attempt to restore all of your data from a tape or hard drive backup.

The elephant(s) in the room ...

All of these solutions are great! Tapes, hard drives, offsite solutions. Most of you are using one or a combination of them. There's just one little problem ... The backups

aren't being tested to make sure they are useable to recover the data in a crisis. Sure, you get the backup reports on the screen. You may even get a notification in your email. The problem is you have never tested them to make sure that you can get your data back if needed – or you haven't tested it *lately*. Don't feel too bad; you are not alone. According to a study by Pivotal IT, 34 percent of companies fail to test their backups. For those that do test, 77 percent find that their backup solution fails on some level. Performing regular tests of your backup solutions will not only give you peace of mind that the backups are working, it provides insight into the process so that if a disaster strikes, you will know and have improved the recovery process.

Another benefit of regular testing is verifying that the correct data is being backed up. Data constantly grows and changes. There are new files and folders created daily (sometimes hourly) in most organizations. There are new systems that are implemented frequently. If you are not testing and reviewing your backup solutions and procedures, it is very likely that something will slip through the cracks. ■

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Council President Jesse Matthews of Bessemer

Elected Vice President of the Alabama League of Municipalities

On May 22, Bessemer Council President Jesse Matthews was elected by his municipal colleagues to serve as Vice President of the Alabama League of Municipalities for 2017-2018. He was elected and took office during the League's annual convention, which was held in Birmingham May 20-23.

League Executive Director Ken Smith looks forward to working with Council President Matthews over the next year. "Jesse has been actively involved with the League for many years," Smith said. "He has served on a number of League committees, including our Executive Committee, and is the immediate past chair of our Committee on State and Federal Legislation. His municipal knowledge and leadership skills have been an asset to our organization. He will serve us well as Vice President."

Council President Matthews is a former board member for the National League of Cities (NLC) and currently serves on the Board of Directors for the Municipal Workers Compensation Fund, Inc. (MWCF), a program created by the League in 1976. In addition, has completed the League's Basic, Advanced and Emeritus Certified Municipal Official (CMO) programs. ■



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these contacts. We depend on a grassroots effort to influence legislative action. We've been very successful over the years by following this approach. I cannot overestimate the impact your actions have, and I strongly urge you to continue to make those contacts, to build those relationships and try to make them see how difficult they are making your jobs.

I think we're seeing a pendulum swing in Montgomery. Over the years, municipalities in Alabama have enjoyed some of the broadest powers in the country. This has allowed municipalities to protect their citizens and provide them with many services they desire and deserve.

But the pendulum is now swinging in the opposite direction. Now opponents are lining up to strip our municipalities of many of the powers you currently have. Some of these opponents do it to ease what they see as burdensome regulation. But many simply desire larger profits and less taxation.

I don't know that we've seen the pendulum swing back as far as it can, or as far as it will. I think we're in for more of the same in the coming sessions.

That's one reason we decided this year to recognize certain legislators as Hometown Heroes at our Opening Session. These are legislators who over the course of several sessions have come above and beyond, often in the face of strong opposition, supporting us and working with us for your interests. We thank them for their continued support.

Earlier this year, I invited Paul Meyer, the Executive Director of the North Carolina League, my counterpart, to speak at our Legislative Advocacy session in Montgomery. I did this because in my discussions with Paul and his predecessor, it was clear to me that the North Carolina General Assembly had already stripped municipalities in that state of much of their ability to serve their citizens. One of the points Paul made was that some of their strongest opponents in the General Assembly were – after many years – beginning to concede that they may have gone too far and were returning some authority to municipalities there.

This session, I witnessed your lobbyists, the League's lobbying team led by Greg Cochran, and those representing other municipalities across the state, pull together and fight to prevent bad legislation from passing. There were times 20 or more lobbyists were working the halls at the Statehouse with the League to share our municipal message with legislators, to stir up their municipal officials and to fight with us. I want to thank them for their efforts.

On behalf of the League staff, I also want to thank each of you for the time and energy you invested in fighting these bills.

I like to say that our members move the needle in Montgomery. We see that time after time. And keeping that needle pointed in favor of municipalities will take a unified effort by us all.

What do we mean when we discuss unity? After all, you and I may use the same word, but if we apply different meanings to



Ken Smith gives the Director's Report during the Business Session of the 2017 Annual Convention on May 22.

that word, we aren't talking about the same thing. We all bring our own views and opinions to the table. We are a very diverse organization. What does unity mean to us?

We can't expect our members to be in total agreement. That's not realistic. That said, I do think unity requires us to stand together despite our diversity and disagreements.

Just as clearly, we can't expect members to take positions on legislation that is detrimental to them. But if a bill doesn't hurt you, I think unity requires League members to communicate concerns to our legislators any time a bill that affects municipal rights is introduced, even on legislation that doesn't affect you.

Too often our members sit on the sidelines because a bill doesn't directly impact them. But keep in mind, tomorrow you may be impacted by legislation that doesn't affect someone else and you're going to want them to speak on your behalf.

We need to recognize that there are overarching municipal concerns we share. Unfunded mandates. Loss of regulatory power. Requirements to collect revenue for state and county governments. Limitations on your ability to collect adequate revenue to provide services for your citizens.

As many of you know, we've made major changes to the way we format our Policies and Goals. For instance, the largest change was dividing the Policies and Goals into legislative proposals and general policy statements.

Several members of our staff have suggested going one step further and creating major policy statements – such as one opposing unfunded mandates – rather than dealing only with specific items with individual statements.

While I think the individual statements in some form will still be necessary, I'm starting to think that adding major policy positions to the Policies and Goals would help foster unity among our members. This is something we will work toward when our policy committees meet again next spring.

Steps like this should fit in very well with my expectations for the upcoming year. Because I anticipate that this will be a transition year for the League.

We've already made some steps in new directions. After

continued on page 20

2017 Regular Session Recap

Greg Cochran • Director of Advocacy and Public Affairs • ALM

The House and Senate closed the session with adjournments of “sine die” on Friday, May 19. The House introduced 608 bills and the Senate introduced 422 bills during the 2017 Regular Session. Of those 1030 bills introduced, we identified 401 house bills and 239 senate bills affecting municipal governments. As you are already aware, it was an extremely busy year. We appreciate all the contacts you made to members of the Legislature upon our request to oppose or support various proposals. Like any successful team, it takes everyone pulling and pushing in unison to make progress.

Two bills adversely affecting municipal governments were passed by the Legislature on the final day: SB316 implementing a \$10,000 municipal delivery license threshold along with capping penalties of businesses in noncompliance and SB60 which prohibits the removal, renovation or improvement of statues, monuments, buildings (excepting K-12 school buildings), streets and bridges of architectural significance if in place more than 40 years.

We were successful in preventing many bills that would have had an adverse effect on our members from passing during this legislative session: municipal business preemptions for pharmacies; durable medical equipment providers, hospice services; transportation network companies (Uber, Lyft & SideCar); municipal delivery licensure; lodging tax preemptions for online lodging facilities (AirBnB); broadband franchise actual cost-fee structure; more than 45 new sales and use tax exemptions (including groceries

and agricultural equipment); unfunded mandates to provide exhaust systems in firehouses as well as enhanced death benefits to beneficiaries of first responders and additional compensation benefits to those first responders diagnosed with PTSD, heart and/or lung ailments; local school boards prohibited from utilizing state tax revenues; and juvenile inmate cost sharing proposals. We also spent an incredible amount of time negotiating with stakeholders on an equitable distribution of a proposed additional motor fuels tax to fund our essential infrastructure needs.

We were also successful in passage of bills that will assist municipalities: HB14 allowing mayors of Class 8 municipalities to designate a person to represent them in certain boards and agency meetings (ACT#2017-362) and HB345 (ACT#2017-380) authorizing historical tax credits for rehabilitation of historic structures.

The legislature also addressed several issues of importance to the State: General Fund (ACT#2017-338) and Education Trust Fund (ACT#2017-335) budgets; Alabama Jobs Act (ACT#2017-314); Annual Sales Tax Holiday (ACT#2017-120); Death Penalty Appeals; Child Placement Agency Inclusion Act (ACT#2017-213); Right of Conscience Act (ACT#2017-189); prohibition of Crossover Voting (ACT#2017-340); Midwifery Accreditation; Autism Healthcare Coverage (ACT#2017-337); Assisted Suicide Ban Act (ACT#2017-231); Right of Life (ACT#2017-188); County Agriculture Authority (ACT#2017-246); Judicial



Gov. Kay Ivey addressed delegates at the Opening Session of the League's Annual Convention on May 20th in Birmingham.

Override Prohibition (ACT#2017-131); Low Speed Vehicles (ACT#2017-150); Abandoned Buildings (ACT#2017-304); Sunday Alcohol Sales Revisions; Irrigation Tax Credit; HB185 Class 2 entertainment districts (ACT# 2017-87) and House & Senate Redistricting.

I want to recognize several people that deserve much credit for their diligence and the success we achieved in advocating for our municipal members this legislative session: Hal Bloom, Allen Sanderson, Perry Roquemore Jr., John Floyd, James Dupree, Martin Christie, Maeci Walker, Greg Jones, Jada Shafer, Mark Gaines, Blake Hardwich, Britton Bonner, Michael Berson, Beth Marietta Lyons, Steve Raby; Charles Long, Curt Lee, Bobby Tom Crow, John Gutherie Jr., Jeff Miller, Michael Cole, Daryl Perkins, Terri Wiggins; Stephanie Norrell and John Hand. These individuals participated in our weekly advocacy meetings and coordinated our advocacy efforts to best utilize resources in representing our municipal members. **We appreciate their partnership and we recognize we wouldn't be nearly as effective in our advocacy efforts without their coordinated participation.**

We also recognized eight legislators during our annual convention as our *2017 Hometown Heroes* because they went over and beyond the call of duty to ensure our municipalities were protected from the above-mentioned bills: Senators Del Marsh, Jabo Waggoner, Rodger Smitherman and Cam Ward and Representatives Mac McCutcheon, Alan Boothe, April Weaver and Chris England. **Please take time to reach out to these individuals and share your appreciation for their support during the legislative session.**

And finally, we wish to thank each of you for taking time to read the *State House Advocate* and email blasts throughout the session and for energizing to reach out to your local legislators. **You are our most effective advocates!**

Bills of Note that Passed this Session

Memorial Preservation Act by Senator Allen SB60 affirmatively prohibits the removal, renovation or improvement of statues, monuments, buildings (excepting K-12 school buildings), streets and bridges if in place more than 40 years or if in place less than 40 years but more than 20 and requires a multi-stage process and approval from a state committee. ACT#2017-345

Municipal Delivery License Revisions by Senator Sanford SB316 creates a threshold of \$10,000 in sales before an out of jurisdiction business is required to purchase a municipal delivery business license of \$100. SB316 also caps penalties for uncompliant businesses at \$10.

Mayor Designees by Rep. Shedd HB14 authorizes an elected official of a Class 8 municipality to designate a person to serve in his or her place on any state or local agency, board, commission or other entity on which he or she serves as an ex officio member and would prohibit the elected official from appointing a convicted felon to serve as his or her designee

unless that person has had his or her civil rights restored. ACT#2017-362

League Legislative Package

SB150 by Senator Pittman & HB155 by Rep. Clouse would propose the General Fund Budget with Appropriation for Wastewater Treatment SRF and the Alabama Drinking Water Finance Authority. **HB155 Enacted ACT#2017-338**

SB262 by Senator Waggoner & HB345 by Rep. Gaston would establish a new income tax credit against the tax liability of the taxpayer for the rehabilitation, preservation or development of certified historic structures. **HB345 Passed by Legislature and Awaits Governor Ivey's Signature**

SB280 by Senator Waggoner & HB213 by Rep. Williams (JD) would clarify the authority of municipalities to enforce civil penalties for parking violations. **SB280 Died on the House Special Order Calendar the final day**

SB281 by Senator Ward & HB380 by Rep. England would codify Alabama law to ensure municipal court judges have the authority to waive fines and fees of indigent defendants and issue bench warrants. **SB281 Died on the House Special Order Calendar the final day**

SB266 by Senator Coleman-Madison & HB369 by Rep. Williams (JD) would provide that any municipality in Alabama may use these same procedures available to these Class 4 municipalities to annex unincorporated property enclosed within the corporate limits of the municipality. **SB266 Died in House Committee on County & Municipal Government**

SB124 by Senator Sanford & HB368 by Rep. Williams (JD) would specify that an appeal of a final judgment or decision of a board of zoning adjustment would be required to be filed directly with the circuit court. **SB124 Died on the House Calendar**

HB487 by Rep. Poole & Senator Dial would increase the motor fuel excise tax to address the shortfall in infrastructure needs of Alabama's municipalities and counties. **HB487 Died on the House Calendar** ■

**For additional information
on the 2017 Regular Session:**

www.alalm.org

**From the home page, click on the
Legislative Advocacy tab at the top then
click on State Legislation and select
Current Session.**

ALM Recognized Eight Legislative Hometown Heroes During Convention

Carrie Banks • Communications Director • ALM

On May 20th during the Opening Session of its Annual Convention in Birmingham, the Alabama League of Municipalities (ALM) recognized eight Hometown Heroes for “defending municipal authority and protecting Alabama’s cities and towns from unfunded mandates and preemptions that would prohibit municipal leaders from preserving and enhancing the quality of life for Alabama’s citizens.”

Recognized from the Senate were Senate Pro Tem Del Marsh; Senator Rodger Smitherman; Senator Jabo Waggoner; and Senator Cam Ward. Recognized from the House were Speaker Mac McCutcheon; Representative Alan Boothe; Representative Chris England and Representative April Weaver.

Greg Cochran, ALM’s Director of Advocacy and Public Affairs whose career working with the Alabama Legislature spans 30 years, said the League tracks and manages a significant amount of legislation every session. “For several years, nearly half of all the bills filed during the Regular Session affect Alabama’s cities and towns in some fashion, making it a difficult landscape to navigate,” he said. “The League is extremely appreciative of its legislative partners who go above and beyond to protect Alabama’s municipalities and, ultimately, Alabama’s citizens. We battled several bills this session that would have implemented unfunded mandates on municipal governments and established



Greg Cochran, ALM’s Director of Advocacy and Public Affairs, recognized ALM’s 2017 Hometown Heroes during Opening Session.

preemptive licensure and sales tax remittances that would have severely hampered our ability to fund the essential needs demanded by our citizens. These eight legislative leaders have shown extraordinary resolve in protecting the authorities of municipal governments and we applaud them for standing with our municipal citizens in protecting their cities and towns across Alabama.” ■



ALM recognized eight legislative Hometown Heroes on May 20 during the Opening Session of its Annual Convention in Birmingham. Those in attendance are pictured left to right: ALM Executive Director Ken Smith, Sen. Jabo Waggoner, Sen. Cam Ward, Rep. Alan Boothe, Rep. April Weaver and ALM President Mayor Howard Rubenstein.

many delays, we recently introduced a new membership database. For many years, the League has operated internally by using several different databases maintained by different staff members. As you can imagine, updates sometimes were missed, leading to confusion and incorrect information.

It has long been a goal of mine to combine these into a single database maintained by a single staff member. I tried to accomplish this with our existing technology following the 2012 election. We were not able to make it work.

But both the staff and I felt that a change in format was warranted. We found a membership database service being used by another municipal League that looked promising and we've been working with that provider to update our member database. But entering new data while preserving existing data has resulted in major delays, largely due to formatting differences.

I apologize for those delays and appreciate your patience. This is an on-going project. Combining these various directories has proven problematic, especially in making the directory user-friendly. I hope you'll bear with us as we work to improve the way we manage our member information.

Turning to another issue, earlier this year, your Executive Committee voted to conduct a strategic plan next fiscal year. We've never done a formal strategic plan before, although

we are constantly looking down the road and making plans to anticipate the needs of our members.

At the first round of CMO sessions we held after I became Executive Director, I conducted what I called "Lunch with the Director" discussions during the lunch breaks. I wanted to hear what our members thought about the League, listen to suggestions they had for changes and answer any questions they had about the League.

Quite frankly, these become something of a love-fest. Attendees at each session expressed appreciation for the CMO program, gratitude that the Legal Department responded so quickly with answers to their questions, and stressed the importance of our legislative efforts.

It was nice to hear so many nice comments about the League. And, at least partially based on that input, I focused my efforts as Executive Director on refining our efforts in those three areas rather than making wholesale changes.

Planning has always been important to the League leadership and staff, but most of it has taken place on an informal basis. Usually, it happens at meetings with officials and among our staff, and, perhaps more importantly, informal discussions with members. I recall one discussion I had with a

continued on page 36

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League Resolutions Adopted at ALM's 2017 Convention

Resolutions 1-33 thank the various individuals, organizations, businesses and agencies for their participation in 2017 Annual Convention and are listed here as summaries. Full text is provided for substantive resolutions 34-41.

1. Thanks Mayor William Bell and members of the Birmingham City Council and their staffs for assistance in planning the convention and for their hospitality during convention.
2. Thanks the City of Birmingham for planning and sponsoring the Saturday night Welcome Reception.
3. Thanks the University of Alabama College of Continuing Studies for its Capstone Sponsorship.
4. Thanks the League sponsors, including convention sponsorships.
5. Thanks Gov. Kay Ivey for her address during the Opening Session.
6. Thanks Joyce E. Brooks, Opening Session keynote speaker.
7. Thanks Alabama's Congressmen and Congresswomen for their work for Alabama's municipalities in Congress.
8. Thanks the leadership of the Alabama House of Representatives as well as the House members who sponsored League legislation for their help during the Regular Session.
9. Thanks the leadership of the Alabama Senate as well as Senate members who sponsored League legislation for their help during the Regular Session.
10. Thanks the municipal lobbyists group for supporting League legislation and providing assistance to the League during the legislative process.
11. Thanks Ken Smith and League staff for their work.
12. Thanks League staff members for organizing and planning the Sunday Spouses/Guests Reception.
13. Thanks the participants in the Sunday, Monday and Tuesday (including Mini Boot Camp) concurrent sessions.
14. Thanks the officials who presided over programs and made presentations during the convention.
15. Thanks Woodlawn High School Junior Color Guard for presentation of colors during the Opening Session.
16. Thanks Karissa Woodley for singing the National Anthem during Opening Session
17. Thanks the six attorneys for their participation in the Ask Your Attorney session on Monday afternoon.
18. Thanks Dr. Dale Henry, keynote speaker, Closing Session.
19. Thanks those who gave invocations during the convention.
20. Thanks the cities and towns that participated in the Municipal Flag Showcase.
21. Thanks the exhibitors for their participation during the convention.
22. Thanks the state and federal agencies that had GRID booths.
23. Thanks participants in the AAPP Program.
24. Thanks participants in the Municipal Clerks Program.
25. Thanks Mayor Melvin Duran of Priceville for his service as League Vice President.

continued next page



26. Thanks the members of the 2016-2017 Executive Committee for their expertise, advice and assistance regarding League operations.
27. Thanks the members of the 2016-2017 standing committee chairs and vice chairs for their work on the Polices and Goals.
28. Thanks members of the Board of Directors of the Municipal Workers Compensation Fund.
29. Thanks members of the Board of Directors of the Alabama Municipal Insurance Corporation.
30. Thanks members of the Board of Directors of the Alabama Municipal Funding Corporation, Inc.
31. Thanks municipal clerks for their outstanding work and for their program during this convention.
32. Thanks city managers and city administrators for their work and for their participation in the convention program.
33. Thanks state and federal departments and agencies for their assistance to municipalities.

RESOLUTION NO. 34

WHEREAS, the mission of the Alabama Department of Economic and Community Affairs (ADECA) is to strengthen Alabama's Communities and the people who live there; and

WHEREAS, the federal programs ADECA manages address critical needs across Alabama that help our state grow and move forward; and

WHEREAS, President Trump's America First budget proposal will eliminate the following programs that are critical

to rural Alabama and our state's most underserved citizens, namely: the Appalachian Regional Commission (ARC), Community Development Block Grant Program (CDBG), Community Services Block Grant Program, Delta Regional Authority (DRA), Low Income Home Energy Assistance Program, State Energy Program, and the Weatherization Assistance Program;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Birmingham, Alabama, on this the 22nd day of May, 2017, that we respectfully ask Alabama's Congressional Delegation to support funding for these ADECA administered federal programs that are fundamental to the advancement of our state and its citizens;

BE IT FURTHER RESOLVED that the Alabama League of Municipalities supports ADECA's efforts to preserve federal funding and will work closely with ADECA to ensure Alabama's municipalities have the necessary federal resources to prosper.

RESOLUTION NO. 35

WHEREAS, Alabama municipalities are responsible for providing services and protecting the wellbeing of the citizens; and

WHEREAS, in order to fulfill this duty, municipal officials must have authority to raise revenue and the ability to exercise



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regulatory authority to act as they see fit in the best interests of their citizens; and

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

WHEREAS, numerous bills have been introduced during recent legislative sessions that granted special tax or license exemptions for specific types of businesses, removed or limited municipal regulatory authority, or made municipalities fund state and county functions; and

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

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Birmingham, Alabama, on this the 22nd day of May, 2017, that we do hereby request the Alabama Legislature to protect municipal ability to raise local revenues and authority to act as they see fit to protect the wellbeing of municipal citizens.

RESOLUTION NO. 36

WHEREAS, the existing motor fuel tax revenues are declining and haven't been raised since 1992; and

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

WHEREAS, efforts are being made to have the Alabama Legislature enact an additional excise tax to alleviate the loss of potential revenue;

NOW, THEREFORE, BE IT RESOLVED by the delegates of the Alabama League of Municipalities in Convention assembled in Birmingham, Alabama, on this the 22nd day of May, 2017, that they do request the Alabama Legislature find funding mechanisms to protect Alabama's transportation infrastructure that do not in any way preempt or exempt municipal governments from raising local revenue from the sale of motor fuels to fund local transportation infrastructure.

BE IT FURTHER RESOLVED that the delegates of the Alabama League of Municipalities formally request the Alabama Legislature and Alabama Department of Transportation to implement an equitable formula for the distribution of motor fuel tax revenues and to distribute funds to municipal governments rather than through county governments to address municipal infrastructure needs.

RESOLUTION NO. 37

WHEREAS, the Marketplace Fairness Act has been under consideration by the United States Congress since 2013; and

WHEREAS, this legislation would give states the authority to enforce local and state taxes that are already in place and owed by out-of-state online retailers; and

WHEREAS, this legislation would require retailers to collect and remit sales taxes to states and local governments for out-of-state online sales; and

WHEREAS, all businesses, regardless of their physical location, should be required to collect and remit state and local sales tax; and

WHEREAS, the playing field, as it currently stands, favors out-of-state, internet retailers that exploit a pre-internet loophole allowing them to evade collecting state sales taxes even though they sell the same products in the same communities; and

WHEREAS, as it currently stands, stores with a local retailer must collect sales taxes while online stores do not, thereby enabling online stores to undercut local retail prices; and

WHEREAS, this legislation is not a new tax or a tax increase, but rather enables states to collect taxes that are already due; and

WHEREAS, this legislation would generate more sales, pay more sales tax to the state treasury, encourage more local retailers, create jobs for local workers and infuse more money into local economies throughout the State of Alabama; and

WHEREAS, in an effort to avoid the loss of hundreds of millions of dollars each year in uncollected sales taxes from online purchases Alabama implemented new sales tax reporting requirements that became effective in January 2016;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Birmingham, Alabama, on this the 22nd day of May, 2017, that we do hereby thank Senator Richard Shelby and Senator Luther Strange for continuing to support the Marketplace Fairness endeavor and that we urge Alabama's



Councilwoman Bridgette Jordan-Smith of Vincent, Chair of the HD Committee, and Councilwoman Jocelyn Tubbs-Turner of Marion, Chair of the CED Committee, at the 2017 Resolutions Committee Meeting on May 20 in Birmingham.

members of the House of Representatives to also work for and vote in favor of passage of the Marketplace Fairness Act or companion legislation; and

BE IT FURTHER RESOLVED that the Alabama League of Municipalities calls upon federal policy makers to enact legislation requiring the collection and remittance of state and local sales taxes allowing all retailers to compete in a true free market and give every business an equal opportunity to compete, innovate and create jobs.

RESOLUTION NO. 38

WHEREAS, the United States Congress created the Alabama Territory from the eastern half of the Mississippi Territory on March 3, 1817; and,

WHEREAS, by 1819, the birth and growth of cities, towns, and communities in the Alabama Territory ensured that the population of the Territory had developed sufficiently to achieve the minimum number of inhabitants required by Congress to qualify for Statehood; and,

WHEREAS, the United States Congress and President James Monroe approved Statehood for the Alabama Territory on December 14, 1819 making it the nation's 22nd state; and,

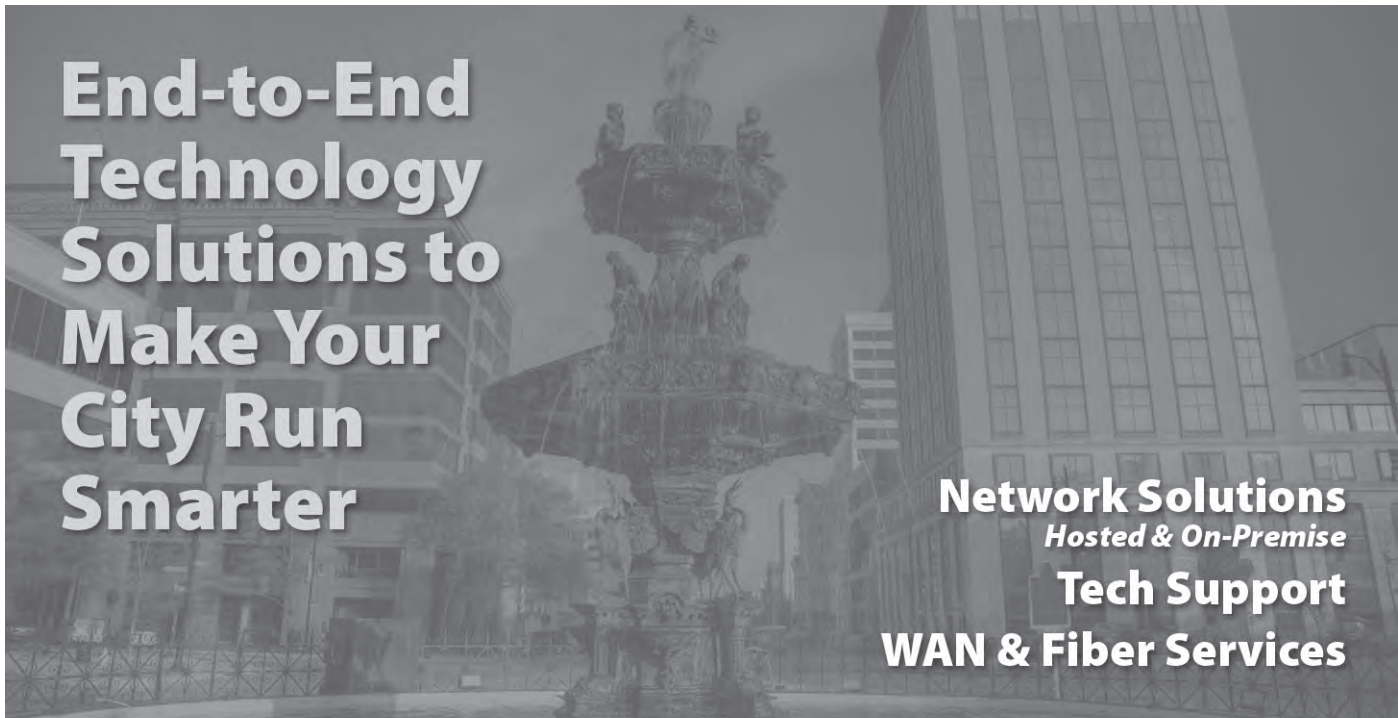
WHEREAS, the Alabama Legislature approved a resolution in 2013 establishing the Alabama Bicentennial

Commission to mark the 200th anniversary of Statehood; and, WHEREAS, constitutional officers and other officials appointed Commission members to organize and execute a Bicentennial celebration intended to improve the education and understanding of all Alabamians and visitors regarding the state's history and heritage; and to create and promote lasting initiatives designed to benefit the State and its citizens; and,

WHEREAS, in support of Alabama's Bicentennial commemoration efforts, the Alabama League of Municipalities' Communications Director Carrie Banks was appointed as the Co-Chair for the Commission's Local Activities Committee and as a member of the Commission's Advisory Committee; and

WHEREAS, the Bicentennial period of reflection and commemoration, 2017 to 2019, has been divided into three thematic years to acknowledge distinctly: the environment, both natural and constructed, including especially the cities, towns, and communities which compose the State; the people, regardless of race, culture, or background; and the history, both ancient and recent, of the State of Alabama; and,

WHEREAS, commemorations and celebrations will enable and encourage Alabamians of all ages and backgrounds, as well as visitors from around the United States and beyond,



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to experience Alabama's rich and diverse cultural, historic, and natural resources, thereby stimulating the economy of Alabama through local economic growth; and,

WHEREAS, full participation and contributory efforts by the localities of the State through their various councils, committees, and congregations, are paramount to the success of this historic endeavor; and

WHEREAS, the official launch of Alabama's Bicentennial was held in Mobile on May 5, 2017;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Birmingham, Alabama, on this the 22nd day of May, 2017, that we respectfully encourage our cities and towns to participate in Alabama's Bicentennial by forming their own local Bicentennial Celebration Committees to highlight the unique histories of their communities while uplifting the state during this very specific historical milestone.

RESOLUTION NO. 39

WHEREAS, Phil Segraves, former Mayor of Guin, Alabama, served as President of the Alabama League of Municipalities from May 2016 until November 2016; and

WHEREAS, Mayor Segraves' diligent attention to duty and outstanding leadership on behalf of the League and its members was exemplary; and

WHEREAS, the members of the League shall always be most grateful for Mayor Segraves' years of unselfish service and untiring efforts to promote the programs, projects and philosophy of the League;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Birmingham, Alabama, on this the 22nd day of May, 2017, that they do recognize and commend Phil Segraves, former mayor of Guin, for his service as a municipal official spanning two decades in the State of Alabama and as a leader of our state organization and that they do wish him well in all his future endeavors.

RESOLUTION NO. 40

WHEREAS, Dr. Howard Rubenstein, Mayor of Saraland, Alabama, served as President of the Alabama League of Municipalities from November 2016 until May 2017; and

WHEREAS, Mayor Rubenstein's diligent attention to duty and outstanding leadership on behalf of the League and its members has led to the growth and well-being of the League; and

WHEREAS, the members of the League shall always be most grateful for Mayor Rubenstein's years of unselfish service and untiring efforts to promote the programs, projects and philosophy of the League;

NOW, THEREFORE, BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Birmingham, Alabama, on this the 22nd day

of May, 2017, that they do recognize and commend Mayor Rubenstein, for his service as a municipal official in the State of Alabama and as a leader of our state organization.

RESOLUTION NO. 41

BE IT RESOLVED by the Delegates of the Alabama League of Municipalities in Convention assembled in Birmingham, Alabama, on this the 22nd day of May, 2017, that they memorialize the following persons who have died in office since our last convention, namely: Robert M. "Bubba" Cleckler, Jr., councilmember, Childersburg; David Grice, mayor, Clio; Dejerilyn King Henderson, councilmember, Troy; George Russell, councilmember, Haleyville; Pamela Spivey, mayor, Ariton; Jessie Lee Neal, mayor pro tem, Millport; Brian L. Skelton, Sr., councilmember, Hoover; Jerry W. Kelley, councilmember, Gantt; Roslyn McDaniel, mayor, Kennedy; Howell Walker Mead, councilmember, Baileyton; Dwight Goolsby, councilmember, Jackson; Dennis Hambright, councilmember, Northport; and Valarie Thomas, councilmember, Parrish.

BE IT FURTHER RESOLVED that the following former officials be memorialized: Leroy Bandy, former councilmember, Birmingham; Norma Martin, former councilmember, Oxford; James Aubrey Denham, former mayor, Attalla; James Whitt, former mayor, Haleyville; Mike Holton, former mayor, Eclectic; Donald H. Starr, Jr., former councilmember, Centre; Cecil Edward Hanson, Jr., former councilmember, Piedmont; Jim Spear, former councilmember, Montgomery; Charles Eckles, former mayor, Muscle Shoals; John Gwin Phillips, former councilmember, Riverside; Johnny C. Brown, former mayor, Russellville; Paul Jenkins, councilmember, Pennington; Terry Newman, councilmember, Wilsonville; Lanny H. Hubbard, councilmember, Russellville; John Nichols, former mayor, Lowndesboro; Leland P. Howard, Jr., former councilmember, Florence; John W. Hodnett, Jr., former mayor, Hoover; Charles Hanke, former councilmember, Saraland; Terry J. Counselman, former mayor, Thomaston; Eugene Hardrick, former mayor, Margaret; Rayburn Phillips, former mayor, Tarrant; Jon Miller, former councilmember, Coaling; Aubrey Perry, former councilmember, Coaling; Buddy Burkhalter, former mayor, Coaling; Buel Plemons, former mayor, Steele; Paul Johnson, former mayor, Sand Rock; Isaac Bud Brock, former councilmember, Sand Rock; Charles Cole, former mayor, New Brockton; Dennis L. Thompson, former councilmember, Ashville; Spencer Hogue, former councilmember, Marion; Robert Stephenson, former mayor, Hartselle; James Anderson, former councilmember, Union Springs; Paul Anderson, former mayor, Marion; Edward Shehane, former mayor, Clio; Rena Hudson, former mayor, Warrior; Neil Crump, former councilmember, Albertville; and Bill Shoemaker, former mayor, Tuscumbia. ■

Minutes of the General Business Session

May 22, 2017 • Birmingham

The Annual Business Session of the Convention of the Alabama League of Municipalities was called to order at 3:45 p.m., May 22, 2017, by President Howard Rubenstein, at the Birmingham-Jefferson Convention Complex in Birmingham, Alabama. President Rubenstein welcomed the attendees.

President Britt then called on Mayor Tom Henderson of Center Point, President of the Municipal Workers' Compensation Fund, Inc. (MWCF), for an annual report. Mayor Billy Joe Driver of Clanton, Chair of the Alabama Municipal Insurance Corporation (AMIC), gave AMIC's annual report. Mayor Wally Burns of Southside, Chair of the Alabama Municipal Funding Corporation (AMFund) was called upon to make the AMFund annual report. Richard Buttenshaw, President of Municipal Intercept Services (MIS), gave the MIS annual report. The President then called upon Ken Smith, Executive Director of the Alabama League of Municipalities, for his annual report. Mr. Smith expressed his thanks to all for being present in Birmingham and to Mayor Bell, the City Council of Birmingham and their staffs, for their hard work in making the Birmingham Convention a huge success. Mr. Smith noted that League membership was now at 450 cities and towns and provided an overview of the past year and a look forward to anticipated issues confronting the League. A copy of his report is attached to these minutes.

The President then called upon Lori Lein, League General Counsel, who read the rules for voting during the League Business Session. Following this, the President called upon Councilmember Jesse Matthews of Bessemer, Chair of the Resolutions Committee, for the Committee's report. Councilmember Matthews reported that the Resolutions Committee met on Saturday, May 20, and recommended that the League's *Policies and Goals for 2017* be adopted with certain amendments.

Councilmember Matthews moved the adoption of the deletion of TP-1.4 and moving FP-11.11 to the new FL-1.52. Arthur Bates of seconded the motion, which passed unanimously.

The President then called on Mr. Smith to read remaining Policy Statements. Councilmember Matthews moved for adoption of these statements. Councilmember Stanley Cook from Union Springs seconded the motion, which passed unanimously.

The *Policies and Goals for 2017*, as amended, was declared adopted. The following changes were made to the *Policies and Goals for 2017*:

Changes to the *Policies and Goals for 2017* Approved by the Membership:

Delete Statement TP-1.4, encouraging the federal and state governments to adopt regulations to strengthen the laws governing barge traffic on navigable waterways in Alabama.

Move FP-11.11 to the new FL-1.52. This statement reads as follows: **FL-1.52.** That the League supports legislation giving sheriffs the authority to enforce municipal ordinances in connection with a contract with municipalities for law enforcement services. (2015)

Due to deletions and relocation of Policy Statements, other Policy Statements will be renumbered accordingly.

Amend the following Statements:

Amend FL-1.23 to read as follows: **FL-1.23.** That the Alabama Constitution be amended to allow ~~full-time~~ municipal officials to participate in the Employees Retirement System of Alabama. (2017)

Amend FP-3.4 to read as follows: **FP-3.4.** That the League strongly encourages state and local revenue officials to diligently enforce existing laws governing the registration of ~~mobile-manufactured~~ homes and the collection of taxes on ~~mobile manufactured~~ homes. (2003) (2017)

Amend HL-1.2 to read as follows: **HL-1.12.** That the League urges the state legislature to continue to support all of the programs operated by the State Department of Mental Health **and Alabama Department of Public Health**. Further, that the private sector and local governments coordinate with the Department of Mental Health to improve vocational training and employment opportunities for those persons with mental health, intellectual disabilities or substance use disorders. (2014) (2017)

Amend PP-4.9 to read as follows: **PP-4.9.** The League encourages FEMA to continue funding a combination of pre-disaster and post-disaster mitigation funding rather than implementing only a pre-disaster funding program **and to reconsider the method of calculation for individual cities and towns.** (2002)-(2017)

Add CL-1.22 to read as follows: **CL-1.22.** That the League urges the Alabama Legislature to remove the incentive caps from the 2015 Alabama Jobs Act as well as remove or extend the sunset provisions of the act. (2017)

Add CP-2.10 to read as follows: **CP-2.10.** That the League encourages municipalities to support and participate in the Alabama Bicentennial activities including forming, by resolution, an official Community Celebration Committee. (2017)

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Legal Clearinghouse

Rob Johnston, Assistant General Counsel



NOTE: Legal summaries are provided within this column; however, additional background and/or pertinent information will be added to some of the decisions, thus calling your attention to the summaries we think are particularly significant. When trying to determine what Alabama law applies in a particular area or on a particular subject, it is often not enough to look at a single opinion or at a single provision of the Code of Alabama. A review of the Alabama Constitution, statutory law, local acts, administrative law, local ordinances and any relevant case-law may be necessary. We caution you *not* to rely solely on a summary, or any other legal information, found in this column. You should read each case in its entirety for a better understanding.

ALABAMA COURT DECISIONS

Courts: The Court of Criminal Appeals did not have jurisdiction to consider the defendant's appeal of his conviction for driving under the influence, where the municipal court did not pronounce in open court the defendant's adjudication of guilt or his sentence, and so there was no judgment of conviction entered that would support his appeal. *Glaze v. City of Alabaster*, 211 So.3d 859 (Ala.Crim.App.2016).

ATTORNEY GENERAL'S OPINIONS

Ad Valorem Taxes: A private residence used as a home school is not exempt from ad valorem taxation if it is not used exclusively for educational purposes. AGO 2017-031.

Corrections Fund: A city may use corrections fund monies to purchase metal detectors, scanning equipment, and to pay officers and other related expenses to secure the city hall building which houses the municipal court. AGO 2017-027.

Public Works Bid Law: A contract for a Supervisory Control and Data Acquisition System is a public work under Section 39-2-1(6) of the Code of Alabama. The contract is not exempt from the Public Works Law. There is no term limitation on a public works contract. AGO 2017-026.

Utilities: Absent any contractual franchise arrangements to the contrary, and provided it meets the requirements of Section 11-43-62 of the Code of Alabama, a municipality may require a public utility company to relocate its aboveground utility lines and reinstall them in underground conduits or elsewhere. A public utility that is not regulated by the Alabama Public Service Commission and that provides power, cable, or telephone service must pay to relocate poles, lines, or systems if the municipality so requires to satisfy a public need. The extent of such payment obligation, if any, by a public utility that is regulated by the Commission is within the exclusive domain of the Commission. The municipality may reimburse a public utility for the costs of relocating utility lines for the purpose of promoting economic development if the city council complies with the conditions of

Section 94.01(c) of article IV of the Recompiled Constitution of Alabama. AGO 2017-025.

Contracts - Parks and Recreation: A city may enter into an agreement with the YMCA of a county for the YMCA to provide services to its citizens in exchange for the use of city property. Whether the property has been dedicated as a public park is a factual determination to be made by the city. AGO 2017-024.

ETHICS OPINIONS

Conflicts of Interest: A company may continue to contract with a city even though the recently-elected mayor's son-in-law is an employee and could be a partner in the future so long as the mayor has no involvement in future contract negotiations, discussion, drafting, and does not participate in any other way regarding hiring or retaining the company or the terms of the contract itself. Additionally, because the company is a "business with which the person is associated with," a copy of the contract must be filed with the Ethics Commission within 10 days of entering into the contract. AO 2017-09.

FCPA: The Fair Campaign Practices Act defines the terms "candidate," "public official" and "principal campaign committee" separately. They, therefore, each carry a particular definition and application and are not to be used interchangeably. An individual, who has taken the action under the FCPA to become a candidate, may make a loan to their principal campaign committee outside the one-year /120-day window; however, this exception applies only to candidates and does not otherwise apply to public officials, unless they can factually establish that they are "candidates" per Ala. Code § 17-5-2. An individual holding one office, who is termed-out from seeking re-election to that office, or who seeks election to another office, may not loan money to their existing principal campaign committee, but must establish a new and separate principal campaign committee for the new office sought. AO 2017-05.

FCPA: A public official may donate excess campaign monies to an organization to which a federal income tax deduction is permitted under the IRS Code of 1986 or any other charitable, educational or eleemosynary cause of Section 5010f Title 26 of the U.S. Code. Campaign funds may not be converted to personal use. A public official cannot donate excess campaign funds in a manner that would provide a personal gain to themselves, a member of their family or a business with which they are associated. An elected member of the Birmingham Board of Education may donate the remaining funds in his campaign account to the Black Leaf Foundation, a 501(c)(3) nonprofit organization, where he is not a Board member or otherwise compensated by the nonprofit, nor are any family members employed by, or otherwise compensated by the nonprofit. AO 2017-02. ■

Councilmember Matthews then presented the resolutions for adoption. He pointed out that members were given summaries of 41 resolutions recommended by the Resolutions Committee. Councilmember Matthews, moved adoption of Resolutions 1 through 33. The motion was seconded by Councilmember Chris Jones, Graysville. The motion was adopted unanimously.

The President then called on General Counsel Lori Lein to read Resolutions 34 through 38. Mayor Stanley Allred, Millport, moved adoption of Resolutions 34 through 38. Mayor Ronnie Marks, Athens, seconded the motion, which passed unanimously.

The President then called on Ken Smith, Executive Director, to read Resolutions No. 39 through 41.

Mayor Vivian Covington, Hurtsboro, moved adoption of Resolution 39, commending President Phil Segraves, for his service as League President for 2016 – 2017. Councilmember Lillian Dean, Flomaton, seconded the motion. The motion passed unanimously.

Councilmember Nelson Cromer, Saraland, moved adoption of Resolution No. 40, commending President Howard Rubenstein, who completed the unexpired term when Mayor Segraves was not reelected, for his service as League President for 2016 – 2017. Councilmember Joe McDonald, Saraland, seconded the motion. The motion passed unanimously.

Mayor Melvin Duran, Priceville, moved adoption of Resolution No. 41, memorializing active and former officials who have passed away since the last League convention, and moved to leave the motion open to include any additional names that were received by the end of the Closing General Session the next day. Mayor David Bradford, Muscle Shoals, seconded the motion, which passed unanimously.

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

- **President: Howard Rubenstein, Mayor, Saraland**
- **Vice President: Council President Jesse Matthews, Bessemer**
- **Executive Director: Ken Smith**

For Chair and Vice Chair of the Policy Committees:

State and Federal Legislation Committee:

Chair: Gary Fuller, Mayor, Opelika

Vice Chair: Adam Bourne, Councilmember, Chickasaw

Finance, Administration and Intergovernmental

Relations Committee:

Chair: Veronica Hudson, Councilmember, Saraland

Vice Chair: Ruthie Campbell, Councilmember, Robertsedale

Energy, Environment and Natural Resources Committee:

Chair: Leigh Dollar, Mayor, Guntersville

Vice Chair: Lawrence M. Haygood, Jr., Mayor, Tuskegee

Community and Economic Developments Committee:

Chair: Jocelyn Tubbs-Turner, Councilmember, Marion

Vice Chair: Charles C. Gilchrist, Mayor, Glencoe

Transportation, Public Safety and Communications Committee:

Chair: Jonathan E. Grecu, Mayor, Ashford

Vice Chair: Jerry Parris, Councilmember, Jacksonville

Human Development Committee:

Chair: Bridgette Jordan Smith, Councilmember, Vincent

Vice Chair: Jennifer Williams Smith, Councilmember, Jasper

Executive Committee:

From the First Congressional District:

Mayor Jim Staff, Atmore

Mayor Bob Wills, Bay Minette

Mayor Paul South, Jackson

Mayor Thomas Williams, Satsuma

Councilmember Newton Cromer, Saraland

From the Second Congressional District:

Mayor Mickey Murdock, Elba

Mayor Bill Gillespie, Prattville

Councilmember Darrell Wilson, Tallassee

Mayor Jason Reeves, Troy

Councilmember Percy Gill, Wetumpka

From the Third Congressional District:

Mayor Alberta McCrory, Hobson City

Mayor Barry Moody, LaFayette

Councilmember Billy Pearson, Lincoln

Mayor Todd Strange, Montgomery

Councilmember Mack Arthur Bell, Roanoke

From the Fourth Congressional District:

Mayor Jimmy Madison, Berry

Mayor Ray Nelson, Fayette

Councilmember Deverick Williams, Gadsden

Councilmember Donald Pennington, Littleville

Mayor Terry John Calhoun, Rainbow City

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2017 Distinguished Service Awards

Each year during its Annual Convention, the League presents Distinguished Service Awards to mayors, councilmembers, municipal clerks, municipal administrative assistants, city managers, city administrators, municipal attorneys, municipal judges and League employees who have completed 20, 30 and 40 years of service in municipal government. A total of _____ awards were announced during the President's Banquet on May 22nd in Birmingham. Pictured here and on the following pages are the recipients of the 2017 Distinguished Service Awards. Not pictured – **40 Years:** Mayor Eddie Reed, Jemison; **30 Years:** Municipal Judge Benjamin E. Pool, Millbrook; Municipal Clerk DeAnna Woods, Oakman; **20 Years:** Municipal Clerk Rita Brown, Rutledge; Mayor Tawana Canada, Dodge City; Councilmember Ervin Chumley, Dodge City; Municipal Clerk Janice L. Clark, Louisville; Councilmember Johnny Eberhart, Fort Payne; Councilmember Fredrick D. Richardson, Mobile; Councilmember Curtis Stoudemire, Autaugaville; Councilmember Eddie Stroud, Rutledge; Councilmember Walter Watson, Fort Payne.

40 and 30 Year Distinguished Service Award Recipients



40 Years: Municipal Attorney/Judge
*Joe W. Adams - Clio, Daleville, Grimes,
Newton, Napier Field, Pinckard and Ozark*



40 Years: Municipal Attorney
Edmon H. McKinley - Thomasville



30 Years: Municipal Clerk
Harriett C. Scott - Alexander City

20 Year Distinguished Service Award Recipients



20 Years: Councilmember
William T. Black - Satsuma



20 Years: Municipal Clerk
Lorrie Cook - Greensboro

**20 Year
Distinguished
Service Award
Recipients
(continued)**



*20 Years: Municipal Prosecutor/Judge
Benny C. Hand, Jr. - Opelika, Roanoke,
Wedowee*



*20 Years: Councilmember
Charlie Johnson - Luverne*



*20 Years: Mayor Rick Pate
- Lowndesboro*



*20 Years: Mayor Jason A. Reeves
- Troy*



*20 Years: Mayor Howard Jay Rubenstein
- Saraland*



*20 Years: Councilmember
Bobbie White - Brent*

These photos are also available on Facebook!

Have you enjoyed the photos we have included in this issue of the *Journal*? Many of them were posted in real time during the Annual Convention as well as in four specific Facebook convention photo albums: **2017 Round Table Discussions, 2017 Distinguished Service Awards, 2017 Convention Snapshots 1 and 2017 Convention Snapshots 2.**

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The Legal Viewpoint

By Lori Lein, General Counsel



Recreational-use Immunity

From public parks, lakes, walking and biking trails to public swimming pools, athletic facilities, golf courses, and ball fields, making no-cost or low cost recreational facilities and activities available to the public at large is a vital public service provided by most municipalities in Alabama. During the summer months, especially, with children out of school and warmer weather, the municipal role in recreation becomes even more important. If municipalities were not willing to provide recreational opportunities free of charge or at a nominal cost, many citizens would not be able to afford much in the way of recreational entertainment.

Providing recreational facilities and activities always raises concerns about the extent of municipal liability when people or property are injured while using a recreation area or participating in recreational activities. This article examines generally the duties a municipality owes to the public utilizing recreational property and discusses a significant case recently decided by the Alabama Supreme Court, *Ex Parte Guntersville*, --So.3d--, 2017 WL 2303161 (Ala. May 26, 2017), creating new law regarding the application of recreational-use immunity.

Duty of Care

In Alabama, the duty of care a property owner owes to those using his or her property for sporting or recreational purposes is governed by Article 1 of Chapter 15 of Title 35 (Sections 35-15-1 through 35-15-5), Code of Alabama 1975. Pursuant to Sections 35-15-1 and 35-15-2, no owner owes a duty of care to keep his or her premises safe for entry and use by others for any recreational purpose, even if the use is at the invitation of the property owner or occupant. Further, Section 35-15-1 states that, with certain exceptions, there is no duty to warn of dangerous conditions, use of structures or activities.

The exceptions are listed in Section 35-15-3, Code of Alabama 1975. First, a property owner or occupant is liable for willfully or maliciously failing to warn or guard against a dangerous condition, use, structure or activity. Second,

if a property owner or occupant grants permission to use his or her property for hunting, fishing, trapping, camping, hiking or sightseeing for a commercial benefit, the owner is responsible for any injuries which result. Finally, the property owner or occupant is liable to third persons to whom he or she owes a duty if someone using the property – with the owner’s permission – to hunt, fish, trap, camp, hike or sightsee, damages the third person’s property.

It is important to note that the fact that a municipality or a municipal recreation board charges an admission fee does not automatically remove it from the protection of these sections. In *Martin v. Gadsden*, 584 So.2d 796 (1991), the Alabama Supreme Court held that these liability limitations shield municipalities from liability even where an admission is charged, provided that the facility is not operated for profit. Thus, the key issue is whether the fee charged is sufficient for the municipality or board to make a profit. These sections merely require that the recreational facility operate on a noncommercial basis. *See also, Cooke v. Guntersville*, 583 So.2d 1340 (Ala. 1991).

Limitations on Liability for Noncommercial Public Recreational Use of Land

Further limitations on the liability for the noncommercial recreational use of public land are found in Article 2 of Chapter 15 of Title 35 (Sections 35-15-20 through 35-15-28), Code of Alabama 1975. The stated policy behind these sections is to encourage the donation of property for noncommercial recreational purposes without exposing the owner to liability. The definition of the word “owner” in Section 35-15-21, specifically includes municipalities and recreational boards.

Section 35-15-24 limits the property owner’s liability to situations in which he or she has *actual* knowledge of a defect or condition involving an *unreasonable risk of death or serious bodily harm* and is not obvious to users of the property. If the owner chooses not to guard or warn against the defect or condition, he or she may be held liable for any

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2017 Annual Convention





mayor at a meeting in Orange Beach, where our conversation turned to our publications. At the time, we were discussing increasing our use of electronic communications and I asked him for his thoughts.

He told me, "I don't care if you send me a note on a cocktail napkin, the information provided by the League is important and I'm going to read it."

But he did acknowledge that, like all of us, he was relying more heavily on technical sources for information, particularly email and Facebook.

Following that discussion, I met with Carrie Banks, our Communication Director, and we decided the time was right to begin making better use of technology. We cut the number of magazine issues from 12 to 6, we started posting many of our publications on-line and providing them only in an electronic format, we started a Facebook page and we began relying more heavily on email to provide information.

If you don't like those actions, I'll give you the name of the mayor who suggested it and you can give him a call.

All of this is to make the point that the League is your organization. When we conduct the strategic plan, participate. Give us your input, your thoughts and ideas. We want to make sure that are serving your needs.

This is, in my opinion, a perfect time for the League to

conduct a strategic plan. It has been my view that following the 2016 municipal elections, and even more so after the next set of elections in 2020, a new generation of local officials is going to play a more significant role. This generation of officials won't remember telephone books. Or even phones with cords. They have always had computers and for them, the Internet and clouded information is the norm.

I was recently at a meeting and part of the discussion turned to attracting millennials into organizations. The speaker said that this generation has turned the paradigm on its head. He said that past generations joined organizations to better themselves or their trades, then recognized the need to participate themselves in improving the organization. Instead, millennials want to become organizational leaders right out of the gate, then direct how the organization will prove its relevance.

But that is an overly simplistic approach to bridging the gaps between generations. For instance, if you take that view to the extreme, do you select a first time, young official as your president and hope that they prove themselves, or do you still want someone who has proven their experience and willingness to serve?

Millennials range in age from 16 to 35. That's a pretty large age gap. An article I read recently notes that the common,

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one-size-fits-all membership marketing to them just doesn't work. You can't just look at the common advice, which is: Reach them on social media! Give them leadership positions right away! Make your meetings more social!

While those are good suggestions, they won't work for all. Younger millennials are still in high school. Others are college graduates with advanced degree or are well-established jobs and have spouses and kids.

So, what is the best advice for reaching these younger generations? This article recommended three keys:

1. Showcase your diversity;

The millennial generation is just 61 percent white, and women earn roughly 60 percent of all college degrees. The more people see that an association reflects their demographic, the more likely they will feel comfortable enough to join.

In my opinion, the League is perfectly poised to reach this generation. If you look around this room, you see the diversity of our membership. Of course, our members are the municipalities themselves, but they are represented by people of all races and genders. We want to celebrate our diversity and build unity while recognize our individuality. Of course, we can always do better, but we want the League to be an inclusive organization.

2. Focus on job skills;

Whatever the association, it must demonstrate an ability to

provide training that will enable them to do their jobs better and, in many cases just as importantly to this generation, improve their community and better the lives of those around them. The League has long had an outstanding training program, our Certified Municipal Officials program, that is designed to help our officials better serve their communities.

3. Empower members to create social change.

The younger generation wants to improve the world around them through direct action. Who has more ability to influence social changes in a community than the local elected leaders? And we at the League want to help you.

I hope you'll take a long-range approach to analyzing what you want the League to be, and how we can serve you. As we work on strategic plan, there are three areas I'd like us to focus on:

1. What are we doing right? If we're doing something well, we don't want to change it.
2. What can we do better?
3. Finally, if we were dreaming, what would we like to see the League focus on and become?

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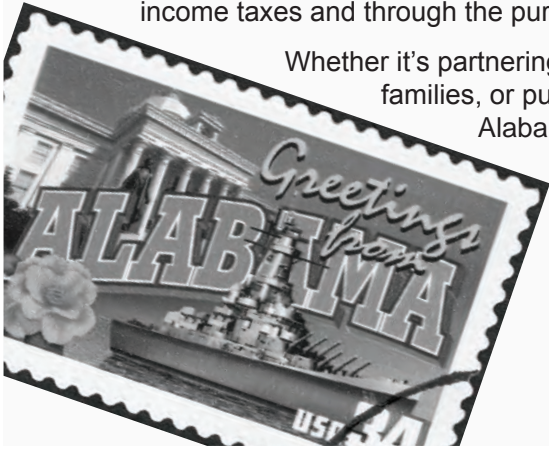
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We want to address needs of our membership. Conducting a strategic plan will, I hope, help direct our activities in the future.

Turning to the state of the League, this has been a successful year for us. This is the second year for the Municipal Intercept Services program, which allows municipal debts to be submitted to the Alabama Department of Revenue for off-set against individual income tax returns.

The program has already exceeded our expectations. As you heard just a moment ago, in less than two full years of operation, more than \$724,000 of uncollected debts has been returned to eligible municipal entities in Alabama. This is revenue that otherwise would have likely gone uncollected. Only 113 municipal entities have submitted debts through this program, for a total amount of uncollected revenue of almost \$18 million dollars. We believe that over 600 municipal entities are eligible to submit debts, so you can see the significant revenue municipal entities are owed.

Even better, many debtors whose income tax refunds weren't large enough to satisfy their debts simply paid off their remaining debt. While MIS doesn't get a fee when this happens, this is a wonderful side benefit for those using MIS.

I want to be clear that MIS is not a collection agency and it shouldn't be treated that way. It is simply a portal to the Department of Revenue. You must first finalize a debt before it can be sent to MIS for submission to ADOR. But if other steps you've taken

to collect an unpaid debt have failed, I hope you'll look to see whether MIS can help you.

Our primary goal in setting up and endorsing programs like MIS is to serve you better. The delinquent insurance license collection program, AMIC, the Municipal Workers Compensation Fund, AMFund and now MIS are all tools in your arsenal designed to save you money on services we feel you need. I hope you will look to them for assistance. You can contact Richard Buttenshaw on our staff for more information on the MIS program or about the Municipal Workers Compensation Fund, where he works with our third-party administrators, Millennium Risk Mangers. Steve Wells does an outstanding job running AMIC, and Greg Cochran does the same for AMFund. Our Finance Department works closely with our third-party administrators, Municipal Revenue Services, on the delinquent insurance license program. We're grateful to them for the services they provide.

Our Certified Municipal Official program continues to be very popular. We were disappointed this year when Krystle Bell, who many of you have come to know, left the League to marry a gentleman from outside Montgomery. She did a great job running the CMO program and we will miss her. But we wish her well. Cindy Price on our staff will take over running the CMO program.

We conducted our second Municipal Leadership Institute last December in conjunction with the CMO graduation ceremony and

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it proved to be as successful and informative as the first year. We plan to hold another MLI this December. We will also continue to explore ways to improve our CMO training programs and all our programs, always keeping your needs foremost in our minds.

Finally, because there are so many new officials here, I'd like to take a minute to give you a quick overview of League operations and the staff who continues to provide you with outstanding service.

First, League finances continue to be strong. League Finance Director Steve Martin and his staff composed of Faith Ann Gunn, Rachel Wagner, Melissa Chapman and Richard Buttenshaw, have kept us on a strong financial footing.

Greg Cochran continues to keep a close eye on the legislature. He works with municipal lobbyists from around the state to educate our state leaders on municipal issues. Twanna Walton assists him in these efforts as do our lawyers and Communications Department.

The League IT staff under Chuck Stephenson, which includes Ken Gabehart, Rob Sellers and Nathan Baker work hard to keep our infrastructure stable and protected. Ken Gabehart keeps our facilities secure and in good shape.

Carrie Banks, our Communications Director, continues to produce outstanding, attention-getting publications. She and Karl Franklin also manage five websites, our Facebook page, take photos and handle our graphic design needs, among many other duties.

Lori Lein and her staff of Rob Johnston, Teneé Frazier and Sharon Carr continue to provide excellent legal advice and services to the League and our members.

Theresa Cook manages our Member Services Department along with Cindy Price, Priscilla Newton and Emily Sims. We've had some turnover in this department this past year and Priscilla and Emily are new to our staff. But they have done a great job

learning and fitting into the staff.

As Executive Director, I have been blessed with this staff. They provide excellent service to our members on a daily basis and they make my job much easier.

Our accomplishments would not be possible without their leadership and assistance. Most of our staff members are at the convention. I would like for those in attendance at this business session to stand and be recognized for their hard work. If there are any of them that you haven't met, I hope you will use the opportunity presented by this convention to introduce yourself.

Please join me in thanking the League staff for a job well done.

The next year will be full of challenges for municipalities. The Federal government, the State of Alabama and cities and towns will face economic and budget issues unseen in our history. Municipal officials will have to find new and innovative ways to deal with rising costs, efforts to reduce our ability to raise much needed revenue, and the threat of legislation to eliminate or restrict municipal power to control our own affairs during the upcoming year. The League will continue work hard to improve our services and develop new services to meet the challenges facing our cities and towns.

I look forward to serving you to help keep the Alabama League and Alabama's municipalities the strongest and best in the country.

Alabama municipalities are truly blessed with dedicated officials. Remember, this is your League. The ability to produce positive results for our members depends upon the involvement and teamwork of our municipal officials.

Thank you! ■

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July webinars will explain how to best use the online training.

Has your department or entity been on the fence about taking advantage of the free online learning platform provided to you through the Online Training Center? Or maybe you have questions on how to utilize this program to its full advantage? Please join AMIC/MWCF's LocalGovU representative, Tony Green, on **Tuesday July 18th or Thursday July 20th at 10:30 a.m. CST**, for a comprehensive **FREE** webinar covering the various ways to utilize and engage with the Online Training Center. During this webinar, Tony will cover:

- How to create an account for your Organization
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Register for one of the free webinars ASAP by contacting LocalGovU at 866-845-8887 between 9:00 a.m. and 6:00 p.m. Monday through Friday.

Additionally, all AMIC and MWCF members that already have an account now have access to the new System Usage course, "Using the Admin System". This course is intended for anyone who is a Primary Administrator, an Admin or a Group Admin for your organization's account. It details how to use the Admin System, including how to:

- Add, edit, and deactivate users
- Set up and manage groups of users for your account
- Assign course licenses to users and/or groups
- Run reports

The "Using the Admin System" course is now available to the Primary Administrator on your account and he/she can assign this course to any employee.

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Alabama Department of Revenue
Alabama Department of Economic & Community Affairs - Surplus Property Division
Alabama Emergency Management Agency
Alabama Forestry Commission
Alabama Law Enforcement Agency
Alabama Mountain Lakes Tourism Association
Alabama Municipal Funding Corporation (AMFund)
Alabama Municipal Insurance Corporation
Alabama Power Company
Alabama Public Library Service
Alabama Recreation and Parks Association
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Mayor Walt Maddox, Tuscaloosa
Mayor Melvin Duran, Priceville

Councilmember Don Moore, Uniontown, moved adoption of the Nominating Committee Report as presented. Councilmember Barbara Flurry, Eufaula, seconded the motion, which passed unanimously. The President declared all officers elected.

Tyrone Silmon, was called upon to present the report of the Site Selection Committee for Mayor Bell of Birmingham. He stated that the League Convention would be held in future years as follows: May 20 – 23, 2017, Birmingham; May 19 – 22, 2018, Montgomery; May 4 – 7, 2019, Mobile; May 16 – 19, 2020, Tuscaloosa; May 22 – 25, 2021, Huntsville; May 21 – 24, 2022, Birmingham.

Councilmember Bobbie Curtis of Greensboro moved adoption of the report, which was seconded by Councilmember Michael Gay, Millbrook. There being no further business, the meeting was adjourned. ■

Ken Smith, Acting Secretary



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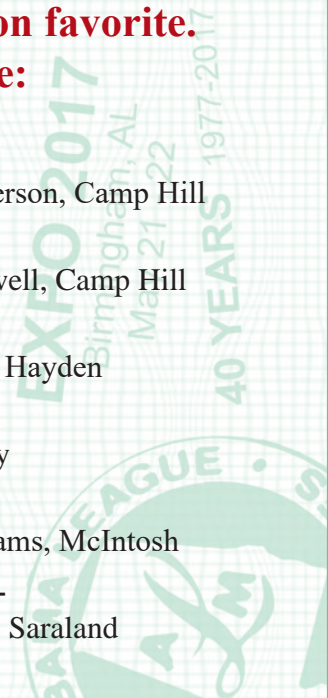
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The Passport Prize Program continues to be a Convention favorite. The following delegates went home with a very nice prize:



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- **40" Vizio LED SmartTV** - Councilmember Randy Curtis, Hayden
- **iPad Pro 128 Gb** - Mayor Billy Middleton, Loxley
- **\$500 AMEX Gift Card** - Councilmember Roosevelt Adams, McIntosh
- **Joyce E. Brooks Gift Basket** - Councilmember Newt Cromer, Saraland



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injuries that result. *Keenum v. Huntsville*, 575 So.2d 1075 (Ala. 1991).

Section 35-15-22, however, states that the owner owes no duty of care to inspect or keep the land safe for entry or use for any noncommercial recreational purpose, or to give warning of a dangerous condition, use, structure or activity on the land. The duty to warn only applies to defects of which the owner has actual knowledge. Constructive knowledge of the defect is not enough.

Recreational-Use Immunity – *Ex Parte Guntersville*

On May 26, 2017, the Supreme Court of Alabama issued its opinion in *Ex Parte Guntersville*, --So3d--, 2017 WL 2303161, recognizing, for the first time, that recreational-use immunity is reviewable on an interlocutory basis by mandamus. Or, in lay terms, this decision recognizes that a higher court can answer the question of law on recreational-use immunity *before* going through the time and expense of a trial rather than waiting until after trial to appeal the issue of immunity. This decision is new law and a very big deal for Alabama's municipalities.

The case itself involved a city park patron who claimed she suffered injuries by tripping over a diagonal crossbar around the parking lot at a city park after the city's annual fireworks show. According to affidavit testimony, on the edge of the parking lot there were a series of vertical poles with holes on the top which allowed for steel cabling to be run horizontally between bars. There was no steel cabling between poles at the time of the incident. Some of the vertical poles are supported by diagonal crossbars. After the fireworks show, the plaintiff tripped on the diagonal crossbar falling to the ground and injuring her right shoulder.

There was expert affidavit testimony submitted on behalf of the plaintiff that "the light in question and the route of ingress/egress (including the pole and [diagonal crossbar]) were unreasonably dangerous at the time of [the plaintiff's] fall." Affidavit testimony from the city's maintenance supervisor indicates that the poles and diagonal crossbars had been installed at the park for more than 19 years prior to this incident and that the supervisor had not received any complaints that the diagonal crossbars presented a dangerous condition.

As a result of her injuries, the plaintiff filed a negligence action against the city alleging that the city owed a duty to her not to "create, cause, and/or allow unreasonably dangerous conditions to exist at or on [the] City[']s ... property" and that the city was not entitled to immunity under Alabama's recreational-use laws. The city filed for summary judgment claiming it was entitled to immunity under the recreational-use statutes found in Articles 1 and 2 of Chapter 15 or Title 35, Code of Alabama 1975. The circuit court denied the city's motion and the city petitioned the Alabama Supreme Court for a writ of mandamus ordering the circuit court to vacate

its order and to enter summary judgment in favor of the city.

Before discussing the substance of the Alabama Supreme Court's holding in this case, it is significant to point out that the Court took this case on interlocutory appeal which in broad, general terms is an appeal on a question of law prior to a trial on the merits. Having the highest court in the state issue this opinion is the first time the court has allowed for the issue of the application of recreational-use immunity to be ruled upon by interlocutory appeal. This decision places recreational-use immunity on the same footing as peace officer immunity or state agent immunity insofar as interlocutory appeal of orders denying summary judgment are concerned. Having the issue of immunity determined prior to trial gives defendant municipalities the opportunity to possibly avoid the high cost of going to trial only to later, on full appeal, find out they were entitled to immunity all along. This alone makes this case very significant.

As to the case itself, the plaintiff argued on appeal, as she had before the trial court, that the city was not entitled to immunity because it had "actual knowledge" of an "unreasonable risk of death or serious bodily injury" at the park. The court, however, found that the plaintiff did not meet her burden of proving this and that expert affidavit testimony stating that the conditions were unreasonably dangerous was merely an opinion and could not prove *actual* knowledge on the part of the city. Because the plaintiff failed to prove that any of the exceptions to recreational-use immunity applied, the court held that the city did demonstrate its clear legal right to immunity and directed the circuit court to vacate its order denying the city's motion for summary judgment and enter summary judgment for the city; a big win not only for the City of Guntersville, but for all of Alabama's municipalities.

Conclusion

Whether a municipality engages directly in recreational opportunities for its citizens or elects to create a recreation board to do the same, they can more confidently rely on the broad protections from liability as provided in Alabama's recreational-use statutes as a result of the decision in *Ex Parte Guntersville*. The League wishes to acknowledge the efforts of George Royer with the law firm of Lanier, Ford, Shaver & Payne, P.C. who represented the City of Guntersville as well as the contributions of many municipalities who filed as amicus before the Alabama Supreme Court.

For a more detailed discussion of municipal recreation, please see the article titled "Municipalities & Recreation" in the League's publication *Selected Readings for the Municipal Official* (2016). ■

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