

THE ALABAMA MUNICIPAL JOURNAL

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Hyundai's State-of-the-Art Montgomery Plant Impresses

Story, page 9

Hyundai Motor Manufacturing Alabama, LLC (HMMA) is Hyundai's first assembly and manufacturing plant in the United States. The \$1.1 billion automotive plant is one of the most advanced assembly plants in North America. The Sonata sedan and the all new Santa Fe sport utility vehicle (SUV) are built at this facility. (Photo courtesy of Hyundai)



Inside:

- Tier Suppliers Feed Auto Industry
- Exempt Employees Under The Fair Labor Standards Act
- Eminent Domain, Communication Bills Top Priorities at Upcoming Congressional City Conference
- NLC's Legislative Priorities: Grassroots Successes and Ongoing Challenges

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Tier Suppliers Feed Auto Industry

By Niko Corley, Communications Coordinator, ALM

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

If you've never stepped foot inside one of Alabama's auto plants, you can't appreciate the level of organization it takes to keep things running smoothly. From giant presses stamping steel sheets into car frames to robots that do the assembly work of many people, every action and task is orchestrated to maximize productivity. Indeed, the state's auto plants are a marvel to behold.

But the level of precision necessary to produce top quality vehicles in Alabama requires a network of suppliers as dedicated to excellence as the manufacturers themselves. After all, without their suppliers, the state's auto manufacturers wouldn't have the resources they need to produce their vehicles.

To better understand the tier supplier network, envision a supply chain with multiple levels, or tiers. At the bottom (or the beginning of the process) are the Tier 4 companies. They supply the Tier 3 companies, who supply the Tier 2 companies who supply the Tier 1's. The Tier 1 companies directly supply Alabama's vehicle assembly plants.

The products these tier companies manufacture become more complex as they work their way up the supply chain. Usually, products from sub-tier plants look much different by the time they reach a Tier 1 plant. From there, it's a straight shot to the vehicle assembly plant.

Alabama's automotive industry directly employed nearly 32,000 people in 2003, over three-quarters of which worked for tier suppliers (University of Alabama at Huntsville industry study). That year, the automotive industry had over 200 plants in Alabama, 92 of which were Tier 1's. Clearly, the impact of tier suppliers on local economies can be dramatic.

Maruf Rahman, president and co-founder of SAR, Inc., a Tier 2 industry supplier in Scottsboro, makes it his job to eliminate the headaches of HiSAN, the sole Tier 1 automotive company he supplies, by providing quality products at a competitive price. To do this, Rahman implements lean manufacturing, a production technique that identifies and eliminates non-essential operations to save time, money and resources.

"Customers want reliable suppliers who can take their non-core business, make it ours and make it more efficient," Rahman said. "That is what we do."

Companies implementing lean manufacturing in their operations have an edge over those not using lean, as every aspect of the production process, from product design to delivery, undergoes thorough analysis and evaluation to cut waste. David Miller, professor of management science at the University of Alabama and director of the Alabama Productivity Center, says research has proven lean's advantages.

"Companies adopting rigorous improvement tools are more successful in a variety of ways, such as sales increases, profitability and worker satisfaction," Miller said.

While techniques such as lean manufacturing slash non-essentials, the quality of an industry's employees is just as important to achieving excellence. Ron Davis, manager for ZF Lemforder Corp. in Tuscaloosa whose Tier 1 plant also implements lean manufacturing, says Alabama's workforce is a driving force behind the success of the auto industry in the state.

"Alabama has employees with excellent work ethic and dedication," Davis said.

By hiring workers from the municipalities and areas where they are located, tier suppliers become a part of the social landscape.

"Our Tuscaloosa plant is an integral part of the community," Davis said.

The same is true for SAR in Scottsboro, where Mayor Dan Deason and Rahman have a close working relationship.

continued page 23



Shaheen and Maruf Rahman are co-owners of SAR, Inc. in Scottsboro, a Tier 2 auto industry supplier that makes stone guard coverings for tubes on vehicles' undercarriages. SAR, Inc. is a minority-owned company. The Rahmans are originally from Bangladesh. (Photo courtesy SAR)



The President's Report

Bobby Hayes
Mayor of Pelham

Eminent Domain, Communication Bills Top Priorities at Upcoming Congressional City Conference

In 2006, the 109th Congress and the president will focus on a range of issues affecting municipalities. Municipal officials need to be well informed and well positioned to ensure the best outcomes for their communities on critical issues.

The 2006 National League of Cities Congressional City Conference, Mar. 11-15, 2006, in Washington, D.C., offers an excellent opportunity to present a strong and unified municipal voice in Congress, develop and strengthen relationships with members of Congress and advocate local positions on key priorities.

Eminent domain and communications issues have been hot topics lately and NLC has asked local officials to concentrate on these key issues in letters and discussions with their senators and representatives. Being knowledgeable about these important issues and relaying our concern to our elected officials in Washington greatly furthers this cause.

Local officials should communicate the importance of eminent domain, a power derived from state law currently under review in many state legislatures, as a vital, but seldom used tool to help cities revitalize local economies for the benefit of the entire community.

Local officials should tell their members of Congress about projects in their communities that would not have been possible under proposed federal anti-eminent domain legislation. For more information, go to www.nlc.org and click on *Grassroots Action*.

On the issue of national franchise bills, local officials are encouraged to tell their members of Congress about the key elements of local franchise agreements, stressing their

importance in protecting public safety, providing for consumer protection and in providing for municipal services.

Cities should strongly oppose telecommunications legislation introduced to date - S. 1504, S. 1349, and H.R. 3146 - because these bills do not preserve local government's authority to manage and collect revenue for local rights of way. Local elected officials should encourage members of Congress to talk to them before supporting any piece of legislation in this area.

On the issue of municipal broadband, local officials should encourage our Congressional delegation to co-sponsor broadband legislation that will preserve the authority of municipalities to provide broadband services to their citizens.

With this year's conference schedule giving city leaders more time to connect with their Congressional delegations, we have a greater opportunity to relay how important the aforementioned issues are to Alabama's municipalities. The schedule offers two full days when members of Congress will be in Washington to connect with city officials both in general sessions at the hotel and in meetings on Capitol Hill, and I hope each of you will do your best to engage our Washington elected officials on these topics.

The NLC Congressional City Conference provides the resources, the connections and the collective power to help city leaders have an impact on Capitol Hill. By coming together, we gain a loud, clear and unified voice that is difficult to ignore.

There is a lot at stake for our cities and towns in the 109th Congress. Join with your colleagues to demand a renewed federal-local partnership to address the issues critical to our municipalities. I look forward to seeing everyone in Washington, where we will come together on behalf of the people we represent to be sure the issues affecting their lives are heard. ■

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Municipal Overview

By
PERRY C. ROQUEMORE, JR.
Executive Director

NLC's Legislative Priorities: Grassroots Successes and Ongoing Challenges

The National League of Cities does a tremendous job of representing municipal government before the United States Congress. This month I would like to share with our membership a recent report prepared by Marilyn Mohrman-Gillis and Jimmy Gomez of NLC on the successes of 2005 and the challenges of 2006.

As the National League of Cities prepares to set its legislative priorities for 2006, it is good to reflect on the legislative achievements for 2005. NLC achieved victories or made significant progress on most of its six priorities for 2005.

Community Development Block Grant (CDBG) Program

Highlighting NLC's 2005 advocacy efforts was a victory in our campaign to "Save CDBG: No Cuts and No Move." Thanks to a massive and effective grassroots effort, NLC and its coalition partners blocked the Administration's proposal to eliminate the CDBG program. The Administration proposed to replace CDBG and 18 other programs with a single grant program in the Department of Commerce and slash the budget for the combined programs by 30 percent. While CDBG funding was decreased – it was funded at \$3.748 billion, a 9 percent reduction over the previous year – the preservation of CDBG as a stand alone program in the Department of Housing and Urban Development was a significant victory for NLC and its members.

Transportation

NLC was also successful in securing policies and funding consistent with cities' interests in transportation reauthorization legislation. On August 10, Congress adopted the Safe, Accountable, Flexible, Efficient Transportation

Equity Act: A Legacy for Users (SAFETEA-LU), a \$286.5 billion reauthorization package that governs federal surface transportation spending for highways, transit and safety through 2009.

SAFETEA-LU contains a number of important policy amendments championed by NLC, including amendments to narrow an overly broad exemption from state and local rights of way regulations, to authorize state and local governments to regulate predatory tow truck operations and to defeat a proposal to grant the state department of transportation sole control over funding for congestion relief.

Section 8 Housing Vouchers

NLC was successful in increasing funding for Section 8 Housing Vouchers to \$15.573 billion, an increase of \$800 million over 2005. Unfortunately, Congress also adopted an allocation formula – based on rents during a three month period in 2004 – that does not accurately reflect the cost of the vouchers.

Homeland Security

The results for homeland security in 2005 were mixed. On the positive side, NLC is on the verge of winning a multi-year battle to secure a date certain for the transfer of broadcast spectrum for public safety communications. The budget reconciliation bill, which will be before the House for final passage when it returns on January 30, establishes February 17, 2009, as the confirmed date for the return of spectrum to the government for public safety.

The bill also includes \$1 billion in grants for communication systems used by public safety officials. This is an important victory for NLC, which has been working in coalition with its public safety and government partners for a date certain since the bombing in Oklahoma City.

continued next page

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In contrast, NLC lost ground on first responder funding. Both the Urban Area Security Initiative (UASI) and State Homeland Security Grants suffered significant cuts. The UASI grants were cut by more than 30 percent to \$765 million and the state grants were cut by 50 percent to \$550 million. New regulations restricting the distribution of first responder funding, along with this significant cut, will leave cities and towns with less funding to ensure the protection of their hometowns.

MTBE (Methyl Tertiary Butyl Ether)

NLC and its grassroots network played a key role in defeating a multi-billion unfunded mandate – estimated at \$25 to \$85 billion – to clean up MTBE-contaminated water in the energy bill, which passed last year. NLC successfully prevented the inclusion of a liability waiver for users of MTBE that would have forced local governments to assume the cost of cleaning up water polluted by this additive to gasoline. NLC’s vigilance, combined with targeted grassroots advocacy, were key components of this successful outcome.

Other Priority Issues

On other priority issues for 2005, NLC made some progress but still faces some significant challenges.

Communications Act Rewrite: Attack on Local Franchising: A key issue in the Communications Act rewrite is whether telephone companies will be required to secure franchise agreements from local governments to provide video services.

Telephone companies have launched an all-out attack on local franchising and are urging Congress as well as state legislators to authorize federal or state level franchises. This is a fundamental attack on local governments’ ability to manage the use of their local rights of way to protect their consumers and to ensure public safety as well as to collect franchise fees essential for the delivery of public services.

In 2005, NLC and its local government colleagues worked aggressively to highlight local government’s positions and to secure a seat at the table in the negotiation process. In 2006, NLC will be working to develop clear and compelling messages and build the grassroots capacity needed to protect local government’s authority to manage and collect revenue for use of their local rights of way.

Eminent Domain: The public and political backlash from the Supreme Court decision in the *Kelo v. the City of New London* posed significant legislative challenges in 2005 on both the federal and state level. Of concern to cities

throughout the country was the passage of H.R. 4128, a bill that would cut off all federal funds to cities that utilized eminent domain for economic development purposes. The goal in 2006 is to keep this far-reaching bill from being considered in the Senate.

NLC was successful, with the strong grassroots support, in working closely with Senate leaders to limit the impact of an eminent domain provision on a key appropriations bill.

Federal Tax Reform: NLC stated immediate and strong opposition to a November 2005 recommendation by the President’s Advisory Panel on Federal Tax Reform to eliminate the federal deduction for state and local income, sales and property taxes.

NLC was able to stake out a strong, forward-looking position on this issue of tax reform because of the thoughtful and comprehensive work of its public finance panel and policy committee on economic vitality. While an overhaul of the federal tax system in this country is not expected in 2006, NLC is well positioned to continue to play an important role in the public policy debate on this issue.

As NLC seeks to build on this past year’s legislative victories, and meet the challenges of 2006, one theme is clear: NLC’s power rests in its grassroots – in local elected officials making a local and personalized case in support of an issue. There is no question that Congress heard from local officials in 2005. The challenge is to raise our collective voices higher in 2006. ■



Hyundai's State-of-the-Art Montgomery Plant Impresses

By Niko Corley, Communications Coordinator, ALM

Located on 1700 acres of what used to be cow pasture, Hyundai Motor Manufacturing Alabama's (HMMMA) Montgomery assembly plant, is a marvel of modern technology.

The two-million-square-foot-plant, opened in May of last year, employs 2,800 people. These team members assemble the Hyundai Sonata and Santa Fe, two of the best-selling automobiles on the American market, at a rate of 1,000 vehicles a day. These are then shipped out to the 680 Hyundai dealerships across the country, 12 of which are located in Alabama.

Hyundai keeps a fast pace by implementing "just in time" manufacturing techniques, where suppliers are alerted to an upcoming need for their products before the actual need arises, allowing critical shipments to arrive at exactly the right moment. As Kathy Johnson, assistant public relations manager for Hyundai relates, the international auto firm's decision to locate to Alabama may also have been "just in time".

"In an area with a lot of bedroom communities where the textile industry was beginning to die down unfortunately, Hyundai and Hyundai suppliers have been able to come in and boost the economy," Johnson said.

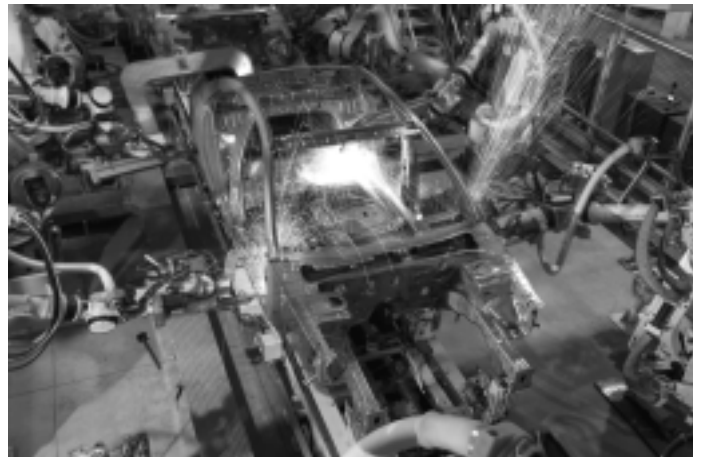
Working closely with several state agencies, Hyundai found an excellent plant location in Alabama and hired strictly Alabamians to work on their production line. Johnson says the city of Montgomery, along with the Montgomery County Commission and the Chamber of Commerce, have made sure Hyundai has everything it needs to be successful.



Before being painted, Hyundai vehicles are submerged, through a state-of-the-art process, in a cathode dip bath that helps the paint adhere to the vehicle's frame. Through the 360 degree rotation movement, no air bubbles appear in the car body cavity. (Photo courtesy of Hyundai)



As visitors tour Hyundai's production plant, robots move all around them, assisting in the assembly of the automaker's Sonata passenger vehicle and Santa Fe SUV. Choreographed by engineers, the 'dance of the robots' is a model of precision in manufacturing. (Photos courtesy of Hyundai)



"We could not have done better," Johnson said.

Montgomery Mayor Bobby Bright says the auto manufacturer's presence has benefited the area in a number of ways.

"Hyundai is revolutionizing our community with well-paying and good-quality jobs, both direct and indirect," Bright said. "I am very proud they are here and of what they are doing."

Hyundai offers tours of its Montgomery facility on Mondays, Wednesdays and Fridays, at 9:30 a.m., 12:30 p.m. and 2 p.m. For more information, contact Hyundai's Visitor's Center at (334) 387-8019, or visit www.hmmausa.com/tours.cfm. ■

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ENVIRONMENTAL OUTLOOK



By Gregory D. Cochran
Director, Intergovernmental Relations

EPA Watershed Handbook

The EPA's Office of Water has published a guide to watershed management as a tool in developing and implementing watershed plans. The draft *Handbook for Developing Watershed Plans to Restore and Protect Our Waters* is geared toward communities, watershed groups and local, state, tribal and federal environmental agencies.

"This handbook will help anyone undertaking a watershed planning effort, but it should be particularly useful to persons working with impaired or threatened waters," Benjamin H. Grumbles, EPA assistant administrator for water, said.

The 414-page handbook is designed to take the user through each step of the watershed planning process: watershed monitoring and assessment; community outreach; selection and application of available models; best management practices; effectiveness databases; implementation; feedback; and plan adjustment.

The handbook is intended to supplement existing watershed planning guides developed by agencies, universities and other nonprofit organizations. This handbook is more specific than other guides about quantifying existing pollutant loads, developing estimates of the load reductions required to meet water quality standards, developing effective management measures and tracking progress once the plan is implemented.

The EPA is making this draft document widely available for use and testing by a variety of watershed partnerships whose advice will be considered in developing the final version.

The draft handbook is available online at www.epa.gov/owow/nps/watershed_handbook. A free copy is available from the National Service Center for Environmental Publications at (800) 490-9198, or by e-mail at ncepimal@one.net. When ordering, refer to EPA document number EPA 841-B-05-005.

EPA Lead Paint Requirements Proposed

To reduce lead poisonings in children across the country, the EPA is proposing new requirements for contractors and construction professionals when working in homes containing lead-based paint.

"Under President Bush's leadership, we are addressing one of the greatest environmental challenges facing our most vulnerable residents: childhood lead poisoning," Stephen L. Johnson, EPA administrator, said. "This action brings us one step closer to ensuring that our nation's children are safe and healthy."

Lead is a highly toxic metal used for many years in paint. Lead can cause a range of health problems, from cognitive impairment and learning disabilities to seizures and death. Children under six years of age are most at risk because their developing nervous systems are especially vulnerable to lead's effects and because of their frequent hand-to-mouth behavior.

Preventing lead-based paint hazards from renovation activities in housing where children under six reside is one purpose of this proposed regulation. The EPA's analysis indicates renovation, repair and painting projects in housing likely to contain lead-based paint affects more than 1.1 million children under age six annually. In the absence of this regulation, lead-safe practices are not likely to be employed to perform the renovation projects.

The EPA is proposing that contractors be trained in the use of lead-safe work practices, renovators and firms be certified, providers of renovation training be accredited and renovators follow protective work practice standards. These work practices include posting warning signs, restricting occupants from work areas, arranging work areas to prevent dust and debris from spreading, conducting a thorough cleanup and verifying that cleanup was effective.

continued next page

The rules would apply to all persons who do renovation for compensation, including renovation contractors, maintenance workers in multi-family housing, painters and other specialty trades. The new requirements would apply to most renovation, repair or painting activities where more than two square feet of lead-based paint is disturbed.

The EPA is proposing a two-phase approach. The first phase would apply to renovations in rental and owner-occupied housing built before 1978 where a child with an elevated blood-lead level resides, in rental housing built before 1960 and in owner-occupied housing built before 1960 where children under six reside. The second phase, to start a year after the first one takes effect, would apply to renovations covered in the first stage plus renovations in rental housing built between 1960 and 1978.

The second stage also would apply to owner-occupied housing built between 1960 and 1978 where children under six reside.

In 1978, there were three to four million children with elevated blood-lead levels in the United States. Significant progress has been made to reduce lead poisonings. As of 2002, an estimated 310,000 children had elevated levels of lead in their blood, according to the Centers for Disease Control and Prevention. While the Consumer Products Safety Commission banned lead-based paint for residential use in 1978, more than 38 million homes in the United States still contain some lead-based paint. Two-thirds of the houses built before 1960 contain lead-based paint.

This proposal is one component of a comprehensive program that will also include training and an education and outreach campaign to promote lead-safe work practices. The EPA will take public comment for 90 days following publication of the proposal in the Federal Register. For more information or to obtain copies of the proposal and supporting materials, visit www.epa.gov/lead/pubs/renovation.htm.

EPA's Renewable Fuels Standard Program

Starting in 2006, nearly three percent of what Americans put in their gas tanks will be clean-burning, domestic, renewable fuels like ethanol under new standards issued by the EPA. Authorized by the Energy Policy Act of 2005, this is the first step in the EPA's Renewable Fuels Standard Program designed to reduce vehicle emissions and strengthen U.S. energy security by doubling the use of fuels produced from American crops by 2012.

"Under President Bush's leadership, we are addressing our nation's growing energy demand in a way that supports our goals for a clean environment and healthy economy," Johnson said. "This investment in renewable fuels made from domestic crops will support American agriculture and replace fossil fuels with an increasing amount of cleaner-

burning alternatives such as ethanol or biodiesel illustrating that environmental progress and economic development can, in fact, go hand-in-hand."

The regulation announced today explains how industry will comply with the Energy Policy Act's default provision requiring 2.78 percent of the gasoline sold or dispensed to U.S. motorists in 2006 be renewable fuel. The regulation is intended to provide market certainty for smooth implementation of the program as the EPA expands it in 2006. Many of the act's other provisions regarding the Renewable Fuels Standard Program for 2007 and beyond will be implemented in subsequent regulations.

The program will significantly increase the volume of renewable fuels blended into motor vehicle fuels. Various renewable fuels can be used to meet the requirements of the program, including ethanol and biodiesel. Under this standard, refineries, blenders and importers would collectively be responsible for meeting program requirements for 2006, where compliance would be calculated over the entire pool of gasoline sold to consumers.

For more information on the Renewable Fuels Standard Program, visit www.epa.gov/otaq/renewablefuels/. ■

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Mary Ellen Wyatt
Staff Attorney

THE LEGAL VIEWPOINT

Exempt Employees Under The Fair Labor Standards Act

The Fair Labor Standards Act (FLSA), enacted in 1938, guarantees private employees certain minimum wages and time-and-one-half compensation for overtime worked. *See* 29 U.S.C. 201. In 1985, the FLSA was extended to state and local employees. *See* 29 U.S.C. § 201(3)(e). This article addresses the act’s overtime provisions effects on public employers and employees.

Generally, all public employees are covered unless an employee falls under an exemption category. If a public employee falls under one of these, he or she is not entitled to overtime compensation under the FLSA. Executive, administrative and professional employees (including teachers and academic administrative personnel in elementary and secondary schools), outside sales employees and employees in certain computer-related occupations (as defined in Department of Labor regulations) are exempt from the FLSA.

For an employee to be exempt from FLSA overtime regulations, the employee’s salary level and job duties must meet the criteria established by the regulations. The salary criterion is referred to as the “salary basis” test, and the job duties criterion is commonly referred to as the “duties” test. *See* 29 CFR § 541.602.

Salary Basis Test

A person is considered a salary employee when he or she regularly receives a predetermined amount each pay period which is not adjusted based on quality or quantity of work performed. *See* 29 C.F.R. § 541.602. If an employee is truly considered a salary employee, the number of days or hours worked should not determine the amount of money he or she receives. *Id.* Further, an employee is not paid on a salary basis if the employer takes deductions from the employee’s predetermined compensation due to absences as a result of the employer or the business’s operating procedures. *Id.* The prohibition against deductions from the

salary basis requirement is subject to seven exceptions listed in 29 C.F.R. § 541.602(b)(1) through (7).

As mentioned above, an exempt employee must meet both the salary test and the duties test. The elements of the duties test of each exempt employee are listed below.

Duties Basis Test

Executive Exemption

An executive employee, other than a “highly compensated employee” (discussed below), must meet all of the following requirements of the standard test to be exempt from the FLSA’s minimum wage and overtime provisions:

- (1) the employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$455 per week; (29 C.F.R. § 541.100)
- (2) the employee’s primary duty must be managing the enterprise or managing a customarily recognized department or subdivision of the enterprise; (29 C.F.R. § 541.102)
- (3) the employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; (29 C.F.R. § 541.701) and
- (4) the employee must have the authority to hire and fire others, or the employee’s suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight. (29 C.F.R. § 541.100).

The executive exemption does not apply to a long list of “non-management” law enforcement, fire protection and emergency services personnel. Police officers, detectives, investigators, inspectors, correctional officers, parole or probations officers, firefighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees,

continued next page

regardless of rank or pay level, do not qualify as exempt if they perform the following types of work:

- i. preventing, controlling or extinguishing fires of any type;
- ii. rescuing fire, crime or accident victims;
- iii. preventing or detecting crimes;
- iv. conducting investigations or inspections for violations of law;
- v. performing surveillance;
- vi. pursuing, restraining and apprehending suspects;
- vii. detaining or supervising suspected and convicted criminals, including those on probation or parole;
- viii. interviewing witnesses;
- ix. interrogating and fingerprinting suspects;
- x. preparing investigative reports; or
- xi. other similar work.

This rule concerns employees who do not have management as their primary duty. Executives are employees whose primary duty consists of managing the department in question and regularly supervising two or more employees. The Department of Labor has defined management as including:

- i. interviewing, selecting and training employees;
- ii. setting and adjusting their rates of pay and hours of work;
- iii. directing the work of employees;
- iv. maintaining production or sales records for use in supervision or control;
- v. appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status;
- vi. handling employee complaints and grievances;
- vii. disciplining employees;
- viii. planning the work;
- ix. determining the techniques to be used;
- x. apportioning work among employees;
- xi. determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold;
- xii. controlling the flow and distribution of materials or merchandise and supplies;
- xiii. providing for the safety and security of the employees or the property;
- xiv. planning and controlling the budget; and
- xv. monitoring or implementing legal compliance measures.

See 29 C.F.R. § 541.102; see also 69 Fed. Reg. 22, 133.

Firefighters

High-ranking fire department positions such as battalion chief, fire captain and fire lieutenant, are most likely to qualify

for the executive exemption. Courts have looked at the following factors:

- Whether more than 50 percent of time is spent performing managerial duties. See *Harkins v. City of Chesapeake, VA*, 1988 WL 235927 (E.D.VA 1988)
- Whether there is a lack of supervision over the manager. See *Harkins v. City of Chesapeake, VA*, 1988 WL 235927 (E.D.VA 1988)
- Whether their duties included management of an entire station during their shift, which included the direction of two or more employees. See *International Association of Firefighters, Alexandria Local 2141 v. City of Alexandria, VA*, 720 F.Supp 1230 (E.D. VA. 1989), *aff'd*, 912 F.2d 463 (4th Cir. 1990).
- Supervision of three or more employees, in charge at fire scenes and responsible for major decisions in life or death situations. See *Sarver v. City of Roanoke, VA* 1990 WL 83327, 29 Wage and Hour Case (BNA) 1442 (W.D.VA 1989)
- Whether the individual is responsible for directing, planning and budgeting the division's work. See *Simmons v. City of Fort Worth, TX*, 805 F.Supp. 419 (N.D. TX. 1992).

Police Officers

Police communications sergeants, criminal investigation sergeants, fiscal management sergeants, planning sergeants, internal investigative sergeants and animal shelter sergeants are exempt executive employees. See *International Association of Firefighters, Alexandria Local 2141 v. City of Alexandria, VA.*, 720 F. Supp. 1230 (E.D. VA 1989), *aff'd*, 912 F.2d 463 (4th Cir. 1990).

Emergency Services Personnel

Quirk v. Baltimore County, MD, 895 F.Supp. 773 (D. MD 1995), held that EMS captains employed by the fire department are executive employees if 90 percent of their time was spent performing managerial tasks. In addition, a director of EMS who manages both the fire and EMS, trains personnel in the proper use of equipment, coordinates unit activities, purchases medical supplies, prepares budgets and interviews and hires, disciplines and evaluates employees also was exempt. See *Aly v. Butts County, GA*, 841 F.Supp. 1199 (M.D. GA 1994).

Elected Officials

Elected officials such as mayors and councilmembers are not covered by the minimum wage, overtime and recordkeeping provisions of the FLSA. See 29 U.S.C.A. § 203(e); see also 29 C.F.R. § 533.11.

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Legal Notes

By Lorelei A. Lein
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DECISIONS FROM OTHER JURISDICTIONS

Historic Preservation: A municipal redevelopment project in an “empowerment zone” designated by the Department of Housing and Urban Development and partially funded by the Department of Health and Human Services does not require a historic preservation review under the National Historic Preservation Act. *Business and Residents Alliance of East Harlem v. Jackson*, 430 F.3d 584 (2nd Cir. 2005).

First Amendment: The legislative custom of permitting clerics or individuals from all religious backgrounds to open each session of the Indiana Legislature’s House of Representatives with prayer violates the First Amendment’s Establishment Clause to the extent that it has been repeatedly and consistently used to advance the beliefs of the Christian religion. *Hinrichs v. Bosma*, 2005 WL 3544300 (S.D. Ind. Dec. 28, 2005).

Telecommunications: A city’s denial of a permit to place a cellular communications tower disguised as an evergreen tree on a golf course is supported by “substantial evidence” that the tower would have adverse visual impact, diminish property values and be unnecessary, and therefore does not violate the 1996 Telecommunications Act. *Omnipoint Communications, Inc. v. White Plains*, 430 F.3d 529 (2nd Cir. 2005).

ATTORNEY GENERAL OPINIONS

Manufactured Housing: A real estate licensee is not required to be licensed by the Alabama Manufactured Housing Commission to sell, on behalf of a client, a manufactured home and the land to which it is attached. 206-031.

Ordinances: An individual purchasing property at a tax sale can be held civilly liable for failing to comply with a city’s weed ordinance. 2006-036.

Schools: A city school board’s prohibition of cellular phones on school property in backpacks and lockers, irrespective of whether the phone is on or off, is supported by Section 16-1-27(a) of the Code of Alabama 1975. 2005-032.

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Federal Legislative and Regulatory Issues

Mary Ellen Wyatt
Staff Attorney

CDBG Restrictions Expanded

Local governmental entities receiving Community Development Block Grants (CDBG) may not use those funds to lure jobs away from another community. The practice is referred to as “job pirating” in a rule issued by the Department of Housing and Urban Development (HUD) in 2000. The new rule will take effect on Feb. 21, 2006, and will define job pirating and specifically list barred practices.

The rule requires states to define zones that cannot use CDBG funds to compete with one another. The rule also defines significant job loss as a loss of more than 25 positions. HUD is accepting comments until Feb. 21, 2006.

Electronic Grant Funds Available

The National Historical Publications and Records Commission is offering six grants to help local governments ensure record-keeping technology is up-to-date.

Eligible projects would include: establishing sustainable records programs within archival institutions; creating or maintaining electronic records programs by cooperative efforts; providing for electronic records-related professional education; sponsoring conferences or similar efforts; funding research, development and analysis projects; and establishing policies, best practices and tools for long-term preservation of and access to electronic records.

Program funds cannot be used to digitize records originally produced in analog media. Grant funding levels vary depending on the grant sought, and the commission will not provide more than 50 percent of the project’s total funding.

‘Applications should include a project narrative, detailed budget and the necessary federal forms. Optional draft

applications are due April 1 and samples of successful applications are available. Staff will review and comment on draft applications.

Completed applications must be submitted by June 1, 2006, and can be sent via grants.gov, e-mail or on paper. Funding decisions will be made and announced in November.

For more information, visit www.archives.gov/nhprc/announcement/electronic.html.

Local Telecom Tax Threatened

Two Senate bills, 2152 and 2153, each with sweeping effects on the ability of local governments to tax telecommunications services, were introduced by Sens. Michael Enzi (R-WY) and Byron Dorgan (D-ND) late in 2005.

The bills would provide Congressional acquiescence in the Streamlined Sales and Use Tax Agreement (SSUTA). The SSUTA is a multi-state agreement designed to tax laws and collection and will allow local governments to collect sales tax on internet sales made in the respective jurisdictions.

The additional telecommunications language in the bills imposes stringent requirements upon local governments beyond the requirements agreed to in the multi-state agreement. The requirements in the bills will limit the ability of local governments to impose and collect franchise fees, right-of-way fees and other local telecommunication taxes.

The SSUTA bills are not acceptable as written. The League encourages municipal officials and employees to urge the Alabama delegation not to accept the SSUTA language as it is currently written.

Administrative Exemption

An administrative employee must meet the criteria of the standard test, the highly compensated test below or the standard test for the administrative exemption. The standard test criteria are as follows:

(1) the employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week; (29 C.F.R. § 541.200)

(2) the employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; (29 C.F.R. § 541.700 and 29 C.F.R. § 541.201) and

(3) the employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance. (29 C.F.R. § 541.202)

In several cases, firefighters and police officers have fallen under the administrative position:

· If the employee's duties are related to production of a product or service rather than administration, the employees are not exempt. For example, a criminal investigator's duties are related to the production of law enforcement services, not the administration of the department. *See Ahern v. State of New York*, 807 F.Supp. 919 (N.D. NY 1992).

· Fire captains who report to a battalion chief and are higher in rank than lieutenants and firefighters are exempt administrative employees, especially where their duties relate to management policies or general business operations. *See Atlanta Professional Firefighters Union, Local 134 v. City of Atlanta, GA*, 920 F.2d 800 (11th Cir. 1991).

· A fire station training lieutenant may be deemed exempt as an administrative employee when their duties are related to the management practices or general business operations of firefighting. *See International Association of Firefighters, Alexandria Local 2141 v. City of Alexandria, VA*, 720 F.Supp. 1230 (E.D.VA 1989), *aff'd*, 912 F.2d 463 (4th Cir. 1990).

Professional Exemption

The professional exemption from the overtime and minimum wage requirements of the FLSA involves two exemptions – learned professionals and creative professionals. To qualify for the professional exemption, an employee must meet either the learned professional standard test, the creative professional standard test or the highly – compensated employee test below. To qualify for the learned professional employee exemption, all of the following criteria must be met:

(1) the employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week; (29 C.F.R. § 541.300(a)(1))

(2) the employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment; (29 C.F.R. § 541.700 and 29 C.F.R. § 541.301)

(3) the advanced knowledge must be in a field of science or learning; (29 C.F.R. § 541.301) and

(4) the advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction. (29 C.F.R. § 541.301(d))

To qualify for the creative professional exemption, all of the following tests must be met:

(1) the employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week; (29 C.F.R. § 541.300)

(2) the employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor. (29 C.F.R. § 541.302)

Highly-Compensated Employees

Highly-compensated employees performing office or non-manual work and paid total annual compensation of \$100,000 or more (which must include at least \$455 per week paid on a salary or fee basis) are exempt from the FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption. *See* 29 C.F.R. § 541.601.

Computer Employees

To qualify as an exempt computer employee under 29 C.F.R. § 541.400(b), a worker must have a primary duty consisting of:

(1) the application of systems analysis techniques and procedures, including consulting with users to determine hardware, software or system functional specifications;

(2) the design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

(3) the design, documentation, testing, creation or modification of computer programs related to machine operating systems; or

(4) a combination of the aforementioned duties, the performance of which requires the same level of skill.

Primary duty means the principal, main, major or most important duty the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to: the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of non-exempt work performed by the employee. *See* 29 C.F.R. § 541.700(a).

Computer employees can also be exempt if they are compensated at an hourly rate not less than \$27.63 an hour. *See* 29 C.F.R. § 541.400(b). Also, computer employees are not eligible for exemption under the highly-compensated employee test.

Personal Staff Members

The term "personal staff member" includes "only persons who are under the *direct supervision* of the selecting elected official and have *regular contact* with such official." (emphasis added). The term does not include individuals supervised by someone other than the official. For example, a mayor's personal secretary may fall under the exception; however, the secretary's assistant will not. *See* 29 U.S.C.A. § 203(e); *see also* 29 C.F.R. § 533.11.

The Department of Labor issued a Wage Hour Opinion Letter dated Dec. 19, 1974, that set forth a test to determine whether an employee is considered a personal staff member. Among the criteria to be considered with respect to members of the personal staff of an elected office holder are the following:

- (1) Is the person's employment entirely at the discretion of the elected officeholder?
- (2) Is the position not subject to approval or clearance by the personnel department or division of any part of the government?
- (3) Is the work performed, outside of any position or occupation established by a table of organization as part of the legislative branch or committee or commission, formed by an act of the legislature?
- (4) Is the employee's compensation dependent upon a specific appropriation or is it paid out of office expense provided to the officeholder?

See 29 U.S.C.A. § 203(e); *see also* 29 C.F.R. § 533.11.

Policy-Making Appointees

Policy-making appointees are individuals appointed by an elected official and intimately involved in the creation of policy. The position must be outside of civil service. To fall under the policy-making appointee exception, a staff member must be appointed by and serve solely at the pleasure and direction of the elected official. *See* 29 U.S.C.A. § 203(e); *see also* 29 C.F.R. § 533.11. The crucial distinction is between appointees who actually make and formulate policy and appointees who simply implement and apply policies made by others. *See Anderson v. City of Albuquerque*, 690 F.2d 726, 801 (10th Cir. 1982).

Immediate Legal Advisors Not Covered by Personnel Rules

Immediate legal advisors not covered by personnel rules are not covered by the FLSA. *See* 29 U.S.C.A. § 203(e)(2)(C)(V). The exclusion is limited to staff who serve as advisors on constitutional or legal matters and who are not subject to the civil service rules of the employing agency. *See* 29 U.S.C.A. § 203(e); *see also* 29 C.F.R. § 533.11.

This provision excludes some city or council attorneys. The exclusion depends on the immediacy of the legal advisor's contact with the elected official. *See Ramirez v. San Mateo County District Attorney's Office*, 639 F.2d 509 (9th Cir. 1982); *see also Wall v. Coleman*, 393 F.Supp. 826 (S.D.GA 1975) and *Gearhart v. Oregon* 410 F.Supp. 597 (D.OR 1976).

Independent Contractors

Independent contractors employed by public entities are not covered by the FLSA. The "economic reality test" established in *Doty v. Elias*, 733 F.2d 720 (10th Cir. 1984) can be used to determine whether the private employer is an independent contractor:

The focal point in deciding whether an individual is an employee is whether he or she is economically dependent on the business to which he or she renders service or is, as a matter of economic fact, in business for himself or herself. In applying this test, the courts generally focus on five factors:

- (1) the degree of control exerted by the alleged employer of the worker;
- (2) the worker's opportunity for profit or loss;
- (3) the worker's investment in the business;
- (4) the performance of the working relationship; and
- (5) the degree of skill required to perform the work.

If the private employer does not meet the economic reality test, the contractor must be treated as an employee for FLSA purposes. *See Doty* at 723-4; *see also Rutherford Food Corp. v. McComb*, 331 U.S. 722 (1947).

continued next page

The Department of Labor established an economic reality test as well in a Wage and Hour Opinion Letter dated June 23, 1986:

- (1) the extent to which services rendered are an integral part of the employer's business;
- (2) the permanency of the relationship;
- (3) the amount of the worker's individual investment in facilities and equipment;
- (4) the opportunities for the worker to experience profit and loss; and
- (5) the degree of initiative, judgment or foresight exercised by the individual who performs the services.

If an independent contractor does not meet these tests, the individual must be considered an employee for FLSA purposes.

Prisoners

Prisoners required to work for the government are generally not considered employees under the FLSA. If a prisoner is contracted out to a private company or individual for work, the FLSA would apply and the private company or individual should follow the provisions of the act. *See* Department of Labor *Field Operations Handbook* ¶ 10b27.

Trainees

Individuals who are not yet employees but are true "trainees" can be excluded from FLSA coverage. The Department of Labor issued guidelines on determining who falls under this exclusion in Wage and Hour Opinion Letter, Jan. 6, 1969:

Whether trainees are employees of an employer under the acts will depend upon all of the circumstances surrounding their activities on the premises of the employer. If all six of the following criteria apply, the trainees are not employees within the meaning of the FLSA:

- (1) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school.
- (2) The training is for the benefit of the trainees.
- (3) The trainees do not displace regular employees, but work under close observation.
- (4) The employer that provides the training derives no immediate advantage from the activities of the trainees, and on occasion his operations may actually be impeded.
- (5) The trainees are not necessarily entitled to a job at the completion of the training period.
- (6) The employer and the trainees understand that the trainees are not entitled to wages for the time spent in training.

Volunteers

Volunteers are not considered employees under the FLSA but are considered separately due to their special status. The 1974 regulations to the FLSA placed strict criteria upon which public workers could be exempt as volunteers. The 1987 regulations broadly construe the provisions governing volunteers.

Volunteers are defined as individuals who perform hours of service for a public agency for civic, charitable or humanitarian reasons with no expectation, promise or receipt of compensation for services rendered. If these conditions are met, the individual will not be subject to the FLSA. *See* 29 C.F.R. § 533.101(a).

Workers may be considered volunteers and thus excluded from coverage under the FLSA even if they receive "reasonable benefits," "nominal fees" or expenses - or a combination of all three - for their work. *See* 29 U.S.C.A. § 203(e)(4)(A); *see also* 29 C.F.R. § 533.106.

Examples of expenses are a uniform allowance or reimbursement for reasonable cleaning expenses for a school crossing guard and out of pocket expenses incurred while volunteering. Examples of reasonable benefits are including volunteers in group insurance and pension plans.

Whether a fee is considered nominal must be determined on a case-by-case basis. The DOL will examine the total amount paid, including fees, benefits and expenses, in the context of the economic realities of the total situation. A fee will not be considered nominal if it is merely a substitute for compensation or is tied to productivity, although payment may be made on a per-call or similar basis.

Examples include: distance traveled; time and effort expended by the volunteer; whether the volunteer has agreed to be available around the clock or only during specified time periods; and whether the volunteer provides services as needed or throughout the year. A volunteer who agrees to provide services periodically on a year-round basis may receive an annual stipend or fee and still be considered a volunteer.

The only significant restriction on volunteering is one banning employees from volunteering and performing, during their off-duty hours, the same types of services as they are employed to provide. Public employees who perform volunteer work for other agencies not treated as separate by the Census of Governments may be barred from doing volunteer work of the same type which they are employed to perform.

Less than Five Test

In addition, if a law enforcement or fire protection agency employs less than five employees, the employees are not entitled to overtime compensation. *See* 29 U.S.C. § 201(13)(b)(20). The fire protection and law enforcement

activities are considered separately; therefore, if a municipality has four or fewer fire protection employees and five or more law enforcement employees, the municipality may claim the exemption for the fire protection employees but not for the law enforcement personnel. *See* 29 C.F.R. § 553.200(b).

Both full-time and part-time employees are counted when considering this exemption. *Id.* Additionally, no distinction is made as to leave status of the employee or whether or not the employee is on duty. *Id.* The section is applied on a work week basis. *See* 29 C.F.R. § 553.200(c).

In conclusion, it is imperative that each municipality make a determination as to the exempt status of each employee. The result of not doing so can lead to costly litigation and back wages to the employee for time not compensated in accordance with the Fair Labor Standards Act. ■

The Power To Save A Life Defibrillators to the Rescue

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Suppliers— continued from page 4

SAR uses a local employment agency to do all of its hiring and says it will continue to hire from the Scottsboro community as the company expands.

And there is plenty of room for growth. Deason says creating an atmosphere conducive to industry and fostering good relationships with companies that locate to Scottsboro will draw more employers to the area. By working closely with companies to ensure their wellbeing, attracting more businesses to Scottsboro becomes easier.

“Tier suppliers are very important and we try to have an inviting atmosphere for them,” Deason said. “They turn into recruiters for us when they do well, advertising by word of mouth.”

Deason says Scottsboro’s inviting atmosphere stems from access to quality healthcare and schools and good working relationships between the mayor, city council and county commission. All of these, he says, are attractive to investors and important to industries and their suppliers when they consider locating to an area.

“Industry looks for a progressive city on the move,” Deason said.

Vehicle manufacturers and their suppliers are undoubtedly on the move to locate to Alabama. Davis says the chemistry in Alabama is conducive to automobile manufacturing, making the state a hot spot for industry growth. So much so, he says, that eyes and ears are turning to Alabama for advice.

“Other states are asking us what we are doing [to attract industry],” Davis said.

That being said, experts agree the boom will not last forever without the industry in the state diversifying and planning for the future. Davis says Alabama needs to look at the failures of places like Detroit, which was also once a hotbed of auto activity, and learn from those mistakes.

“We don’t need to think that because things are good now that they will always be that way. We don’t want to be complacent,” Davis said.

Miller says making municipalities in the Black Belt more attractive to development is important to the permanence of the state’s auto industry. While auto manufacturers tend to settle near larger communities, tier suppliers dot the rural landscape of Alabama.

Locating more tier companies in these areas, implementing waste-eliminating manufacturing processes like lean and hiring locally boosts not only the local economy but also production and employment. The presence of successful tier suppliers attracts other industry and business in turn and growth ensues.

Making each municipality in the state the kind of progressive, industry-friendly community Deason speaks of is well within the realm of possibility for Alabama. Tier suppliers feed Alabama’s auto industry; without them, keeping the business of making cars booming would be impossible. Their longevity – based on quality manufacturing, a strong workforce and the ability to grow – may be the very thing that keeps Alabama’s auto industry flourishing. ■

CMO SESSION 22

THE ALABAMA STATE LEGISLATURE: A REAL-WORLD EXPERIENCE

Cost: \$75 – includes lunch

Who should attend this CMO program? Anyone who is interested in the inner workings of the Alabama State Legislature. Specifically, this CMO program is for municipal officials who feel passionately about having a voice in the Alabama Legislature on issues affecting municipal government. Being actively involved in the legislative process ensures that no bill inhibiting municipalities from functioning effectively becomes law. The fact that this is an election year changes the dynamics of the legislative process and this CMO program will focus on how those dynamics relate to, and potentially impact, the League’s Legislative Package.

During this workshop, the League staff will introduce you to the legislative process; provide you with an overview of the League’s Legislative Package; brief you on any problems we anticipate this session; and then escort you to the State House for a face-to-face opportunity to meet with and lobby your state representatives.

This CMO session will be held at League Headquarters in Montgomery on four separate dates. Sessions will fill on a “first-come, first-served” basis with a 25-person limit on each session.

- **Tuesday, February 21**
- **Tuesday, February 28**
- **Tuesday, March 7**
- **Tuesday, March 28**

This session qualifies for **five (5)** hours of basic and advanced credit toward the designation of Basic or Advanced Certified Municipal Official. Officials who have completed both the Basic and Advanced CMO Programs will receive five (5) hours of continuing credit for attendance of this session.

**For more information, call
Theresa Lloyd, the League’s CMO Program
Administrator, at 334-262-2566**

Municipal News Briefs

Compiled by Donna Morrill, Communications Intern, ALM

AMFund Closes First Set of Municipal Loans

The Alabama Municipal Funding Corporation (AMFund) wishes to thank the following municipalities: Attalla, Childersburg, Foley, Gadsden, Littleville, Louisville and Southside, for being the first group of borrowers from its \$50 million loan program. These seven municipalities borrowed nearly \$18 million to finance or refinance new construction, improvement and refinancing projects in their municipalities, and paid less than one percent in costs of issuance and underwriters' discount. The notes are rated Aa1 by Moody's.

AMFund also extends its gratitude to: U.S. Bank; J.P. Morgan; Bradley, Arant, Rose & White, LLP; Lawrenson Services, Inc.; Sterne Agee & Leach, Inc. and Thornton Farish, Inc., for assisting in the planning, creation and execution of the program. AMFund looks forward to working to invest in the future of Alabama's municipalities for years to come.

Buildings Demolished for Future Park in Jasper

An eyesore in the Coke Oven/Frisco community is now gone thanks to the efforts of Councilmember Sandi Sudduth. A park will be built on what was once four acres of dilapidated buildings. In December 2004, Sherman Ready Mix offered the land to the city, a project Sudduth had worked on since taking office. Not only was the area an unpleasant sight, it was potentially dangerous. "All the buildings were unsafe, about ready to fall in on themselves," Glenn Ferguson, Jasper Street Department supervisor, said.

Hurricane Re-entry Zone Changes in Orange Beach

City leaders in Orange Beach are revising hurricane re-entry zones for 2006. Seven new or redefined zones have been added to the map, bringing the total number of re-entry and evacuation zones in the city to 15. The smaller zones will help residents in and out of evacuation zones more quickly, and property owners with less extensive damage will be allowed to return sooner. The addition of new zones will also help with planning in newly developed and recently annexed areas.

Miracle Field Coming to Opelika

The Opelika City Council awarded \$13,000 to Envision Opelika for the building of a Miracle Field, which would give children with disabilities the opportunity to play baseball.

The Miracle Field turf is made out of a cushioned, rubberized grass, making it ideal for use by people in wheelchairs and those using walking assistance devices. The city's Lion's Club presented the idea to build the field to Jim Rew, chairman of the Miracle League, and to the city council. But before the Miracle League can begin construction, it must raise \$650,000 to cover the costs of turf, bleachers, fencing, utilities, concession stands and other field necessities.

On Jan. 21, local businesses assisted the project by holding a silent auction in conjunction with the Sports Academy's first anniversary celebration. Area businesses donated auction items, and Major League Baseball stars Tim Hudson (Atlanta Braves), Gabe Gross (Toronto Blue Jays) and Scott Sullivan (Kansas City Royals) were present for autograph and photo sessions. The auction raised \$10,000, with all proceeds going to the Miracle Field project. Rew has also contacted Oprah Winfrey and the television show "Three Wishes" to build support for the Miracle Field. In addition, the Miracle League is looking into holding a Slugger Derby as another fundraiser.

Arab Senior Center Opens

The city of Arab formally opened its new senior center on Jan. 22. The \$2.1 million, 11,800-square-foot building contains a banquet room with an audio-visual system and several activity rooms, some equipped with Internet access. The center also has a basement that doubles as a storm shelter, ensuring the safety of people present during inclement weather. The Arab Chamber of Commerce will hold its annual banquet at the center in March, with Gov. Bob Riley attending.

Residents, City Planners Discuss Vision for Florence's Future

More than 100 residents recently met with city planners to discuss their visions of Florence's future. Participants were asked to share their ideas for the city's future. Responses included attracting and retaining young people to Florence, a more pedestrian-friendly downtown, access to an interstate and construction of a major arena. Improvements to roads and sewers and beautifying the city's highways and entrances were also suggested. The group also said city green space protection and retention of downtown retail were priorities. Monthly meetings will continue through June and culminate in public hearings.

Pelham Parks Department Relocates Offices

The Pelham Parks and Recreation Department has moved its offices to the city's refurbished train depot off of U.S. 31. The 96-year-old building recently underwent a \$65,000 renovation that included a tin roof, a handicapped-accessible bathroom and a return to the building's original color scheme of olive and khaki.

Downtown Areas Making a Comeback

Cities throughout Franklin County are making efforts to revitalize their downtown districts. Red Bay obtained a \$12,000 grant last fall from the Appalachian Regional Commission for a strategic master plan study with Auburn University's Center for Architecture and Urban Studies in Birmingham. The study is part of the center's Small Town Design Initiative Program, which works to draw business back to downtowns.

The Russellville city council obtained a \$400,000 grant for a large street-scape project that will alter the look of its downtown area. The council also wants to change city ordinances to attract businesses to Jackson Avenue and make the downtown area more pedestrian-friendly.


Hallmark Channel Films in Andalusia

Hallmark Channel crews recently visited Andalusia to film an installment of its upcoming reenactment series "Everyday Heroes." The filming involved reenacting an incident where three children nearly drowned but were rescued by an "everyday hero." The installment featured several local citizens, including area children. The segment, to be shown on the Hallmark Channel, might be aired as early as May.

Tuscumbia Fire Department Awarded Grant

The Tuscumbia Fire Department has been approved for a \$203,949 equipment grant from the U.S. Department of Homeland Security's Office for Domestic Preparedness. The grant is part of the Assistance to Firefighters Grant Program, which distributes millions of dollars in direct federal assistance to fire departments nationwide.

Fire Chief David Cole said most of the grant money will be used to purchase protective gear – that some air packs and turnout gear, protective equipment firefighters wear when responding to emergency calls, need replacing. In addition, new communications equipment will be installed in the department's fire engines. The department will also purchase a thermal-imaging camera, which detects heat sources, to help firefighters locate people in smoke-filled buildings.



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VL16330-B 08/2004



J.R. Sanders

Submitted by: Kathleen Ryan, Goshen Town Council

The town of Goshen was stunned by the news of **J.R. Sanders'** death in a farming accident. In fact, shock and deep sadness spread throughout south and central Alabama at the loss of a man who touched so many lives.

A prominent farmer, community leader and former mayor, 81-year-old Sanders always exuded strength, health and vitality.

"It's hard to believe he's gone. His death is a great loss to so many people," Cricket Snyder, longtime friend and former Goshen town clerk, said. "J.R. was elected to the town council the year I was married and stayed on it serving in various capacities, including mayor, until just last year. That's 37 years of service. Isn't that something? He did it because he loved this town and all the people in it."

In 1996, Sanders received a Distinguished Service Award from the Alabama League of Municipalities for 30 years of service to the town of Goshen. He joined the town council in 1954. When Mayor Wood died in office, Sanders completed his term serving as mayor from 1974 to 1976. After his son Michael was elected mayor, Sanders once again joined the council where he continued his tireless service to the town of Goshen.

When Sanders helped draw up the plans for the new town hall, helped secure funding to make it all possible, supervised the construction process and stood proudly at the dedication, he could not have known his own wake would be held within its walls just a few years later. Yet there was not a more fitting spot to honor the man who devoted his life to his family, friends and hometown.

More than 600 people stood in line for hours waiting to get into the town hall to pay their final respects. The Goshen Baptist Church, where the funeral service was held the following day, overflowed with mourners.

A farmer, mechanic and inventor, Sanders was a strong believer in volunteering his time, talents and equipment. If there was a job in the town that needed doing he was there. From fixing broken pipes at all hours of the night to burying stray dogs, to him, it was all part of being a good citizen.

Among his many contributions were several firsts for the community. Back when the town drew its water

from an old pump that strained to meet Goshen's growing needs, Sanders would often hook the system up to his own pump to keep the town supplied. He spent countless hours researching and helping to secure funding for a new water system, complete with fire hydrants, for the town. He then installed it all, with the help of family, friends and his own farmhands.

Sanders was instrumental in getting Goshen its first fire truck. He found an old army fourwheel drive surplus truck that he converted into a fire truck by rigging a tank and a pump onto the back of it. He housed it under his own barn and for years answered all the fire calls in Goshen.

Sanders also set up the town's first garbage collection system. Once a week, he and his sons would drive by everyone's house, throw the garbage into the back of his pickup truck and haul it off to the dump. On two occasions Sanders arranged for the town limits to be extended at no cost to the town - all this and more for the town council pay back then of just three dollars a month. ■

Perry Young

Perry Young, former mayor of Lineville, died Dec. 12, 2005. He served as the city's mayor for 12 years. Not long before his death, Young was honored by the Lineville City Council and the Clay County Commission with resolutions praising him for his work. ■

Robert Thomas

Robert Thomas, Attalla city councilman, died Dec. 20, 2005. He was 68, serving his first term on Attalla's city council. Thomas had battled prostate cancer for some time but did his best not to allow the disease to hinder his participation in municipal government. Thomas had been a trolley driver for the city since November of 1999 but had to stop working in October because of his health. ■

Wallace Thompson

Wallace Thompson, former mayor of Sylvan Springs, died Dec. 31, 2005. He was 84, and served four terms as mayor, 1988-2004. He is survived by two sons, a daughter, 12 grandchildren and one great-grandchild. ■

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