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December 5, 2001

ADVISORY OPINION NO. 2001-52

The Honorable Joan D. Ford
Mayor, Town of Ragland
146 Church Street
P.O. Box 10
Ragland, Alabama 35131

Conflict Of Interest/Former Member Of
Town Council Serving As Part-Time Police
Dispatcher.

A former member of the Ragland Town
Council may be compensated to serve as a
part-time police dispatcher, when his term
on the Town Council expired prior to his
expressing any interest in the position or
otherwise discussing the matter with Town
officials.

Conflict Of Interest/Current Member Of
Town Council Serving As Part-Time Police
Dispatcher.

A current member of the Ragland Town
Council may not be compensated to serve as
a part-time police dispatcher.

Dear Mayor Ford:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May the Town of Ragland hire on a part-time basis a former member of the Town Council and a current member of the Town Council to serve as part-time police dispatchers?

FACTS AND ANALYSIS

The facts as have been presented to this Commission are as follows:

Joan D. Ford is the Mayor of the Town of Ragland, Alabama. Ragland has a population of 1,918. They have three full-time dispatchers and one part-time dispatcher to work weekends or when one of the full-time dispatchers is sick. She states that it is very hard to keep part-time dispatchers, as the pay is very low.

Mayor Ford states that there are two individuals who worked as dispatchers before they ran for Town Council. One is no longer a member of the Council but has not been out of office for two years. He did not express interest in the position, as he has a full-time job, nor did any discussions regarding the part-time position take place prior to his term of office expiring.

The other individual is currently serving as a member of the Town Council. He had formerly worked as a part-time dispatcher prior to his election to the Council and resigned upon his election.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24) defines a public official as:

"(24) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2."

Section 36-25-5(a) states:

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family

member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.”

Section 36-25-1(8) defines a conflict of interest as:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs.”

It would not violate the Alabama Ethics law for a former member of the Town Council to be compensated to serve as a part-time police dispatcher; provided, that any conversations or discussions regarding the position did not take place until after his term of office expired. In addition, he may not have expressed interest in the position nor applied for the position until after his term expired.

A conflict of interest does exist for a sitting member of the Town Council to be compensated to serve as a part-time police dispatcher. He may volunteer his time to do so but may not be compensated for it.

Based on the facts as provided and the above law, a former member of the Ragland Town Council may be compensated to serve as a part-time police dispatcher, when his term on the Town Council expired prior to his expressing any interest in the position or otherwise discussing the matter with Town officials.

Further, a current member of the Ragland Town Council may not be compensated to serve as a part-time police dispatcher.

CONCLUSION

A former member of the Ragland Town Council may be compensated to serve as a part-time police dispatcher, when his term on the Town Council expired prior to his expressing any

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interest in the position or otherwise discussing the matter with Town officials.

A current member of the Ragland Town Council may not be compensated to serve as a part-time police dispatcher.

AUTHORITY

By 5-0 vote of the Alabama Ethics Commission on December 5, 2001.



Lewis G. Odom, Jr., Esquire
Chair
Alabama Ethics Commission