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May 30, 1996

## ADVISORY OPINION NO. 96-53

Mr. Albert L. Shumaker  
270 East Main Street  
Centre, Alabama 35960

Conflict Of Interests/ Council Member Proposing Voting Or Otherwise Participating In The Discussion Of The Adoption Of An Ordinance To Annex Property Owned By The Council Member In The City Limits.

Conflict Of Interests/ City Council Adopting Resolution Requesting A Legislative Delegation Adopt Appropriate Legislation To Annex Lands Owned By A Council Member Into The City Limits Of The City.

A City Council Member may not propose, vote, or otherwise participate in any matter in which he, or a family member has any financial gain or interest.

A City Council may adopt a resolution requesting that the Legislative Delegation adopt appropriate legislation to annex land owned by a member of the Council into the City limits; however, the Council Member owning the property may not propose, vote, or otherwise participate in the matter.

Mr. Albert L. Shumaker  
Advisory Opinion No. 96-53  
Page two

Dear Mr. Shumaker:

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.

### **QUESTIONS PRESENTED**

(1) Is it appropriate for the City Council to adopt a resolution requesting that the Legislative Delegation adopt appropriate legislation to annex land owned by a member of the City Council into the City limits?

(2) Is it appropriate for the Council Member, who owns the property to propose, vote, or otherwise participate in the discussion of the adoption of such a resolution?

### **FACTS AND ANALYSIS**

Woodrow Raines, a member of the Centre, Alabama City Council owns a small parcel of land consisting of approximately one acre, and which is located just north of and adjacent to the City limits of the City of Centre, Alabama. The property is located almost entirely within the flood easements owned by Alabama Power Company, and there are no buildings, businesses, or other structures located on the property. Because of the flood easement, no permanent structure could be constructed on the property. Mr. Raines has requested that this parcel of land be annexed into the City limits, and has proposed that this annexation occur through a legislative act.

Based on the concerns contained in the questions presented, the City Council had requested this opinion.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-9(c) states:

*"(c) No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest."*

The Ethics Law specifically prohibits a member of a public body to vote or otherwise participate in any matter in which that public official or a family member has any financial gain or interest. In the situation before the Commission, the fact that property will be annexed into the City limits, indicates that there will be tax consequences which would provide financial gain or

Mr. Albert L. Shumaker  
Advisory Opinion No. 96-53  
Page three

benefit to the public official.

Therefore, Mr. Raines may not propose, vote, or otherwise participate in the discussion of the adoption of the proposed resolution. Likewise, he should not attempt to influence other members of the Council in their votes on the legislation.

Likewise, a City Council may adopt a resolution requesting that their Legislative Delegation adopt appropriate legislation to annex property owned by a Council Member into the City limits; however, the Council Member owning the property may not vote or otherwise participate in the matter.

#### CONCLUSION

A City Council Member may not propose, vote, or otherwise participate in any matter in which he, or a family member has any financial gain or interest.

A City Council may adopt a resolution requesting that the Legislative Delegation adopt appropriate legislation to annex land owned by a member of the Council into the City limits; however, the Council Member owning the property may not propose, vote, or otherwise participate in the matter.

#### AUTHORITY

By 4 - 0 vote of the Alabama Ethics Commission on May 30, 1996.



H. Dean Buttram, Jr.  
Chair  
Alabama Ethics Commission