

December 13, 2004

Regular Monthly Meeting

Meeting was brought to order by Mayor, Sue Blackmon. Clerk called roll. All members were present.

Financial Reports for Road Fund, Capital Improvements Fund and General Fund were read for October and November, 2004 and approved by Council. Marilee also read the General Fund reports from 4/02 thru 9/04. Reports were approved with exception of ending balance for September and Beginning for October being off. Marilee will look into difference and inform council of the difference. It was also approved to adjust computer records to match bank statement. Transfer of \$3,346.19 will be made to the road fund for gas taxes from the general fund. These taxes were placed in general fund from direct deposits from state.

Minutes were read by Clerk and were approved as read. Larry Calvert questioned the meeting that was held on November 8, 2004 by town citizens and the notes taken during that meeting. After discussion of legality of meeting and notes, it was decided that notes would be left in meeting minute's book for information. Also, it was acknowledged that the meeting was not a regular monthly meeting but a community meeting of some of the town's citizens.

Old Business: Bill Ivey asked if recorded documents had come back for Van Mulvehill's property that was brought into the town. Bill stated that he thought a resolution with recorded documents should be added to town documents.

Marilee brought up Amendment 666 fund to remind council that resolution needs to be submitted by 2/05 in order to take advantage of funding.

New Business: Marilee brought up letter received asking for updates to map of the Town's city limits. It was decided that Sue Blackmon, Bill Ivey and Marilee would work on updating descriptions and drawings to be submitted.

Larry Calvert read the procedure from handbook for conducting council meetings. Book stated under Council Meetings: Problems frequently arise over public participation in council meetings. This is probably due to the misconception of a council meeting as a public hearing. It is not. A council meeting is intended as a gathering of elected officials brought together to conduct the affairs of the municipality. The meeting is open to the public not such much to obtain citizen input, but to allow the public to observe the affairs of government to ensure appropriate and legal representation by their elected officials. Citizens have no right to speak at a council meeting, although most council does set aside a time for public comment. The Sunshine or Open Meetings Law grants citizens the right to be present at public meetings, but does not grant them an absolute right to express their views at the

meeting. A public body may establish reasonable guidelines governing public participation in the meeting. Attorney General's Opinion 98-00134.

Sue Blackmon brought up another subject from handbook regarding elected officials being noticed 24 hours prior to special meetings being held. She also read regarding the mayor conducting meetings. Sue mentioned disciplinary action for absence of Council at 9/04 meeting. Bill Ivey stated in order to remove a council member, including mayor, from office that individual would have to be impeached. The council had already voted to discipline absent members by not paying them monthly fee if they were not present. The Mayor grants permission for people to speak. The Council sets order of meeting. Motion was carried to set up special meeting.

No other business was brought up so Mayor Blackmon opened the floor to citizens in attendance. Sandy Wells spoke regarding council not being in attendance to be sworn in the first week of October, 2004. Council members were not able to attend that meeting so Larry Calvert, Jim Calvert, Pam Sitton and Mellany Piper were sworn in 10/12/04. Bill Ivey and Sue Blackmon were sworn later that week.

Motion was made to adjourn meeting. Motion carried.

Meeting adjourned.

Marilee Calvert
Town Clerk

	Transfer from Road Fund to General Fund	Transfer from General Fund to Road Fund
Jul-04	\$0.00	\$226.11
Jun-04	\$94.49	\$231.40
May-04	\$50.42	\$206.33
Apr-04	\$79.83	\$107.74
Mar-04	\$187.95	\$210.59
Feb-04	\$0.00	\$209.04
Jan-04	\$218.49	\$210.21
Dec-03	\$67.60	\$220.08
Nov-03	\$46.65	\$200.72
Oct-03	\$102.25	\$230.76
Sep-03	\$85.25	\$227.40
Aug-03	\$0.00	\$199.77
Jul-03	\$107.97	\$228.45
Jun-03	\$0.00	\$216.92
May-03	\$53.05	\$194.62
Apr-03	\$41.57	\$193.37
Mar-03	\$0.00	\$207.15
Feb-03	\$209.71	\$209.32
Jan-03	\$43.75	\$206.36
Dec-02	\$0.00	\$212.25
Nov-02	\$103.71	\$0.00
Oct-02	\$112.32	\$226.15
Sep-02	\$102.30	\$228.33
Aug-02	\$87.12	\$198.16
Jul-02	\$0.00	\$225.23
Jun-02	\$102.21	\$216.37
Total	\$1,896.64	\$5,242.83
Net to Road Fund		\$3,346.19

even if the cost of the referendum is paid for with private funds. Attorney General's Opinion 94-00001. But, a private group may conduct a non-binding referendum for a municipality, although the municipality may not participate other than as private citizens and the council cannot agree to be bound by the referendum. Attorney General's Opinion 97-00257. Under state law the municipality must submit some questions to the voters to make the final decision. An official must be sure whether a referendum is required, or even allowed, prior to agreeing to allow the public to vote on specific issues.

The Division of Duties Between Elected Officials

One of the most misunderstood aspects of municipal government is the separation of powers between the mayor and the council. Like government on the state and federal levels, municipal government is divided into three separate but equal branches: executive, legislative and judicial. Each of these branches has distinct duties, powers and restrictions on how far it can intrude into the affairs of the other branches.

At the municipal level, the mayor serves as the head of the executive branch. As such, the mayor is responsible for overseeing the day-to-day operations of the municipality. He or she oversees municipal employees, makes sure that bills are paid on time, executes municipal contracts and, in general, performs many of the same functions as a C.E.O. of a private corporation.

In municipalities of less than 12,000 inhabitants, the mayor also presides over council meetings and serves as a member of the council. In these cities and towns, the mayor may vote on any issue before the council, introduce measures and participate in debates to the same extent as any other member of the council.

In cities with populations of more than 12,000, the mayor is not a member of the council. However, he or she has a veto over any permanent action taken by the council. The council can override the veto by a two-thirds vote.

The council is the legislative branch. Officials must understand that individual councilmembers, acting alone, have no greater power or authority than any other citizen of the municipality. The council can only act as a body at a legally convened meeting.

The council has authority over the finances and property of the municipality. The council establishes policies, passes ordinances, sets tax levels, determines what sorts of services the municipality will offer and has authority over all other legislative aspects of municipal government.

Council Meetings

Problems frequently arise over public participation in council meetings. This is probably due to the misconception

of a council meeting as a public hearing. It is not. A council meeting is intended as a gathering of elected officials brought together to conduct the affairs of the municipality. The meeting is open to the public not so much to obtain citizen input, but to allow the public to observe the affairs of government to ensure appropriate and legal representation by their elected officials. Citizens have no right to speak at a council meeting, although most councils do set aside a time for public comment. The Sunshine or Open Meetings Law grants citizens the right to be present at public meetings, but does not grant them an absolute right to express their views at the meeting. A public body may establish reasonable guidelines governing public participation in the meeting. Attorney General's Opinion 98-00134.

There are three different types of council meetings. The time of regular meetings – which are held once or twice monthly, depending on the population of the municipality, is established by the council at its organizational meeting and is usually set out in the council's rules of procedure. Adjourned meetings are merely continuations of earlier meetings which were delayed until a later time.

Most controversies concern special meetings. Special meetings are called pursuant to a procedure set out in the Alabama Code. Controversy usually arises over the type notice the Code requires in order to conduct a special meeting.

All elected officials must receive notice of the meeting and have the opportunity to attend. This guarantees all citizens the right to participate in the affairs of the government through their representatives. Additionally, in *Slawson v. Alabama Forestry Commission*, 631 So. 2d 953 (Ala. 1994), the Alabama Supreme Court held that the Alabama Sunshine Law requires that reasonable notice be given to the public of special meetings, unless an emergency exists.

Similar problems arise over public records. Clearly, most records maintained by a municipality are public. However, controversies over what this means are common. Everyone is not entitled to see public records any time they wish. The municipality is entitled to establish reasonable procedures governing access to public records. Citizens who wish to view public records must follow these procedures. The custodian of records may ask for a reason for viewing the records, and must be convinced that the reason is legitimate. Also, the municipality may charge for making copies.

Additionally, not all records are public. Some records, such as on-going police investigation files, some material in personnel records and similar records which contain information not for public consumption, are not open to the public. Further, individual councilmembers have no greater right to inspect municipal records than do any other members of the public.