

OFFICE OF THE  
ATTORNEY GENERAL

DON SIEGELMAN  
ATTORNEY GENERAL  
MONTGOMERY, ALABAMA 36130  
(205) 261-7400



STATE OF ALABAMA

JAN 4 1988

88-00095

Honorable Betty Jo Busby  
Presiding Officer  
Nauvoo Water Works Board  
P. O. Box 186  
Nauvoo, Alabama 35578

Municipalities - Utilities -  
Water and Sewer Boards -  
Offices and Officers

Members of utility boards  
incorporated under Code of  
Alabama 1975, §§ 11-50-310 et  
seq., are appointed by the  
municipal governing body.

Dear Ms. Busby:

The opinion request of the Nauvoo Water Works Board has been received in the Office of the Attorney General. Your opinion request reads, in pertinent part, as follows:

"WHEREAS, the Nauvoo Water Works Board is a utility board and is incorporated,

WHEREAS, the Nauvoo Water Works Board has served a term of three years.

NOW THEREFORE, BE IT RESOLVED, by the Nauvoo Water Works Board of the City of Nauvoo, Alabama to request of the Attorney General of the State of Alabama, to give the Nauvoo Water Works Board some rules and regulations on electing new board members."

We have been informed that the Board was incorporated under the provisions of Act 51-175, now codified as Code of Alabama 1975, §§ 11-50-310 et seq. Under the provisions of Code of Alabama 1975, § 11-50-313 each board of directors of a corporation of this type shall consist of at least three members. Section 11-50-313, in pertinent part, also states:

....

"Any officer of the municipality shall be eligible for appointment and

may serve as a member of the board of directors for the term for which he is appointed or during his tenure as a municipal officer, whichever expires first, and he may receive a fee for his services, provided it is first approved by the board of directors; provided, however, that at no time shall the board consist of more than two officers of the municipality. The directors of the corporation shall be elected by the governing body of the municipality, and they shall be so elected that they shall hold office for staggered terms. The first term of office of one director shall be two years, of another director shall be four years and of a third director shall be six years, as shall be designated at the time of their election, and thereafter the term of office of each director shall be six years; provided, however, that the governing body of any municipality which has heretofore or hereafter authorized the creation of a corporation as provided in this article may, at its option, increase the board of directors from three to five members to serve according to all the conditions and terms set forth in this article. In the event the governing body elects to increase such board of directors from three to five members, one member added to the board shall be appointed for a term of four years and the remaining member for a term of six years, and thereafter the term of each such director shall be six years; provided, that at no time shall such board consist of more than three officers of the municipality; provided further, that any officer of the municipality appointed to serve as a member of the board of directors shall serve for the term for which he is appointed or during his tenure as a municipal officer, whichever expires first.

(b) The governing body of any municipality which has a population of less than 5,000 according to the most recent federal census and which has heretofore or hereafter authorized the creation of a corporation as provided in this division may, at its option, increase the board of directors from five to seven members to serve according to all the conditions and terms set forth in this division. In the event the governing body elects to increase such board of directors from five to seven members, one member added to the board shall be appointed for a term of four years and the remaining member for a term of six years, and thereafter the term of each such director shall be six years; provided, that at no time shall such board consist of more than three officers of the municipality; provided further, that any officer of the municipality appointed to serve as a member of the board of directors shall serve for the term for which he is appointed or during his tenure as a municipal officer, whichever expires first." (Cites omitted)

The information provided to you in this opinion is general in nature as your question is a very general one. You will note that board members are appointed by the governing body of the municipality.

I do hope this response sufficiently answers your question. If, however, you have additional questions, please do not hesitate to contact us.

Sincerely yours,

DON SIEGELMAN  
Attorney General  
By:



CAROL JEAN SMITH  
Assistant Attorney General