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Enslin, Johnston & Pinkston
Post Office Box 100
Wetumpka, Alabama 36092

County Commissions – Funds –
Public Purpose – Elmore County

The Elmore County Commission may contribute, either through a monetary donation or by use of county equipment, to a firefighters' nonprofit association if the Commission determines that such a contribution will serve a public purpose.

Dear Mr. Enslin:

This opinion of the Attorney General is issued in response to your request on behalf of the Elmore County Commission.

QUESTION

May the Elmore County Commission legally assist the Elmore County Firefighters' Association with either funds or equipment used in relation to the construction or landscaping of the Association's firefighter training facility?

FACTS AND ANALYSIS

Your opinion request states:

The Elmore County Firefighters Association is a nonprofit corporation organized under

the laws of the State of Alabama. Its directors are the fire chiefs of the 18 volunteer fire departments in the county, plus the county supervisor for the Alabama Forestry Commission. The association currently owns 4.39 acres of real property in Elmore County. Upon the subject real property, the association is constructing a training facility for use by the volunteer fire departments from throughout the county.

Section 9-3-18 of the Code of Alabama allows a contribution by the county to a volunteer fire department but does not specifically allow for a contribution to a firefighters' non-profit association. The association has made a request for the county to assist the association with some work associated with the construction of a driveway and the contouring and landscaping of the grounds around the training facility. The county would like to assist but is unsure of the legality of such assistance.

Section 94 of the Constitution of Alabama, as amended by Amendment No. 558, prohibits a municipality or county from giving money to a private person, corporation, or association. ALA. CONST. art. IV, § 94; ALA. CONST. amend. 558. Section 94 is not violated when the funds of a governmental entity are appropriated for a public purpose. *Slawson v. Alabama Forestry Comm'n*, 631 So. 2d 953 (Ala. 1994). The Court, in *Slawson*, stated that the question of whether a public purpose is served is "largely within the legislative domain rather than within the domain of the courts." *Id.* at 956. This Office has determined that the governing body may expend public funds if it determines that there is a public purpose involved. Opinion to Donald R. Goetz Sr., Mayor, City of Jasper, dated April 10, 2000, A.G. No. 2000-121; Opinion to Jeff Collier, Mayor, Town of Dauphin Island, dated March 31, 1999, A.G. No. 99-00152. The Supreme Court of Alabama has interpreted that a public purpose "has for its objective the promotion of public health, safety, morals, security, prosperity, contentment, and the general welfare of the community." *Opinion of the Justices No. 269*, 384 So. 2d 1051, 1053 (Ala. 1980), quoting *Clifford v. City of Cheyenne*, 487 P. 2d 1325, 1329 (Wyo. 1971). The Court stated that "the trend among modern courts is to give the term 'public purpose' a broad expansive definition." *Id.* Therefore, the Elmore County Commission may contribute to the firefighters' nonprofit

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association, either through a monetary contribution or use of county equipment, if the Commission determines that such a contribution will serve a public purpose.

CONCLUSION

The Elmore County Commission may contribute, either through a monetary donation or by use of county equipment, to a firefighters' non-profit association if the Commission determines that such a contribution will serve a public purpose.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Terri Olive Tompkins of my staff.

Sincerely,

BILL PRYOR
Attorney General

By:

A handwritten signature in black ink that reads "Carol Jean Smith". The signature is written in a cursive style with a large initial "C".

CAROL JEAN SMITH
Chief, Opinions Division

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