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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Justin G. Williams
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2711 University Boulevard
Tuscaloosa, Alabama 35401

Municipalities – Roads, Highways, and
Bridges – Vacation – Streets – Tuscaloosa
County

The City of Northport may legally close a
public street at its city limits without
actually vacating its public rights in a
portion of the street.

The City of Northport should give
reasonable notice under the circumstances
to afford proper notice to all interested
persons prior to closing a street.

Dear Mr. Williams:

This opinion of the Attorney General is issued in response to your request
on behalf of the City of Northport.

QUESTIONS

(1) Can the City of Northport (“City”) legally
close a public street at its city limits, thereby cutting
off access to another portion of the street that is owned
and maintained by the county without actually vacating
its public rights in a portion of the street pursuant to
section 23-4-1, *et seq.*, of the Code of Alabama?

(2) If the answer to Question 1 is yes, what
notice must the City give to the public to close the
street?

FACTS AND ANALYSIS

In your letter of request, you stated the following:

The City of Northport maintains a portion of Northbrook Drive and that portion is located within the city limits. Prior to the summer of 2007, the street was stubbed out at the city limits and marked as a dead end. An extension of Northbrook Drive was included in future traffic plans by the City of Northport, and the plans called for Northbrook Drive to intersect Dollar Road and continue North to Twin Oaks Road, approximately one mile north of Dollar Road. In the summer of 2007, Tuscaloosa County acquired the right-of-way adjacent to the Northport city limits from the adjacent landowner(s) and extended Northbrook Drive to connect to Dollar Road whereby citizens now use the street as a means of ingress and egress to and from surrounding areas. Currently, there is a request that the City of Northport close the street at the city limits, again rendering Northbrook Drive a dead end.

In your request, you question whether there is an alternative manner, besides the statutory authority set forth in section 23-4-1, *et seq.*, of the Code of Alabama, in which a street may be closed. Moreover, you ask whether this alternative method would divest the City of its public rights within a portion of the street.

Although this exact question has not previously been addressed by this Office, a similar issue was raised in an opinion issued to Honorable Britt Thomas, City Manager, City of Brundidge, dated April 29, 1999, A.G. No. 99-00191. In *Thomas*, the City of Brundidge questioned whether it had the authority to make a street a "dead end" without going through the procedure for closing and vacating a street pursuant to section 23-4-1 of the Code of Alabama. In answering this question, this Office determined that the city should use the vacation procedure to close a portion of a street to make it a dead end. To the extent that this opinion conflicts with the *Thomas* opinion, that opinion is overruled.

Although section 23-4-1, *et seq.*, provides the proper procedure to vacate a street, this particular provision provides little instruction in instances where a municipality may be interested in closing a street and not *per se* vacating a street. It is the opinion of this Office that municipalities have an inherent

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authority to impose reasonable regulations to control traffic and use of streets under its police power. See *Phifer v. City of Birmingham*, 42 Ala. App. 282, 284, 160 So. 2d 898, 900 (1963); see generally, *Cottage Hill Land Corp. v. City of Mobile*, 443 So. 2d 1201 (Ala. 1983) (section 11-52-31 was interpreted as making a municipality responsible for formulating a safer flow of traffic within its jurisdiction and the ingress and egress to its streets and highways). Accordingly, closure of Northbrook Drive would be an exercise of such authority. Because such a closure is an exercise in a municipality's police power, it is the opinion of this Office that such action would not divest the municipality of its authority within the street.

In your second question, you inquire as to the proper notice that the City of Northport should give prior to closing Northbrook Drive. It is the opinion of this Office that reasonable notice that will inform the public of the street closure would be necessary.

CONCLUSION

The City of Northport may legally close a public street at its city limits without actually vacating its public rights in a portion of the street.

The City of Northport should give reasonable notice under the circumstances to afford proper notice to all interested persons prior to closing a street.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact Monet Gaines of my staff.

Sincerely,

TROY KING
Attorney General
By:



BRENDA F. SMITH
Chief, Opinions Division

TK/MMG
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