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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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June 11, 2009

Honorable Larry J. Fetner
Mayor, City of Ashland
Post Office Box 849
Ashland, Alabama 36251-0849

Industrial Development Councils – Boards of Directors – Offices and Officers – Municipalities – Conflicts of Interest – Clay County

An elected official of the City of Ashland may serve on the Clay County Industrial Development Council, which was established under Act 2001-506. This official may vote on matters concerning the City of Ashland only if a conflict of interest does not exist. Questions regarding the presence of a conflict should be presented to the Alabama Ethics Commission for advice and resolution.

Dear Mayor Fetner:

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

QUESTIONS

May an elected official of the City of Ashland serve on the Clay County Industrial Development Council, which was established under Act 2001-506?

If the answer is yes, may the elected official vote on matters concerning the City of Ashland?

## FACTS AND ANALYSIS

In your letter of request, you stated that Act 2001-506 established the Clay County Industrial Development Council ("Council"). The act specifically states that each municipality in the county shall appoint one member for the initial term of office. In setting out the qualifications for a person to be appointed, the act merely states that such persons must be residents and qualified voters of the county. The act does not preclude a local elected official from holding this position. Accordingly, you question whether an elected local official may serve on the Council and, if so, the ability of that person to vote on certain issues.

Act 2001-506 is a general bill of local application. This act states, in pertinent part, as follows:

> Section 1. Pursuant to Amendment 682 of the Constitution of Alabama of 1901, there is created and established the Clay County Industrial Development Council on the first day of the next month following the effective date of this act. The members of the council shall be appointed as follows:
>
> (1) The county commissioners for commission districts 1, 2, and 3 shall each appoint one member who shall serve an initial term of one year.
>
> (2) The county commissioners for commission districts 4 and 5 shall each appoint one member who shall serve an initial term of two years.
>
> (3) Each incorporated municipality in the county shall appoint one member for an initial term of three years.
>
> (4) A consensus of the state legislative delegation for the county shall appoint two members for initial terms of four years.

> When the appointments have been made, the council shall be composed of 11 members who are residents and qualified electors of the county. Thereafter, successor members shall likewise be appointed for terms of four years. . . . Members of the council shall serve without compensation, but they shall be entitled to reimbursement from funds of the council for their actual and necessary expenses incurred in the performance of their actual duties.

2001 Ala. Acts No. 2001-506, 898, 898-99.

As noted in your inquiry, the act does not prohibit an elected official from serving as a member of the Council. Under the established rules of statutory construction, words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000). Therefore, it is the opinion of this Office that a local elected official may be appointed to serve on the Council. *See, generally, Parker v. Hilliard*, 567 So. 2d 1343, 1346 (Ala. 1990) (stating that where the statutory pronouncement is clear and unambiguous, a court must abide by the statute as written).

You also inquire as to whether the elected official that serves on the Council may vote on matters concerning his or her municipality. The answer to this question would be highly fact specific, and any response would depend largely on whether a conflict of interest exists. This Office does not answer questions of fact, but instead, resolves issues surrounding questions of law. ALA. CODE § 36-15-1(1)(b) (2001). This question should be presented to the Alabama Ethics Commission.

## CONCLUSION

An elected official of the City of Ashland may serve on the Clay County Industrial Development Council, which was established under Act 2001-506. This official may vote on matters concerning the City of Ashland only if a conflict of interest does not exist. Questions regarding the presence of a conflict should be presented to the Alabama Ethics Commission for advice and resolution.

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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