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STATE OF ALABAMA
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Honorable Rebecca Narmore
Attorney, Town of Cherokee
301 North Dickson Street
Tuscumbia, Alabama 35674

Municipalities – Streets – Lights – Easements – Public Purpose – Colbert County

A town may pay for and provide street lights to its residents by any means it deems appropriate.

Dear Ms. Narmore:

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

QUESTION

Can the Town of Cherokee pay for and provide street lights that are on utility poles located in an easement that was granted to Sheffield Utilities in the early 1950s?

FACTS AND ANALYSIS

In your letter of request, you state that a series of easements were granted to Sheffield Utilities in the early 1950s. Those easements were acquired to allow Sheffield Utilities to run services to all of the houses along Forrest Drive. The facts further state that an agreement was reached between the Town of Cherokee and Sheffield Utilities to provide street lights throughout the town. The agreement was that Sheffield Utilities would install the lights on the utility poles already in the easement, and the Town of Cherokee would pay for the lights. In accordance

with that agreement, the lights along Forrest Drive have been in place since at least 1953.

It is a long accepted principle of Alabama law that municipalities may engage only in activities authorized by the Legislature. Opinion to Honorable Jay M. Ross, Attorney, Town of Mt. Vernon, dated November 3, 1999, A.G. No. 2000-023. This principle is often referred to as the Dillon Rule and may be stated as follows:

> It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation--not simply convenient, but indispensable.

Id. at 2, *citing New Decatur v. Berry*, 90 Ala. 432, 7 So. 838 (Ala. 1890).

The first prong of the Dillon Rule allows a municipality to engage in activities expressly authorized by the state. Section 11-47-18 of the Code of Alabama provides that "[t]he council or other governing body of any town or city may provide for lighting, sprinkling, cleaning the streets by contract or otherwise." ALA. CODE § 11-47-18 (2008). Given this express authorization, a municipality may provide street lights to its residents.

A town may also be able to provide street lights through the exercise of its police powers. A municipality's police powers "extend to all appropriate ordinances for the protection of peace, safety, health, and good morals of the people affected thereby." *City of Homewood v. Wofford Oil Co.*, 232 Ala. 634, 169 So. 288, 290 (Ala. 1936). If the presence of street lights would provide for the safety of the people within a municipality, then it would be a proper exercise of the municipality's police powers.

CONCLUSION

A town may pay for and provide street lights to its residents by any means it deems appropriate.

I hope this opinion answers your question. 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

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