2012-077

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August 14, 2012

Honorable David H. Bradford
Mayor, City of Muscle Shoals
Post Office Box 2624
Muscle Shoals, Alabama 35662

Honorable Rebecca Narmore
Attorney, Colbert County E-911 Board
301 North Dickson Street
Tuscumbia, Alabama 35674

Municipalities – Ambulance Service – Emergency Management Communications – Districts – Contracts – Competitive Bid Law – Colbert County

The Colbert County E-911 Board should honor a request made by resolution from the City of Muscle Shoals to dispatch, ***within the corporate limits*** of Muscle Shoals, the ambulance service provider that the municipality requests to be dispatched.

Any private ambulance service provider that is selected by the municipality as the exclusive provider within the municipality must be selected in compliance with the Competitive Bid Law.

Dear Mayor Bradford and Ms. Narmore:

This opinion of the Attorney General is issued in response to your requests on behalf of the City of Muscle Shoals and the Colbert County E-911 Board, respectively.

QUESTION

Does the Colbert County E-911 Board have a duty to dispatch Shoals Ambulance Service as the primary provider of ambulance services within the city

> limits of Muscle Shoals based upon a request made in a resolution unanimously adopted by the City Council of Muscle Shoals?

FACTS AND ANALYSIS

The facts presented indicate that the Colbert County E-911 Board ("E-911 Board") has designated Keller EMS as the primary responder for emergency ambulance calls within Colbert County. Recently, the City of Muscle Shoals requested, by resolution, that the E-911 Board designate Shoals Ambulance Service, a private ambulance service, as the primary responder within the municipal limits of Muscle Shoals. In your inquiry, you ask whether the Colbert County E-911 Board has a duty to honor the request made by the Muscle Shoals City Council via resolution regarding an ambulance service provider within the city limits of Muscle Shoals.

In the past, this Office has stated that a municipality may contract with an E-911 district or, by resolution, request that service be provided by a particular provider within the municipality. Opinion to Honorable Roy Sanderson, Mayor, City of Rainsville, dated June 19, 1997, A.G. No. 97-00210. Your inquiry questions the independent authority given to each entity and how these entities should work together.

Although this Office has issued opinions in the past regarding the relationship between an E-911 board and a municipality, none of these opinions have specifically addressed whether the E-911 board must honor a city's request for a primary provider within the corporate limits of a municipality. If anything, those opinions presupposed that the two entities would work in conjunction with one another based upon this Office's recommendation. Accordingly, this opinion seeks to further clarify and explain the statutory provisions involved.

In 1984, the Legislature created the Emergency Telephone Service. Entities created pursuant to this legislation are typically referred to as E-911 districts, and its authority is derived from sections 11-98-1 through 11-98-12 of the Code of Alabama. The term "E911" is defined in section 11-98-1 as follows:

> (3) E911. Enhanced universal emergency number service or enhanced 911 service which is a telephone exchange communications service whereby a public safety answering point (PSAP) designated by the customer may receive telephone calls dialed to the

> telephone number 911. E911 service includes lines, facilities, and equipment necessary for answering, transferring, and dispatching public emergency telephone calls originated by persons within the serving area who dial 911 but E911 service does not include dial tone first which may be made available by the service provider based on the ability to recover the costs associated with its implementation and consistent with tariffs filed with and approved by the Alabama Public Service Commission.

ALA. CODE § 11-98-1(3) (2008).

The purpose for this particular legislation is best gleaned from section 11-98-3 of the Code, which states as follows:

> It has been shown to be in the public interest to shorten the time required for a citizen to request and receive emergency aid. The provision of a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained will provide a significant contribution to law enforcement and other public service efforts by simplifying the notification of public service personnel. Such a simplified means of procuring emergency services will result in the saving of life, a reduction in the destruction of property, quicker apprehension of criminals, and ultimately the saving of moneys. Establishment of a uniform emergency number is a matter of concern and interest to all citizens. It is the purpose of this chapter to establish the number 911 as the primary emergency telephone number for use in communications districts created in municipalities or counties as herein provided.

ALA. CODE § 11-98-3 (2008).

In essence, an E-911 district provides the public with a simplified and unified method for receiving emergency services via the use of a primary three-digit emergency number. Hence, an E-911 district is responsible for the dispatch of services among first responders, i.e., police officers, paramedics, and firefighters, within its service area. Proper dispatch is essential to the quicker apprehension of criminals, timely provision of life-saving techniques, and reduction in the destruction of property. *Id.* The Colbert County E-911

District was created by the Colbert County Commission pursuant to sections 11-98-1 through 11-98-12 of the Code.

In 1975, prior to the creation of chapter 98 of title 11, Emergency Telephone Service, the Legislature created chapter 87 of title 11, Ambulance Service. The authority within this particular chapter is similar to the authority given some nine years later to E-911 districts. The Legislature, seeing that municipalities and counties had a duty to provide for the health, welfare, and safety of its citizens, authorized a municipality or a county to "create and establish, maintain and operate an ambulance service." ALA. CODE § 11-87-1 (2008). These provisions also authorized the governing body of a municipality to "enter into contracts to provide such ambulance service." ALA. CODE § 11-87-3 (2008).

This Office has consistently interpreted section 11-87-3 of the Code as authorizing municipalities and counties to enter into contracts with either public or private ambulance service providers. Opinion to Honorable Hugh Herring, Jr., Mayor, City of Geneva, dated February 11, 1999, A.G. No. 99-00108 at 2; opinion to Honorable A.T. Minor, Mayor, City of Millbrook, dated March 26, 1996, A.G. No. 96-00158 at 3; opinion to Honorable Arnold Teks, City Attorney, City of Florence, dated Nov. 8, 1985, A.G. No. 86-00048 at 1.

This conclusion is supported by both statutory authority and case law. *See* ALA. CODE § 11-40-1 (2008) (authorizing municipalities to contract and be contracted with for any municipal purpose authorized under title 11); *Wilkins v. Dan Haggerty & Associates, Inc.*, 672 So. 2d 507 (Ala. 1995) (holding that a municipality can contract with a private party to further a governmental purpose); *Alabama Ambulance Serv., Inc., v. City of Phenix City, Alabama*, 71 F. Supp. 2d 1188, 1191 (M.D. Ala. 1999) (case in which Alabama city contracted with private ambulance provider).

Nothing in section 11-98-1, *et seq.*, expressly or impliedly repeals the authority of a county or a municipality to establish ambulance service independent of an E-911 district established pursuant to section 11-87-1, *et seq.*, of the Code. Moreover, nothing prohibits the establishment of multiple E-911 districts within a particular jurisdiction.

A municipal police jurisdiction is established pursuant to section 11-40-10 of the Code of Alabama, which states, in pertinent part, as follows:

> The police jurisdiction in cities having 6,000 or more inhabitants shall cover all adjoining territory within three miles of the corporate limits, and in cities having less than 6,000 inhabitants and in towns, such

> police jurisdiction shall extend also to the adjoining territory within a mile and a half of the corporate limits of such city or town.

ALA. CODE § 11-40-10 (2008).

This Office has recognized that a municipality's authority over fire protection and rescue services in the police jurisdiction is not exclusive. Opinion to Honorable John Hollis Jackson, Jr., Attorney, City of Jemison, dated September 9, 2010, A.G. No. 2010-103. Accordingly, this Office has stated the following with respect to providing ambulance service within the corporate limits and within the police jurisdiction of a municipality:

> A municipality may contract with the E-911 district or by resolution request that services be provided by a particular provider ***within the municipality***. Ultimately, how the E-911 services are to be provided ***in the police jurisdiction*** . . . is to be determined by the E-911 Board. In any event, there should be full cooperation between the E-911 Board and the governing body of the municipality to provide the best, most efficient service possible to the citizens within the city and its police jurisdiction.

Sanderson at 3-4 (emphasis added); *see also*, opinion to Honorable Darwin Clark, Chairman, Lawrence County E-911 Communications Board, dated October 20, 2003, A.G. No. 2004-009. The opinion expressed in these previous opinions is restated here and should be applied to the current question. Accordingly, a municipality may, by resolution, request that the E-911 board use a particular ambulance service provider within the corporate limits of the municipality.

Although not specifically asked, this Office notes that any contract that grants an exclusive franchise to a private entity to provide services to the citizens of the municipality is subject to the Competitive Bid Law. Opinion to Honorable Rex Sport, Mayor, City of Luverne, dated February 29, 2012, A.G. No. 2012-040 and to Honorable Thomas T. Gallion III, Attorney, Montgomery County Commission, dated June 9, 2004, A.G. No. 2004-152, *citing Kennedy v. City of Prichard*, 484 So. 2d 432 (Ala. 1986). This particular provision has been interpreted as prohibiting an E-911 board or a municipality from selecting a private ambulance service to exclusively provide service without first competitively bidding this service. *Clark* at 1; opinion to Honorable Carroll L. Watson, Mayor, City of Lincoln, dated January 28, 1997, A.G. No. 97-00095.

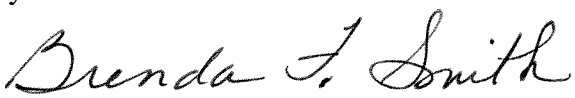
CONCLUSION

The Colbert County E-911 Board should honor a request made by resolution from the City of Muscle Shoals to dispatch, ***within the corporate limits*** of Muscle Shoals, the ambulance service provider that the municipality requests to be dispatched. Any private ambulance service provider that is selected by the municipality as the exclusive provider within the municipality must be selected in compliance with the Competitive Bid Law.

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

Sincerely,

LUTHER STRANGE
Attorney General
By:



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