

86-00040
OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL

H. WARD McMILLAN, JR.
EXECUTIVE ASSISTANT
TO THE ATTORNEY GENERAL

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
EXECUTIVE ASSISTANT

OCT 31 1985

Honorable Richard Walker, Chairman
The Gas Board of the Town of Berry
P. O. Box 387
Berry, AL 35546

Municipalities - Utility Boards -
Parks & Recreation - Funds

Gas Board may transfer surplus
funds directly to incorporated
Park and Recreation Board with
consent of municipality.

Dear Mr. Walker:

The opinion request of the Gas Board of the Town of Berry has been received in the Office of the Attorney General. Your request presents the following information and question:

We received an opinion from your office dated Feb. 17, 1984 concerning the Gas Board of the Town of Berry donating surplus funds to the Town for the Berry Park and Recreation Board to build a park. Your opinion stated that this was legal.

Since this time, the Berry Park and Recreation Board has been incorporated. The Gas Board is also an incorporated Board.

Our request for an opinion from your office is:

Can the Gas Board of the Town of Berry donate money directly to the Berry Park and Recreation Board when there is surplus money available after all bonds are paid for the year?

As noted in the Opinion to Richard Walker, Gas Board of the Town of Berry, under date of Feb. 17, 1984, surplus money of the Board may be used "in any lawful manner". That opinion approved transfer of surplus money to the Town of Berry.

Honorable Richard Walker, Chairman
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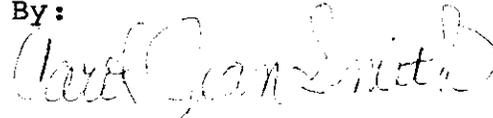
The question now presented is whether surplus money may be transferred directly to another public corporation. This Office can find no authority which would make such a transfer a violation of state law. However, Code of Alabama 1975, § 11-50-314(a)(10) provides that the municipal governing body must, by ordinance, consent to any disposal of property. Therefore, it is the opinion of this Office that, under the facts presented, the Gas Board may, with the consent of the municipal governing body, transfer surplus funds directly to the incorporated Berry Park and Recreation Board, a public corporation.

If we may be of assistance to you in this or any other matter in the future, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By:



CAROL JEAN SMITH
Assistant Attorney General

CAG/CJS/pd