

The purpose of this e-mail is to summarize the points we discussed yesterday.

1. There are 212 cities in Tennessee that operate under a Private Act of the Legislature. That means that the legislature has granted a specific charter for a specific city, and it may or may not be like one or more of the remaining private act charters. Since 1953 newly chartered cities may not be formed as private act cities. They must operate under a general law charter. The general laws of the State of Tennessee authorize a Mayor-Alderman, Council-Manager, Commission-Manager, Metropolitan Government, and a Commission form of government. Every general law city that has, for example a Mayor-Alderman charter is exactly like another city's charter that has a general law charter. In other words the city charter for Gruetli-Laager is exactly like the McMinnville City Charter and the Spring Hill City Charter. Tracy City has a private act charter. Monteagle operates as a general law charter.

2. General laws that apply to cities take precedence over private acts. You could have a private act charter requiring passage of an ordinance on three separate readings to issue bonds. The general law says that cities are authorized to issue bonds by resolution, and resolutions are read only once.

3. Tennessee Code Annotated 7-51-1501 prohibits city employees from qualifying for elected offices in a local municipal governing body unless the city board or council, as the case may be, authorizes service on the board by ordinance. MTAS attorneys have addressed this issue in several opinions as has the State Attorney General in AG96-122. I have discussed this situation at length with Dennis Huffer, our Legal Consultant in the Nashville office. He has advised me that state statutes do not define "employee." That being the case, the definition is based on common usage, or common law. Common usage for the term is an individual working for or on behalf of the city who receives compensation. A firefighter, who may be called a "volunteer" who receives \$500 more or less in payment from the city is a part time employee. A part time employee is an employee. I know that this does not set well with firefighters who volunteer their time to respond to emergencies and for training that they receive. They do not consider the \$500 or so they receive from the city as pay. They consider themselves as volunteers. The situation in Tracy City, where the fire chief and another firefighter, desire to run for alderman, can be remedied in the following manner: (1) the employees resign their positions as a volunteer fire official with Tracy City; or (2) the city passes an ordinance allowing its employees to run for elected office in the city government; or (3) qualify to seek the office and serve if no one challenges it.

4. Conflict of Interest laws relating to cities are found in TCA 6-54-107. This law provides that a person holding office under any municipal corporation shall not contract with the city for the performance of any work which is to be paid for by the city. Such person shall not have any other direct interest in such a contract. It defines direct interest, indirect interest, and controlling interest. It also says that a city elected official may have a conflict of interest and may vote, even in view of the conflict, so long as he/she acknowledges the conflict, makes it public and says that "I declare that my argument and my vote answer only to my conscience and to my obligation to my constituents and the citizens this body represents."

I hope that I have answered your questions, please feel free to contact me if I may provide further information. Our website is: [www.mtas.utk.edu](http://www.mtas.utk.edu). I encourage you to visit it and spend as much time as you can reviewing it. Of particular interest to you should be the Municipal Handbook, which is the Bible on municipal government in Tennessee.

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