

August 15, 2003

The Honorable Jim Calloway
100 South Russell
Portland, Tennessee 37148

Re: Your letter of August 8, 2003

Dear Mayor Calloway:

Gary Jaeckel has referred your letter to me for a response, since I have specific experience in economic development.

1. Should the members of the Industrial Development Board double as members of this Board (The Health, Educational, and Housing Facility Corporation) also? It is permissible for a person to serve as a member of the city's industrial board and also the Health, Educational, and Housing Facility Corporation so long as they meet the requirements of the law. Both boards require directors to be "duly qualified electors of and taxpayers in the municipality." Directors of both corporations serve without pay, and no officer or employee of the city may serve on either board.
2. Alderman Luther Bratton has been serving not only as a member but also as chairman of this board. Do I understand TCA correctly that that is not permitted? Tennessee Code Annotated 48-101-301 (h) provides that no director [of a Health, Educational, and Housing Facility Corporation] shall be an officer or employee of the municipality." Tennessee Code Annotated 7-53-301, relative to industrial development boards, provides likewise that "no director shall be an officer or employee of the municipality." It is not legal for a member of the city's governing board to serve on either of these boards. I am surprised that the city can issue bonds, since there has to be a certification that the boards are legally constituted.

3. Does the “governing body” mean that the City Council appoints these members? Or does it mean the combination of the *Mayor and City Council*? As provided in your City Charter at Article III, Section 1. the governing body is the “city council”, and the city council ”shall be composed of a Mayor and seven (7) aldermen.” There is no question that the Mayor is a member of the City Council; however, it must also be noted that his voting rights are restricted to voting only in the event of a tie vote. [Article III, Section 8, Portland City Charter]. The Mayor may vote on appointments to either board only in the event of a tie vote.

I hope this answers your questions. Please feel free to call on me if I may provide further assistance.

Sincerely,

Don Darden
Municipal Management Consultant