

Memorandum

To: Mayor Laraine King
XC: James L. Warner, Recorder
From: Ronald W. Woods *Ronald W. Woods*
Date: August 28, 2008
Subject: Legal Opinions With Respect to Maintenance of Parks and Recreation Facilities

ISSUES:

1. May the Mayor assign responsibility for maintenance of Parks and Recreation Facilities to the Department of Public Works?

2. May the Mayor reassign maintenance personnel from the Department of Parks and Recreation to the Department of Public Works?

1. Yes. In the absence of action by the Board of Mayor and Aldermen, the Mayor may assign responsibility for maintenance of Parks and Recreation Facilities to the Department of Public Works.

2. Yes. Likewise, in the absence of action by the Board of Mayor and Aldermen, the Mayor may reassign maintenance personnel from the Department of Parks and Recreation to the Department of Public Works.

The powers and duties of the Mayor of the Town of Greeneville are outlined in the Town's Charter. I use the term "outlined" because the powers and duties include not only express powers and duties but also those powers and duties which are implied, inherent or necessary to carry out the express powers and duties. Further, the

express grants are so general in nature that it would be impossible to enumerate the specific powers and duties incumbent upon the office of the Mayor as described in the Town's Charter. Lastly, the powers and duties of the Mayor are expansive, in that various executive powers (and corresponding duties) may have been acquired by prescription through the course of dealings throughout the Town's history. Actually, the scope of the powers and duties of the Mayor are more easily defined in the negative. Nevertheless, the Charter specifically provides that the Mayor is responsible for the "general supervision of all officers" and that the Mayor is responsible to "see that all laws and ordinances be enforced." While arguably the Charter does not exclusively grant executive authority to the office of the Mayor nor does it limit the office of Alderman to solely legislative authority, it clearly provides that the Mayor has general supervisory authority over all officers (including limited disciplinary powers). As such, the Aldermen cannot lawfully enact any ordinance that encroaches on the Mayor's general supervisory authority without the consent of the Mayor. Implicit within the general supervisory authority is the power of the Mayor through subordinate officers to direct the deployment of Town personnel and resources within the constraints of approved fiscal allocations (i.e. the budget), the constraints of applicable civil service provisions and the lawful constraints, if any, of the enabling legislation (including ordinances).

In the present instance, there are no civil service constraints nor legislative constraints beyond any contained in Chapter 11 of Title 1 of the Greeneville Municipal Code. I am advised (and have assumed) that there are no fiscal constraints applicable to either issue.

Section 1-1101 of the Greeneville Municipal Code empowers the Department of Parks and Recreation "to maintain and equip parks, playgrounds . . ."; however, nothing within Title 1, Chapter 11, constrains nor defines how this is to be accomplished. Therefore, it is my opinion that the maintenance of parks, playgrounds, etc. may be accomplished by any lawful means, including the use of personnel from the Department of Public Works.

Section 1-1101 directs that the Board of Mayor and Aldermen shall appoint or designate "other such personnel as it deems proper to execute the functions of the department." I am advised (and have assumed) that the reassigned maintenance personnel were neither appointed nor designated by the Board of Mayor and Aldermen to work in the department. I am also advised that in the absence of such appointment or designation, it has been the longstanding practice that

the appointment or designation of personnel to execute the functions of the Department of Parks and Recreation has been left to the prerogative of the Parks and Recreation Director. Further I am advised that practically all grass mowing of Town property was previously performed by Parks and Recreation personnel regardless of the use of the property nor whether or not the property constituted an "open space". I am also advised that at least one prior Mayor made temporary assignments of Parks and Recreation personnel to the Public Works Department and that Parks and Recreation personnel have in the past been directed by the then Mayor to perform other municipal tasks outside the parameters of Section 1-1101. Against this background, the fact that the Parks and Recreation Director is subject to the general supervision of the Mayor, and in the absence of any of the constraints outlined above, it is my opinion that the Mayor has the authority to reassign such maintenance personnel from the Department of Parks and Recreation to the Department of Public Works.

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