



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

June 29, 2023

Chelsea H. Brannon, Esq.
Attorney, City of Madison
Post Office Box 40
Madison, Mississippi 39130-0040

Re: Maintenance of Grinder Pumps on Private Property

Dear Ms. Brannon:

The Office of the Attorney General has received your request for an official opinion.

Background

In your opinion request, you state that you are seeking guidance on determining if a grinder pump serving an individual residence is an “integral part” of a municipal sewer system, thus allowing the municipality to expend public funds on and maintain a grinder pump located on private property. Your request cites several prior opinions, including one that states that a pump and grinder force main, “as integral parts of the municipal sewer system, may be maintained by the municipality, assuming appropriate rights-of-way have been obtained for such purposes.” MS AG Op., *Baker* at *1 (July 19, 2001).

Questions Presented

1. How does your Office define “integral part” of the municipal sewer system?
2. Is there a list of factors or criteria that the City of Madison (“City”) should consider in determining if a grinder pump is part of the municipal sewer system or, instead, the responsibility of the individual property owner?
3. If the City previously obtained an easement to maintain a grinder pump, but did not at the time make a finding that the pump was an “integral part” of the sewer system, may it make that finding now and continue to maintain the pump?
4. If the City previously obtained an easement to maintain a grinder pump, but cannot under the guidance provided in this Opinion find that the pump is an “integral part” of the

municipal sewer system, may it continue to maintain the pump under the existing easement?

5. If, based on the guidance provided from this request, the City determines that it is no longer proper to maintain a grinder pump, can the City enter into an Agreement with the property owner, designating a specified time to return the maintenance to the property owner?

Brief Response

1. There is no legal definition of an “integral part” of a municipal sewer system. In order for a municipality to expend public funds to install and maintain grinder pumps on private property, the municipality must make the factual determination that the grinder pumps are necessary to the functioning of the municipal sewer system and not for the sole benefit of the private property owner, and obtain the appropriate easements.
2. Generally speaking, the municipality must determine that the grinder pumps are necessary to the functioning of the municipal sewer system and not for the sole benefit of the private property owner. However, there is not a list of factors to be considered. This is an individual factual determination and would vary on a case-by-case basis.
3. The response to Question 1 renders this question moot.
4. The response to Question 1 renders this question moot.
5. Whether and how the City returns the maintenance of a grinder pump to a private property owner turns on a determination of fact to be made by the City and would depend upon the specific agreement between the parties. This question cannot be addressed by official opinion.

Applicable Law and Discussion

As an initial matter, in the *Baker* opinion that you cite in your opinion request, the background facts provided by the requestor assert that the grinder pumps in question “are essential to the integrity of the overall sewer system.” *Baker* at *1. In *Baker*, the phrase “integral part” as used in the legal analysis appears to be used synonymously with the requestor’s phrase “essential to the integrity.” *Id.* However, neither phrase is intended to be a term of art with respect to determining whether a municipality can expend public funds for the maintenance of a grinder pump on private property.

Pursuant to Section 21-27-23 of the Mississippi Code, a municipality is authorized to create and maintain a municipal sewer system. This office has consistently opined that “[a] municipality has authority to maintain the main sewer line to the point of connection with the service line, and the property owner has responsibility to maintain the service line from the point of connection with the main line to the residence.” MS AG Op., *Snowden* at *2 (Feb. 12, 1999) (internal citations omitted). A municipality may not construct or maintain a sewer line “on private property for the sole purpose of benefitting one landowner.” MS AG Op., *Brannon* at *3 (Dec. 21, 2012). However,

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“a municipality may construct a water line on private property, subject to proper easement, when such construction is part of the overall purpose and plan of providing present and future utility service to the general public.” *Brannon* at *3 (internal citations omitted). With respect to grinder pumps specifically, this office has consistently opined that if the municipality has made the factual determination that the grinder pumps are necessary to provide municipal sewer services to residences, the municipality may install and maintain the grinder pumps on private property pursuant to the authority in Section 21-27-23. *Brannon* at *3 (internal citations omitted). This remains the opinion of this office. Accordingly, in order for a municipality to expend public funds to install and maintain grinder pumps on private property, the municipality must make the factual determination that the grinder pumps are necessary to the functioning of the municipal sewer system, and not for the sole benefit of the private property owner, and obtain the appropriate easements.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION