



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

November 1, 2024

Arch Bullard, Esq.
Attorney, City of Corinth
Post Office Box 1613
Corinth, Mississippi 38835

Re: Maintenance of Rivers Outside Municipality

Dear Mr. Bullard:

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

OFFICIAL OPINION

Background

According to your request, the Mayor and Board of Aldermen for the city of Corinth (“City”) have requested that you seek an Attorney General’s Opinion regarding the authority of the City to contribute funds toward the cost of maintaining the Tuscumbia River Canal and its tributaries, which are wholly located outside the jurisdiction of the City. Corinth operates under a special charter.

Question Presented

Can the City contribute money to the Tuscumbia Water Management District towards the cost of work conducted on the rivers and streams outside the boundaries of the City, in order to maintain proper drainage [outside the City]?

Brief Response

The City may only contribute public funds to maintain proper drainage of rivers and streams outside the City’s corporate limits if it makes the factual determination that this work will promote the health, comfort and convenience of the inhabitants of such municipality, prevent erosion within the municipal limits, or that there is erosion outside the municipal limits that is caused by drainage ditches, creeks, or channels within the municipal limits.

Applicable Law and Discussion

As a special charter municipality, the governing authority's powers flow directly from the City's charter. MS AG Op., *Carouthers* at *1 (June 28, 2019). Thus, the specific provisions of that charter should be used to answer any questions regarding the authority of the municipality; however, if the charter is silent on a particular matter, general statutory provisions would apply. *Carouthers* at *1 (internal citations omitted). Assuming the special charter of the City is silent on your question, this opinion will apply general statutory provisions.

Generally, “[t]he governing authorities of every municipality of this state shall have the care, management and control of the municipal affairs and its property and finances.” Miss. Code Ann. § 21-17-5. With respect to health, safety, and welfare, municipal governing authorities “have the power to make regulations to secure the general health *of the municipality*.” Miss. Code Ann. § 21-19-1(1) (emphasis added). Further, municipal governing authorities have the power pursuant to Mississippi Code Annotated Section 21-17-7 to appropriate municipal funds for the expenses *of the municipality*. (emphasis added). With limited exceptions, such as a municipality’s ability to provide utilities to consumers residing five miles outside the municipal limits under Section 21-27-39, a municipality’s authority generally does not extend outside its corporate limits. In accordance with the above cited statutory authority, any expenditure of municipal funds must be related to a proper municipal purpose.

To your specific question, Section 21-19-13 provides, in relevant part:

(1) The governing authorities of municipalities shall have the power to establish, alter and change the channels of streams or other water courses, and to bridge the same, whenever so to do will promote the health, comfort and convenience of the inhabitants of such municipality.

(2) The governing authorities of any municipality shall also have the power and authority to incur costs and pay necessary expenses in providing labor, materials and supplies to clean or clear drainage ditches, creeks or channels, whether on public or private property, and to incur costs and pay necessary expenses in providing labor, materials and supplies in order to prevent erosion where such erosion has been caused or will be caused by such drainage ditches, creeks or channels. This paragraph shall not impose any obligation or duty upon the municipality and shall not create any additional rights for the benefit of any owner of public or private property.

Accordingly, it is the opinion of this office that a municipality may only contribute funds towards the cost of work conducted on the rivers and streams outside the boundaries of the City if it will promote the health, comfort and convenience of the inhabitants of such municipality, if it is to prevent erosion within the municipal limits, or if it is to prevent erosion outside the municipal limits that is caused by drainage ditches, creeks, or channels within the municipal limits. *See MS AG Op., Adams* at *2 (July 30, 2004) (opining that if a municipality makes the factual determination that work performed pursuant to Section 21-19-13 caused damage to property downstream, the municipality may pay necessary expenses to prevent erosion located inside or

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outside the municipal corporate). Whether providing funds to the Tuscumbia Water Management District for the specific project referenced in your request fits within the parameters of Section 21-19-13 is a factual determination to be made by the City, subject to judicial review.

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