



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

August 28, 2025

Christopher G. Evans, Esq.
Attorney, City of Saltillo
Post Office Box 7326
Tupelo, Mississippi 38802-7326

Re: Saltillo City Sewer System

Dear Mr. Evans:

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

Background

According to your request, the city of Saltillo (the “City”) operates its own water and sewer department and provides, where and when available, water and sewer services to its citizens and to some developments outside the city limits. More than 20 years ago, a subdivision was created within the city limits. When the subdivision was created, the owner chose to provide sewer service to the development by way of its own sewer lagoon. Due to this fact, the City has never provided or billed for sewer service to any of the development. However, city water service is provided to the homes and small businesses located in the development. In summary, the City provides water service to the development but has never provided sewer service.

Initially, the occupants of the subdivision paid a monthly or annual sewer fee to the developer, presumably for maintenance and upkeep. Over the years, the development has changed ownership on one or more occasions, and the common areas and the sewer lagoon are currently owned by a Mississippi corporation which was administratively dissolved by the Mississippi Secretary of State in 2018. Accordingly, the sewer lagoon and related sewer infrastructure have not been properly maintained for some time, and the system recently began leaking raw sewage onto the ground through one or more manholes in the development.

To potentially connect the development to existing city sewer services, a main line would need to be constructed from the development to the existing city main line at an approximate cost of \$500,000. Additionally, since the City has never maintained the sewer infrastructure, it is suspected that there may be issues with the internal infrastructure of the system and possibly even

to service lines on the individual lots. If that is the case, the cost to convert the development to the existing city sewer system would be considerably higher.

Questions Presented

1. Under the factual scenario described above, is the City legally obligated to pay for and build the necessary infrastructure to provide sewer services to the subject development?
2. If the response to the mandate issue above is in the negative, may the City, in its discretion, expend public funds to build the necessary infrastructure to provide sewer services to the subject development?
3. If the response to either issue number one or two above is in the affirmative, may the City expend public funds to repair or replace service lines on the privately owned lots, as may be necessary, in order to provide service to each individual customer or would this be the responsibility of the individual owner? Potentially, these repairs might need to occur in order to protect the integrity of the entire city sewer system.
4. If the response to either issue number one or two above is in the affirmative, may the City, in its discretion, expend public funds to repair and maintain the sewer lagoon, provided that it was deeded to the City and determined that this option would be more financially feasible as either a temporary or permanent solution rather than constructing a new main line?

Brief Response

1. As highlighted by the Mississippi Supreme Court in *City of Greenville v. Queen City Lumber Co.*, 86 So. 2d 860, 863 (Miss. 1956), a municipality's decision to construct and maintain a sewer system is discretionary, not mandatory.
2. Please see response to question one.
3. "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., *Brannon* at *2 (June 29, 2023) (quoting MS AG Op., *Snowden* at *2 (Feb. 12, 1999)).
4. We find no prohibition against such action under Mississippi law.

Applicable Law and Discussion

Mississippi Code Annotated Section 21-27-23 provides in part,

Any municipality *may*:

(a) Borrow money and issue revenue bonds therefor solely for the purposes specified in this section and by the procedure provided in Sections 21-27-41 through 21-27-69.

Money may be borrowed and bonds issued by any municipality of the State of Mississippi . . . to acquire or improve any waterworks system, water supply system, sewerage system, sewage disposal system

. . .

(c) To acquire or improve any system which it is authorized to borrow money and issue revenue bonds under subsection (a) of this section to acquire or improve; and to make contracts in furtherance thereof or in connection therewith.

(d) To own, operate and maintain any such system or combination of any and all of said systems into one (1) system.

Miss. Code Ann. § 21-27-23 (emphasis added).

You first ask whether the City is legally obligated to pay for and build the necessary infrastructure to provide sewer services to the subject development, and if not, if the City has the discretion to do so. As highlighted by the Mississippi Supreme Court in *City of Greenville*, 86 So. 2d at 863, a municipality's decision to construct and maintain a sewer system is discretionary, not mandatory. This said, as we have previously confirmed, the reasonableness standard first set forth in *City of Greenwood v. Provine*, 108 So. 284 (Miss. 1926), in relation to municipal water services, likewise applies to sewer services when a municipality is exercising its discretion to extend main lines.¹ MS AG Op., *Brannon* at *2 (Dec. 21, 2012). Ultimately, whether the City has met this standard is a "factual determination[] to be made by the governing authorities, subject to review by a court of competent jurisdiction." *Id.* Pursuant to Section 7-5-25, our office may only opine upon prospective matters of state law; we may not opine upon factual determinations.

You next ask if the City may expend public funds to repair or replace service lines on privately owned lots, as may be necessary, in order to provide service to each individual customer or if this would be the responsibility of the individual owner. "This office has consistently opined that '[a]

¹ In *City of Greenwood*, the Mississippi Supreme Court stated,

We think the question of the extension of the water system from one part of the city where the water mains are laid to another part of the municipality which comprises new territory taken into the corporate limits is within the discretion of the municipal authorities, and unless an abuse in the exercise of their judgment in that regard is manifest, then their decision of the question is final. . . . The extension of the water system from one part of the city where already laid to another part depends upon the reasonableness of such extension, considering the demand for it, the number of water subscribers, and the revenue to be obtained from furnishing the water.

108 So. at 286.

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., *Brannon* at *2 (June 29, 2023) (quoting MS AG Op., *Snowden* at *2); *see also* MS AG Op., *Peebles* at *1 (Aug. 11, 1993) (providing same and noting “[a] city may also adopt ordinances requiring residents to properly maintain sewer lines on their property pursuant to [Section] 21-19-1”). That is to say, “[a] municipality may not construct or maintain a sewer line “on private property for the sole purpose of benefitting one landowner.” *Id.* (quoting MS AG Op., *Brannon* at *3 (Dec. 21, 2012)). Nonetheless, there are exceptions to this general rule. For example, “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.” *Id.* Likewise, “a municipality may repair a sewer line on private property in exigent circumstances if such work is the best and the least expensive way to correct the problem in the public line and maintain the integrity of the [entire] system.” MS AG Op., *Brown* at *1 (Oct. 18, 2002) (citing MS AG Op., *Snowden* at *2; MS AG Op., *Miller* (Oct. 20, 1989)). In such instances, governing authorities determine whether exigent circumstances exist. *Id.*

Finally, you ask if the City may, in its discretion, expend public funds to repair and maintain the sewer lagoon, provided that it was deeded to the City and determined that this option would be more financially feasible as either a temporary or permanent solution rather than constructing a new main line. We find no prohibition against such action under Mississippi law; as shown *supra*, a municipality is authorized to acquire, improve, own, operate, and maintain sewer systems under Section 21-27-23.

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/ Maggie Kate Bobo

Maggie Kate Bobo
Special Assistant Attorney General