

August 9, 2002

Mr. Scott Collins, City Administrator  
Town of Oliver Springs  
701 Main Street, P.O. Box 303  
Oliver Springs, Tennessee 37840

Re: Relocation of City Hall

Dear Mr. Collins,

Oliver Springs is located in Roane, Morgan, and Anderson Counties. The city hall is currently located in Roane County. You have asked if the city hall can be relocated to another county within Oliver Springs. The answer is yes. You would however need to make some changes in the city charter.

MTAS Legal Consultant Melissa Ashburn has advised that if city hall is moved to Anderson County, section 8a(g) of the charter would need to be amended to provide that appeals taken to the Circuit or Criminal Court need to be taken to Anderson County instead of to the Circuit or Criminal Court of Roane County.

Your private act charter states that all elections are to be conducted by the Roane County Election Commission. MTAS Legal Consultant Melissa Ashburn has advised that there is no legal requirement that elections be conducted by the Roane County Election Commission nor that the election be held in the county in which the city hall is located. It appears that moving city hall will have no effect on elections, unless the town wants to change to the Anderson County Election Commission. You would need to amend your charter to have Anderson County Election Commission to conduct your elections or delete the requirement that they be conducted by the Roane County Election Commission.

In reviewing the charter provisions MTAS Legal Consultant Melissa Ashburn noted some discrepancies that need to be addressed. We recommend the following charter changes:

- Section 8a(c) states that the “City Judge shall also serve as city recorder.....and shall be compensated for the duties as city recorder.” This is unconstitutional and is not allowed in the State of Tennessee. Article VI, §7 of the Constitution of Tennessee states that judges “shall not be allowed any fees or perquisites of office nor hold any other office of trust or profit under this State or the United States.” This is interpreted to mean that judges may not hold any other employment with the city, or with any other governmental entity. In fact, by holding another position, the Supreme Court has held that a judge automatically vacates his office. Calloway v. Sturm 48 Tenn. 764; State ex rel. Bergshicher v. Grace, 82 S.W. 485 (Tenn. 1904).
- Section 10a also addresses the situation of the judge acting as city recorder, and needs to be revised.
- Title 3, Chapter 1 of the Code of Ordinances should also be repealed and replaced. This section addresses the position of City Judge and makes no mention of elections or

concurrent jurisdiction. It states that the judge “shall receive such monthly salary...for the satisfactory performance of his duties.” Actually, a judge’s performance can have no impact on his compensation, which must be set prior to his term, and which cannot be increased or diminished during his term of office. This rule is found in the Constitution of Tennessee, at Article VI, §7.

Tennessee law has made some provisions for a “recorder’s court”to hear violations of municipal ordinances. It appears that some of the discrepancies noted were from those provisions.

Please let me know if I may be of further assistance.

Sincerely,

Ron Darden  
Municipal Management Consultant

cc. Melissa Ashburn, MTAS Legal Consultant