



**Joint Administration/Education
and
“Special Called” Committee of the Whole Meeting
June 26, 2018
2 p.m.
Conference Rooms D and E**

- I. Call to Order**
- II. Approval of Minutes**
- III. Resolution requesting an Attorney General Opinion on the City’s Authority to fund raise for private entities and/or conduct workplace giving campaigns.**
- IV. Resolution requesting an Ethics Commission Opinion on the City’s Authority to fund raise for private entities and/or conduct workplace giving campaigns.**
- V. Adjournment**

SPECIAL ATTACHMENT FOR AGENDA OF: July 3, 2018

RECOMMENDED BY: The Law Department

SUBMITTED BY: The City Attorney

A resolution authorizing the City Attorney to request an official State of Alabama Attorney General Opinion to determine the powers and restrictions related to the City's authority to solicit, receive and distribute donations to private parties and organizations and to authorize the City Attorney to prepare and execute all documents necessary to obtain said opinion.

Resolution **Ordinance** **Other**

PUBLICATION REQUIRED: YES _____ NO ____ _____

IF YES, NOTE ALL PUBLICATION INSTRUCTIONS/REQUIREMENTS:

RECOMMENDED BY: The Law Department

SUBMITTED BY: The City Attorney

RESOLUTION NO. _____

WHEREAS, §36-15-1(b), Code of Alabama, requires the Attorney General to give his or her opinion, in writing or otherwise, as to any question of law connected with the duties of the following county or city officers when requested so to do in writing: ... mayor or chief executive officer of any incorporated municipality, city council or like governing body of any incorporated municipality, or any other officer required to collect, disburse, handle, or account for public funds.; and

WHEREAS, §36-15-1(c), Code of Alabama states, “Any officer or governing body of a municipality or county or officer or governing body of any other elected or appointed body shall submit with the request for an opinion a resolution adopted by the governing body setting forth the facts showing the nature and character of the question which makes the advice or opinion sought necessary to the present performance of some official act that the officer or governing body must perform.”; and

WHEREAS, the City of Birmingham and its officials and employees are requested from time to time to support charitable organizations for various causes; and

WHEREAS, many charitable organizations provide services for citizens that can reduce the burden on provision of those services by governmental agencies; and

WHEREAS, Section 94, Alabama Constitution places certain restrictions on the actions of municipal governments; and

WHEREAS, Section 36-1-4, Code of Alabama 1975, authorizes a process for City governments to facilitate payroll deductions for a community chest or other combination of nonprofit health or welfare agencies in such amount as may be designated in a written request from an employee; and

WHEREAS, Section 38-2-9, Code of Alabama 1975, provides the governing body in any county or any municipality the power and authority to appropriate public funds, and make other and further provision, for the care of the poor and needy of the county or municipality; and

WHEREAS, Section 38-1-6, Code of Alabama 1975, provides that “The state government and all county and municipal governments in this state are hereby authorized to voluntarily participate in any program which is related to any form of assistance for the aged, including, but not limited to, such programs as senior citizens volunteers, foster grandparents, senior aids, various programs of the Federal Department of Health, Education and Welfare and any other program supported by the federal government, private foundations or other political or private organizations which establish assistance programs for the aged. Participation in said old-age assistance programs may be in the form of moneys, services rendered or any other form of voluntary participation available.”; and

WHEREAS, the City desires to engage in a Municipal Workplace Giving Campaign related to the March of Dimes and the United Negro College Fund and to permit time in the working day during a prescribed campaign period sufficient for City employees to participate in the City campaign, with the approval of the department

heads, in a manner similar to that outlined in the “Alabama State Employee Combined Charitable Campaign Act”; and

WHEREAS, the City of Birmingham desires to clarify its restrictions and authority with regard to participation by the City and its officials and employees in municipal workplace giving campaigns; and

WHEREAS, these questions presented to the Attorney General are not moot, private, or personal questions in which the state, county, or public is not materially or primarily interested or questions that are subject to ongoing litigation; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Birmingham that the City Attorney is authorized to make a request for an opinion to the Alabama Attorney General, concerning the questions presented in the recitals above related to the City’s authority to solicit, receive and distribute donations to private parties and organizations; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Birmingham that the City Attorney is authorized to make a request for a formal opinion to the Alabama Attorney General, on the following questions:

1. May City of Birmingham employees or officials engage in a Municipal Workplace Giving Campaign related to the community chest, other combination of nonprofit health and welfare agencies or other charitable organizations?
2. May City of Birmingham employees or officials solicit or encourage participation by officials and employees of the City in payroll deductions for a community chest, other combination of nonprofit health or welfare

agencies, or other charitable organizations by e-mails, flyers or other printed materials in city facilities, direct requests, by departmental competitions to raise money or by any other means?

3. May City of Birmingham employees or officials solicit, encourage or allow participation by officials and employees of the City in auctions, raffles and other fundraising activities, during working hours or on City property, to raise funds for a community chest, other combination of nonprofit health or welfare agencies, or other charitable organizations?
4. May City of Birmingham employees or officials solicit or encourage donations of goods or services from private businesses and individuals for the purpose of auctions, raffles, sale or gifts (giving away) to raise funds for a community chest, other combination of nonprofit health or welfare agencies, or other charitable organizations?
5. May the City of Birmingham assign employees to perform work as a part of Municipal Workplace Giving Campaign to assist in the City's efforts to raise funds for a community chest, other combination of nonprofit health or welfare agencies, or other charitable organizations?
6. May the City of Birmingham, through its employees or officials, engage in soliciting, receiving and distributing donations for disaster relief efforts related to disasters that occur outside of the City limits or outside of the State of Alabama?
7. May the City of Birmingham, through its employees, engage in a "canned food for amnesty" campaign to collect canned foods for the poor and needy

in exchange for reductions in court fines or amnesty on outstanding violations?

8. May a City of Birmingham official lend his or her official title, name and/or image to an event hosted by a private charity or other entity?
9. May the City of Birmingham hold and host a “Mayor’s Golf Tournament” wherein money is raised for charity?

BE IT FURTHER RESOLVED that the City Attorney, be and is hereby authorized, empowered and directed to do any and all things necessary to carry out the provisions of this resolution.

SPECIAL ATTACHMENT FOR AGENDA OF: July 3, 2018

RECOMMENDED BY: The Law Department

SUBMITTED BY: The City Attorney

A resolution authorizing the City Attorney to request an official State of Alabama Ethics Commission Opinion to determine the powers and restrictions related to the City's authority to solicit, receive and distribute donations to private parties and organizations and to authorize the City Attorney to prepare and execute all documents necessary to obtain said opinion.

Resolution **Ordinance** **Other**

PUBLICATION REQUIRED: YES _____ NO ___ _____

IF YES, NOTE ALL PUBLICATION INSTRUCTIONS/REQUIREMENTS:

RECOMMENDED BY: The Law Department

SUBMITTED BY: The City Attorney

RESOLUTION NO. _____

WHEREAS, §36-25-4, Code of Alabama, authorizes the Alabama Ethics Commission to issue advisory opinions on the requirements of the Alabama Ethics Laws; and

WHEREAS, the City of Birmingham and its officials and employees are requested from time to time to support charitable organizations for various causes; and

WHEREAS, many charitable organizations provide services for citizens that can reduce the burden on provision of those services by governmental agencies; and

WHEREAS, Section 94, Alabama Constitution places certain restrictions on the actions of municipal governments; and

WHEREAS, Section 36-1-4, Code of Alabama 1975, authorizes a process for City governments to facilitate payroll deductions for a community chest or other combination of nonprofit health or welfare agencies in such amount as may be designated in a written request from an employee; and

WHEREAS, Section 38-2-9, Code of Alabama 1975, provides the governing body in any county or any municipality the power and authority to appropriate public funds, and make other and further provision, for the care of the poor and needy of the county or municipality; and

WHEREAS, Section 38-1-6, Code of Alabama 1975, provides that “The state government and all county and municipal governments in this state are hereby authorized to voluntarily participate in any program which is related to any form of assistance for the aged, including, but not limited to, such programs as senior citizens volunteers, foster grandparents, senior aids, various programs of the Federal Department of Health, Education and Welfare and any other program supported by the federal government, private foundations or other political or private organizations which establish assistance programs for the aged. Participation in said old-age assistance programs may be in the form of moneys, services rendered or any other form of voluntary participation available.”; and

WHEREAS, the City desires to engage in a Municipal Workplace Giving Campaign related to the March of Dimes and the United Negro College Fund and to permit time in the working day during a prescribed campaign period sufficient for City employees to participate in the City campaign, with the approval of the department heads, in a manner similar to that outlined in the “Alabama State Employee Combined Charitable Campaign Act”; and

WHEREAS, the City of Birmingham desires to clarify its restrictions and authority with regard to participation by the City and its officials and employees in municipal workplace giving campaigns; and

WHEREAS, these questions presented to the Attorney General are not moot, private, or personal questions in which the state, county, or public is not materially or primarily interested or questions that are subject to ongoing litigation; and

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BE IT FURTHER RESOLVED that the City Attorney, be and is hereby authorized, empowered and directed to do any and all things necessary to carry out the provisions of this resolution.