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SPRINGFIELD

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COMPATIBILITY:
City Alderman and Park
District President

Honorable John P. Coady
Christian County State's Attorney
Christian County Courthouse
Taylorville, Illinois 62568

Dear Mr. Coady:

I have your letter wherein you inquire whether the offices of park district president and city alderman are incompatible. For the reasons hereinafter stated, it is my opinion that the offices in question are incompatible.

Incompatibility arises where the Constitution or a statute specifically prohibits the occupant of one office from holding another, or where the duties of the two offices are such that the holder of one cannot, in every instance, fully and faithfully discharge all the duties of the other. (People ex rel. Myers v. Haas (1908), 145 Ill. App. 283, 286.) There

is no constitutional or statutory provision prohibiting one person from holding the offices of park district president and city alderman. Therefore, the question which arises is whether the duties of either office are such that the holder of one cannot, in every instance, fully and faithfully discharge all of the duties of the other.

Several provisions of The Park District Code (Ill. Rev. Stat. 1983, ch. 105, par. 1-1 et seq.) grant park districts the authority to enter into agreements with municipalities for specified purposes (see e.g. Ill. Rev. Stat. 1983, ch. 105, pars, 8-2, 8-10.2, 8-11, 8-18, 9-3, 9.2-5, 10-3). Further, the Intergovernmental Cooperation section of the 1970 Illinois Constitution (Ill. Const. 1970, art. VII, § 10) and the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1983, ch. 127, par. 741 et seq.) grant municipalities and other governmental units, such as park districts, broad powers to contract or otherwise associate among themselves to obtain or share services, powers or functions.

A park board president, as a voting member of the park district board of commissioners (Ill. Rev. Stat. 1983, ch. 105, par. 4-9), has a duty to represent and protect the interests of the park district. Similarly, a city alderman has a duty to represent and protect the interests of the city. Clearly, if one were to hold both offices, he or she could not fully

Honorable John P. Coady - 3

represent the interests of both governmental units when those units contract with each other. Therefore, it is my opinion that one who holds the offices of park board president and city alderman cannot, in every instance, fully and faithfully discharge the duties of both offices, and thus, that the offices are incompatible.

It is well settled in Illinois that the acceptance of an incompatible office by the incumbent of another office constitutes an ipso facto resignation of the first office. (People v. Bott (1931), 261 Ill. App. 261, 265.) Formal resignation or ouster by legal proceedings is not required. Packingham v. Harper (1896), 66 Ill. App. 96, 100; 1981 Ill. Att'y Gen. Op. 47, 48.

Very truly yours,


ATTORNEY GENERAL