

SMYER, SMYER & BAINBRIDGE  
BIRMINGHAM, ALA.

June 29th, 1935.

Hon. Harry Walker,  
Athens, Alabama.

Dear Sir:-

An examination of the records of Minute Book 5, of the City of Athens, discloses that on September 16th, 1921, ordinance No. 34 was introduced but not adopted. At a special meeting held on October 28th, 1921, this same ordinance was introduced and adopted, setting October 28th as the day to hear protests. Sec 2178 of the Code provides for publication of this ordinance not less than twenty days before the meeting of the City Council, or other governing body to hear objections, as provided for under Sec 2179. You can readily see that Ordinance #34 is defective in that it sets the day for hearing protests the same day that the ordinance was adopted. I have shown the clerk this ordinance as it appears on the minute book, so that no change will be made therein. In Minute Book 5, page 426, the minutes of the council meeting of December 9th, 1921, recites that the council met on October 28th, 1921, to hear objections when as a matter of fact, on October 28th, 1921, ordinance No. 34 was introduced and adopted. There are several minutes of proceedings necessary for the proper establishment of the validity of ordinance No. 19, missing. Whether these proceedings can be dug up, I do not know. I thoroughly checked ordinance No. 19 and 34, and in my opinion, ordinance No. 34 is fatally defective, and ordinance No. 19, is very doubtful.

I am under the impression that the same objection will apply to ordinance No. 33 and 35, as applies to ordinance No. 34. I was not interested in ordinance 33 and 35 and did not make a thorough examination. The minutes of the to adopt these ordinances, I think, is in minute book 399, and subsequent pages.

Respectfully,

  
S. W. SMYER