



Where Georgia comes together.

AGENDA
WORK SESSION
OF THE PERRY CITY COUNCIL
December 4, 2017
5:00 P.M.

1. Call to Order: Mayor James E. Faircloth, Jr.
2. Roll:
3. Items of Review/Discussion: Mayor James E. Faircloth, Jr.
 - 3a. Economic Development Department
 1. Presentation of the Wayfinding System by KMA – Mr. R. Smith.
 - 3b. Administration
 1. Establish Council's 2018 meetings calendar – Mayor Faircloth.
 2. Georgia Department of Revenue inquiry on complimentary alcohol – Mr. L. Gilmour.
 3. Status of logging operations street restrictions – Mr. L. Gilmour.
4. Council Member Items:
5. Department Head Items:
6. Adjourn.



WALKER HULBERT GRAY & MOORE, LLP
ATTORNEYS AT LAW

LARRY WALKER
DAVID G. WALKER
DAVID P. HULBERT, JR.
MICHAEL G. GRAY
KELLYE C. MOORE
JOHN W. HULBERT
MATTHEW C. HULBERT
BROOKE P. NEWBY

November 20, 2017

909 BALL STREET
P.O. Box 1770
PERRY, GA 31069
TELEPHONE: (478)987-1415
FACSIMILE: (478)987-1077
E-MAIL: mail@whgmlaw.com

Mr. Lee Gilmour, City Manager
City of Perry
P.O. Box 2030
Perry, Georgia 31069

VIA EMAIL
lee.gilmour@perry-ga.gov

Re: DOR Inquiry on Complimentary Alcohol

Dear Lee:

We have been asked to research and inquire as to the legality of merchants who are not retailers of alcohol providing alcohol to their customers as a “complimentary service” or complimentary add-on to the services they provide. As such, we have researched state law and state regulations, and found nothing to authorize or prohibit such activity.

We then reached out to Regginal Perry with the Department of Revenue (Assistant Special Agent in Charge - Alcohol Tobacco Division Macon Regional Office), who was able to provide some insight as to the state’s position for such activity. Agent Perry asked some very specific questions, and the primary issue revolves around whether it can be construed that the merchant is being paid for the alcohol provided to the customers.

From my understanding, if a merchant has complimentary alcohol for any and everyone who comes off the street, regardless of whether a purchase is made at such business, there is no regulation by the state. However, if the provision of alcohol is in some way associated with a cost or fee charged by a merchant, the merchant is subject to regulation by the Department of Revenue and shall therefore be required to be licensed.

I specifically inquired into the situation where someone may want to have a party at a merchant’s shop (for example, a paint party), and as a part of this party, the merchant has complimentary alcohol available to the participants. In the eyes of the merchant, the fees and costs associated with such party may be exclusively for the class, the rental of the space and the supplies (having nothing to do with the alcohol). However, the DOR assumes the fees and costs are also for the “complimentary” alcohol, and as such, the merchant needs to get a special events license for the party.

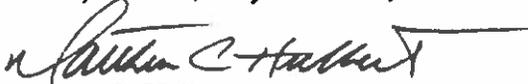
Mr. Lee Gilmour
November 20, 2017
Page 2

Agent Perry indicated he would be more than happy to come discuss with Council or other such persons the City deems appropriate to further address this question or any others that the City may have.

I will be glad to discuss this further or inquire further as well.

Thank you,

Walker, Hulbert, Gray & Moore, LLP


Matthew C. Hulbert



WALKER HULBERT GRAY & MOORE, LLP

ATTORNEYS AT LAW

November 30, 2017

LARRY WALKER
DAVID G. WALKER
DAVID P. HULBERT, JR.
MICHAEL G. GRAY
KELLYE C. MOORE
JOHN W. HULBERT
MATTHEW C. HULBERT
BROOKE P. NEWBY

909 BALL STREET
P.O. BOX 1770
PERRY, GA 31069
TELEPHONE: (478)987-1415
FACSIMILE: (478)987-1077
E-MAIL: mail@whgmlaw.com

Mr. Lee Gilmour, City Manager
City of Perry
P.O. Box 2030
Perry, Georgia 31069

VIA EMAIL
lee.gilmour@perry-ga.gov

Re: Question regarding restriction of use of City streets by log trucks

Dear Lee:

We have been asked to research whether the City has the legal authority to restrict use of its roads by trucks hauling timber from a harvesting site. The short answer is no.

O.C.G.A. § 32-4-92(a)(7) states: "Except as otherwise provided by Code Section 12-6-24, a municipality may regulate and control the use of the public roads on its municipal street system and on portions of the county road systems extending within the corporate limits of the municipality."

O.C.G.A. § 12-6-24, the exception to this general allowance, specifically applies to timber harvesting and removal. This Code section allows a municipality to pass an ordinance requiring advance notice of harvesting of timber, with a requirement of a letter of credit, not to exceed \$5,000.00. Further, Subsection (e)(1) restricts regulation of the harvesting and hauling of timber by stating: "No . . . municipality . . . shall require any person or firm harvesting standing timber therein for delivery . . . to provide any notice of or plan or security for such harvesting or hauling of forest products except as provided by this Code section."

As a side note, state law and municipal ordinance both restrict trucks in excess of 64,000 pounds on roads not designated as truck routes, except when a destination necessary for business, such as pickup or delivery point, is only available via a non-designated truck route. I believe the exception applies in this situation if the pickup of the timber can only be accessed via the non-designated truck route.

Therefore, it is my opinion that there is no legal authority for the City to restrict use of the road in question by the log trucks. While the City generally has broad authority to regulate use of

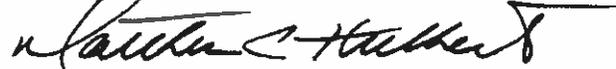
Mr. Lee Gilmour
November 30, 2017
Page 2

its roads, there is a specific exception provided to the timber industry. Not only does the timber industry have protections, but authority to regulate these trucks and this activity is removed from the city unless and until an ordinance is passed pursuant to the above Code section. To my knowledge, the City does not have such ordinance, and therefore, cannot even require notice or a letter of credit as security from those harvesting and hauling the timber.

I am prepared to discuss as needed, but certainly at the next work session.

Thank you,

Walker, Hulbert, Gray & Moore, LLP



Matthew C. Hulbert