Personal use of municipal automobiles

Number: AGO 74-295

Date: November 05, 1998

Subject:
Personal use of municipal automobiles

MUNICIPALITIES--PERSONAL USE OF MUNICIPAL AUTOMOBILES

To: Frank B. Watson, Jr., City Attorney, Fort Myers

Prepared by: David LaCroix, Assistant Attorney General

QUESTION:

May a city provide city employees with city-owned automobiles the primary sue of which would be for city business, but which also could be used on the employee's personal business?

SUMMARY:

A municipality may not allow city employees to use city-owned automobiles for personal purposes. The governing body of a municipality may authorize employee use of city-owned vehicles for what it finds to be municipal purposes -- including the driving of city-owned vehicles to and from work by employees required to be on call or on duty at all times or while at home.

The law relative to this question has been explicated in AGO 073-472. Extending the discussion therein to the instant question, it will be seen that the essential issue is that of public or municipal purpose. *See also* 23 Fla. Jur. *Municipal Corporations* s. 70 and cases cited therein.

Since public funds may be spent only for a public purpose, municipal property may be used only for a public purpose. Therefore, it is my opinion that city employees may not use city-owned automobiles for their personal business or pleasure.

There may, of course, be situations in which the use of a city automobile would personally benefit a city employee incidentally, while the overall purpose served by that use would be primarily a public one. As an example, if a city employee must be "on call," or duty, at all times or while at home, it would seem to be a valid public purpose to provide this person with a city automobile to respond to emergencies in which he or she is needed. The fact that the employee regularly drives the automobile to and from work so that it may be always available would be a personal benefit incidental to the public purpose. In this exemplary situation, however, it is my opinion that any other use of the automobile by the employee for personal business or pleasure while it is available to him or her would be improper.

In the absence of any local legislation, whether statute or ordinance [*see* s. 166.041(1)(a), F. S.], inhibiting use of city-owned vehicles by employees, the governing body of a municipality may

authorize such uses of city-owned vehicles as it finds serve a municipal purpose.