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OPINION 03-91

Mayor Glenn Brasseaux
City of Carencro
P.O. Drawer 10
Carencro, LA 70520

71 - Municipalities
77 - Officers - Local &
Municipal
90(A) -Political Subdivisions-
Officers, Agents & Employees

The Chief of Police should be paid for unused leave accrued & documented during his term of office as any municipal employee.

Dear Mayor Brasseaux:

This office is in receipt of your request for an opinion of the Attorney General in regard to accumulating annual leave or sick leave. You indicate Carencro, a Lawrason Act community, has neither by ordinance nor in its Personnel Policy and Procedures Manual, provided a means for its Chief of Police to earn or accumulate leave. You ask whether the Chief of Police, whose term extended from January 1, 1999 to December 31, 2002, earned accumulated leave, and if so, is he entitled to be paid by the City for the unused portion of the leave, and at what rate of compensation.

We note in Atty. Gen. Op. 00-279 that this office stated, "This office has previously opined that, unless the law authorizes the accumulation of leave, vacation days generally expire if they are not used. * * * In the event the law is silent on accumulation, we must next look to the policies, customs, and/or practices of the City. Attorney General Opinion No. 92-383."

In Atty. Gen. Op. 00-279 this office further observed that the City's policy enables regular full-time employees to accrue vacation time, and upon retirement, be paid for unused vacation time up to a maximum of 480 hours. It was then stated that the issue of whether a mayor can be considered an "employee", thereby entitling him to said payment was previously addressed in Attorney General Opinion Nos. 89-222 and 96-391. It then noted that Atty. Gen. Op. 89-222 had held the Mayor of the City of Minden was an employee of the city and entitled to that amount of annual leave prescribed for his years of service, and Atty. Gen. Op 96-399 recognized the right of the City to implement a policy authorizing the payment of accrued leave to its mayor and councilmen "provided that formal records were maintained to reflect that the leave was accrued and unused."

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Inasmuch as this office concluded the Mayor was an employee of the City and entitled to accrued leave where records have been maintained to reflect the leave accrued and unused, we would conclude herein that the Chief of Police should likewise be paid for unused leave accrued and documented during his term of office as any municipal employee if records have been maintained, and it would be at a rate as provided for other employees.

We hope this sufficiently answers your inquiry, but if we can be of further assistance, do not hesitate to contact us.

Very truly yours,

RICHARD P. IEYOUNG
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