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State of Louisiana

DEPARTMENT OF JUSTICE

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BATON ROUGE

70804-9005

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OPINION 11-0001

Ms. Carolyn Cheramie
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Post Office Box 340
Raceland, Louisiana 70394

166 - TOURISTS - Regulations, etc.

90-A - POLITICAL SUBDIVISIONS - Officers, Agents & Employees

La. R.S. 33:4574

Pursuant to La. R.S. 33:4574(F)(1)(a) and (b)(i), the directors of the Lafourche Parish Tourist Commission shall consist of seven directors appointed by the governing authority of the parish from lists of nominees submitted to the governing authority by private, non-profit groups that have an interest in one or more aspects of the tourism industry. Any ordinance that is inconsistent with La. R.S. 33:4574(F)(1)(a) and (b)(i) would be invalid.

Dear Ms. Cheramie:

You have requested an opinion of the Attorney General on behalf of the Lafourche Parish Tourist Commission d/b/a Bayou Lafourche Area Convention & Visitors Bureau ("Lafourche Tourist Commission") regarding whether the Lafourche Parish Council may change the manner in which the board directors are appointed. Your question has been forwarded to me for research and reply.

In 1975, the legislature enacted La. R.S. 33:4574 *et seq.*, authorizing the governing authority of any parish to create a tourist commission on its own or jointly with one or more other parishes.¹ In 1995, the legislature significantly amended the laws governing tourism commissions.² As a result of the 1995 amendments, there are now two types of tourist commissions authorized and created by La. R.S. 33:4574.³ The Lafourche Tourist Commission is specifically authorized by La. R.S. 33:4574(B)(17), which provides:

B. Pursuant to Article VI, Sections 19 and 30 of the Constitution of Louisiana, the following commissions and bureaus, hereafter collectively referred to in this Chapter as "tourist commissions" or "commissions", are hereby specifically created as special districts or commissions. Each such commission shall be a body politic and corporate and a political subdivision of the state of Louisiana, composed of the following territory:

(17) Lafourche Parish Tourist Commission composed of all the territory in Lafourche Parish.

¹ Act 19 of the 1975 Regular Session of the Louisiana Legislature.

² Act 47 of the 1995 Regular Session of the Louisiana Legislature.

³ Previously La. R.S. 33:4574(A)(1) and (2).

The Lafourche Tourist Commission is governed by a Board of Directors. Membership of the Board of Directors for tourist commissions is prescribed by statute, La. R.S. 33:4574(F), which provides in pertinent part:

F. (1)(a) Unless provided otherwise in any local, special, or general law for a particular commission, the commission shall be governed by a board of seven directors, hereinafter also referred to as the governing authority of the commission in this Chapter, to be appointed by the governing authority or authorities of the parish or parishes creating the commission or, in the case of the commissions provided for in Subsection B of this Section, those parish or parishes which are within the territory of the commission...

(b)(i) Unless provided otherwise in any local, special, or general law for a particular commission, appointments shall be made from lists of nominees submitted to the governing authority or authorities by private, nonprofit groups that have an interest in one or more aspects of the tourism industry...

(ii) The directors shall be appointed for terms of three years.

Section 24:925 of the Code of Ordinances of Lafourche Parish, Louisiana ("Code of Ordinances") provides for an alternative number of and separate method of appointment of the Board of Directors.⁴ Ordinance Section 24:925(C) states, in pertinent part, as follows:

The Commission shall be composed of nine (9) members who shall be known as the directors. The directors shall be appointed for terms of three (3) years, and shall serve without compensation. The directors shall be residents of the Parish of Lafourche, and shall represent the hospitality and tourist industry (i.e., hotels, motels, campgrounds, restaurants, fairs, festivals and rodeos). The directors shall be appointed by the Lafourche Parish Council as follows: (1) one (1) director who is a resident of the City of Thibodaux nominated by the Mayor of the City of Thibodaux as a representative of the City of Thibodaux; (2) one (1) director who is a resident of the Town of Lockport nominated by the Mayor of the Town of Lockport as a representative of the Town of Lockport; (3) one (1) director who is a resident of the Town of Golden Meadow nominated by the Mayor of the Town of Golden Meadow as a representative of the Town of Golden Meadow; (4) one (1) director nominated by the Thibodaux Chamber of Commerce; (5) two (2) directors nominated by the Chamber of Commerce of Lafourche and the Bayou Region; (6) one (1) director who is a member of a recognized cultural/historical organization; (7) one (1) director who is

⁴ Section 24:925 of the Code of Ordinances was passed on July 22, 1982 by Ordinance No. 1411. Section 24:925(C) was amended on April 23, 1987 by Ordinance No. 1756, which increased the membership on the Commission from seven to nine members. See Comment, Section 24:925 of the Code of Ordinances.

a resident of Ward eleven (11) of Lafourche Parish; and (8) one (1) director who is a resident of Ward six (6) of Lafourche Parish. In making the appointments, the Lafourche Parish Council shall have the right by 2/3's vote of the entire membership of the body to reject any nominee, in which case the nominating authority who nominated the individual who was rejected shall submit another name to the Council. At the expiration of the term of office of each respective director, his successor shall be appointed in the same manner as the director whom he succeeds, for a term of three (3) years. Appointments of successors to directors whose terms will expire shall be made no later than November 1st of the year in which such terms expire. The expiration date of the terms of all directors shall be on December 31st of the final year of their appointment. It is hereby further specified that any vacancy in the office of director caused by resignation or other reasons shall be filled by appointment for a term of three (3) years in the same manner as the original appointment was made.

As is apparent from comparing the language of the two, Section 24:925(C) of the Code of Ordinances is in contravention to the provisions set forth in La. R.S. 33:4574(F)(1)(a) and (b)(i) concerning the number of members of the Board of Directors and the method of appointment. State law gives the local governing authority the power to appoint seven directors, and the Lafourche Parish ordinance provides for nine directors to be appointed in a more restrictive manner. A state statute takes precedence over any and all local ordinances, and state statutes cannot be modified by any inconsistent local ordinances. It is well settled that a local government is without authority to enact ordinances which are inconsistent with or in contravention of state law.⁵ Therefore, it is the opinion of this office that Section 24:925(C) of the Code of Ordinances is invalid as contrary to state law.

The first sentence of La. R.S. 33:4574(F)(1)(a) and (b)(i) envision that there may be exceptions concerning membership and selection of Board of Directors; however, any such exceptions must be enacted by the Legislature by the means of a local, special, or general law for a particular commission. This office has found no local, special or general laws enacted by the Legislature specific to the Lafourche Tourist Commission. Thus, it is the opinion of this office that the board governing the Lafourche Tourist Commission shall consist of seven directors appointed by the governing authority of the parish from lists of nominees submitted to the governing authority by private, non-profit groups that have an interest in one or more aspects of the tourism industry, and shall have terms of three years.

⁵ *Restivo v. City of Shreveport*, 566 So.2d 669 (La.App. 2 Cir. 1990); *State ex rel. Corbello v. Bond*, 441 So.2d 742 (La. 1983); *Rollins Environmental Services of Louisiana, Inc. v. Iberville Parish Police Jury*, 371 So.2d 1127 (La. 1979); *City of Lake Charles v. Broussard*, 475 So.2d 411 (La.App. 3 Cir. 1985); *McSweeney v. Louisiana Board of Veterinary Medicine*, 555 So.2d 469 (La. 1990); *Bourgere v. Anzelmo*, 517 So.2d 1121 (La.App. 5 Cir. 1987).

In conclusion, pursuant to La. R.S. 33:3475, the Lafourche Parish Council has the authority to appoint seven directors to the Lafourche Tourist Commission. The appointments must be made from lists of nominees submitted to the governing authority by private, non-profit groups that have an interest in one or more aspects of the tourism industry. Any ordinance passed by the Lafourche Parish Council that is in contravention of La. R.S. 33:4574(F)(1)(a) and (b)(i) is invalid. Laws providing for an alternative number of directors as that set forth in La. R.S. 33:4574(F)(1)(a) or for a separate method of appointment of directors as set forth in La. R.S. 33:4574(F)(1)(b)(i) may only be enacted through the Legislature.

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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ATTORNEY GENERAL

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