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State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
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OPINION 13-0076

33 ELECTIONS – Tax Bonds

La.-R.S. 33:221

Ms. Deborah Cunningham Foshee
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Jefferson Parish
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A special service district can continue to levy taxes in the annexed area for the retirement of any outstanding tax-secured bonds of the district and may continue to levy such maintenance tax as has been authorized for the full period of such authorization. Jefferson Parish Council recently passed an ordinance which classifies the debt as continuing and the maintenance as ongoing. As a result of an existing Cooperative Endeavor Agreement, as well as the recently passed ordinance, which amended the boundaries of the water and sewer districts to include Precincts 12-G and 13-G, residents of Timberlane Subdivision may vote for the renewal of the water and sewer millages.

Dear Ms. Foshee:

Your request for an Attorney General's Opinion has been assigned to me for research and reply. In your original correspondence, you requested that this office advise you as to whether residents of Precincts 12-G and 13-G, which include the Timberlane Subdivision ("Timberlane"), can participate in future elections concerning the renewal of millages in Jefferson Parish, which are levied to support the Consolidated Water District No. 1 and Consolidated Sewerage District No. 1.

According to the information that you provided to our office, Consolidated Sewerage District No. 1 of the Parish of Jefferson was created in 1991 by Ordinance No. 70460 and Consolidated Water District No. 1 was also created in 1991 by Jefferson Parish Code of Ordinances 27-29.

La. R.S. 33:4169 establishes the authority to create collection contracts for sewerage service charges. Paragraph (B)(4) states:

It is the policy of this state that any municipal corporation, parish, or sewerage district operating a sewerage system may in its discretion assess a charge to any premises for the connection of such premises to such sewerage system.

Similarly, La. R.S. 33:3821 (Authority to issue bonds and levy taxes) states:

Waterworks districts shall be subdivisions of the state and as such may issue bonds and levy taxes in accordance with the provisions of Section 14 of Article XIV of the Constitution of 1921.

Timberlane was originally an unincorporated area included in the Consolidated Water District No. 1 and Consolidated Sewer District No. 1 and participated in the ten-year millage elections voted on by residents of the two Districts in 2003. Timberlane was subsequently annexed by the City of Gretna in 2008. A Cooperative Endeavor Agreement dated January 29, 2009, by and between the City of Gretna and the Parish of Jefferson, provided that the Consolidated Water District No. 1 and Consolidated Sewerage District No. 1 would continue to provide services to the Timberlane area following annexation by the City of Gretna.

In your most recent correspondence, dated August 7, 2013, you amended your prior inquiry regarding election participation by voters of Timberlane and provided our office with additional facts for our consideration.

You stated that the Jefferson Parish Council passed Ordinance No. 24534 on July 24, 2013, to expand both Consolidated Waterworks District No. 1 and Consolidated Sewerage District No. 1. You provided our office with a copy of Ordinance 24534, which amends Section 27-192(a) of the Jefferson Parish Code of Ordinances to include the Timberlane portion of Gretna within Consolidated Waterworks District No. 1 of the Parish of Jefferson, and amends Section 27-29(a) of the Jefferson Parish Code of Ordinances to include the Timberlane portion of Gretna within Consolidated Sewerage District No. 1 of the Parish of Jefferson. You also stated that the Bond Commission approved the propositions for the millage renewals on June 20, 2013, with the two Timberlane precincts included in the public notice.

In light of the amended boundaries of each district, you want to know if Jefferson Parish can allow the residents of Timberlane to vote for the renewal of the water and sewer for a ten year term beginning in 2013.

For our consideration, you reference La. R.S. 33:221(A) as authority for allowing the districts to levy taxes in the annexed area. However, paragraph B requires the agreement to cease once the debt has been retired.

La. R.S. 33:221(B) provides that:

B. If the municipality and the special service districts provide in the contract that the municipality thereafter will have jurisdiction to serve the annexed area, the special service district shall continue to levy taxes in the annexed area for the retirement of any outstanding tax-secured bonds of the district and may continue to levy such maintenance tax as theretofore has been authorized for the full period of such authorization; however, the district shall not thereafter be authorized to levy any new maintenance taxes in the annexed area, and, if the district thereafter issues any tax-secured bonds, the assessed valuation of the annexed area shall not be used in computing the capacity of the district to issue such bonds, and taxes shall not be levied in the annexed area for the retirement of new bonds of the district, notwithstanding any provisions of law to the contrary.

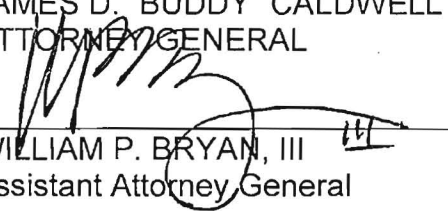
The amended ordinance classifies the debt as continuing and the maintenance as ongoing. Therefore, the special service district can continue to levy taxes in the annexed area, since the outstanding tax-secured bonds of the district have not been retired. Further, it may continue to levy such maintenance tax in the districts since the maintenance is continuing and is not "new maintenance taxes." La. R.S. 33:221(B).

As a result of the Cooperative Endeavor Agreement existing between the City of Gretna and the Parish of Jefferson, as well as the recent ordinance that was unanimously approved by the Jefferson Parish Council, which amended the boundaries of the water and sewer districts to include Timberlane, Jefferson Parish can allow the residents of Precincts 12-G and 13-G to vote for the renewal of the water and sewer millages for a ten year term beginning in 2013.

Yours very truly,

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By:


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