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DEPARTMENT OF JUSTICE

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BATON ROUGE

70804-9005

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OPINION 15-0092

Mr. Michael L. Hughes
First Assistant District Attorney
20th Judicial District
P.O. Box 338
Jackson, LA 70748

84 Parishes
90 Police Juries – Powers and Functions

La. Const. art. VI, sec. 5
La. Const. art. VI, sec. 44
La. R.S. 33:4574

The West Feliciana Parish Tourist Commission is a political subdivision of the state, separate and distinct from the parish. The West Feliciana Parish Council's authority over the commission is limited to appointment of members.

Dear Mr. Hughes:

Your request for an opinion regarding the West Feliciana Parish Tourist Commission ("Commission") has been assigned to me for research and reply. Specifically, you ask if the Commission is a political subdivision of the state, and if so, what control or oversight the West Feliciana Parish Council ("Parish Council") and Parish President have over it.

The Commission was created by La. R.S. 33:4574 in 1975. The West Feliciana Parish Charter became effective December 27, 2013. Your questions arise from the interaction of these sets of laws. Each of your questions will be answered in turn.

Is the Commission a political subdivision of the state separate and distinct from the parish?

The creation of local parish tourist commissions is authorized by La. R.S. 33:4574. Specific to the Commission, La. R.S. 33:4574(B)(37) provides, in pertinent part:

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:

* * *

(37) West Feliciana Parish Tourist Commission composed of all the territory in West Feliciana Parish.

The statute clearly creates the Commission as a political subdivision of the state of Louisiana. As such, no further interpretation of this statute is needed. The local tourist commissions created in La. R.S. 33:4574 were created to be separate from their respective parish governments. This position has been supported by several opinions

from our office in the past. See La. Atty. Gen. Op. Nos. 00-175, 04-0027, and 08-0333. More specifically, our office affirmed that the Commission is a political subdivision of the state in La. Atty. Gen. Op. No. 01-206, which held that the Commission is subject to Louisiana's public records laws. Additionally, our office noted in La. Atty. Gen. Op. No. 02-402 that the Commission is not a local government subdivision and confirmed that the Commission was created as a political subdivision of the state.

What control or oversight does the Parish Council and/or Parish President have over the Commission?

La. R.S. 33:4574 provides for the governing authority of West Feliciana Parish to appoint the board of directors of the Commission. Specifically, La. R.S. 33:4574(F)(4) states:

Notwithstanding the provisions of this Subsection, the West Feliciana Parish Tourist Commission shall be governed by a board of seven directors appointed by the West Feliciana Parish governing authority. The directors shall serve three-year terms of office following terms as provided in this Paragraph. Of the seven directors appointed to terms which begin in January of 1992, three shall be appointed for three-year terms, two shall be appointed for two-year terms, and two shall be appointed for one-year terms.

La. Const. art. VI, sec. 44 defines "governing authority" as used in article VI of the constitution as "the body which exercises the legislative functions of a political subdivision. The West Feliciana Parish Charter ("Charter") specifically names the Parish Council as the governing authority of the parish.¹ Therefore, the Parish Council has the authority to appoint the board of directors of the Commission.

Your request specifically asks how Article III, Section B(3) and Article III, Section D of the Charter impact the Commission. Article III, Section B(3) of the Charter provides for the powers and duties of the Parish President. This section gives the Parish President general authority to appoint and remove department heads, as well as subordinates within parish departments. However, there is no authority given to the Parish President with respect to the Commission. Because the Commission is a separate body from parish government according to state law, the Parish President's authority over parish departments does not extend to the Commission.

Article III, Section D of the Charter provides appointment and governance of boards and commissions in the parish. Section D specifically states that it governs "Boards and Commissions appointed solely by the governing body." This implies that the Parish Council is the governing body that appoints the members of all parish boards and

¹ Charter at Article III, Section A(1)(a).

commissions. This is consistent with La. R.S. 33:4574(F)(4), which also names the Parish Council as the Commission's appointing authority.

In regard to the parish's authority over the Commission, both the Charter and state law are clear that the Council has the authority to appoint members of the Commission. Our office has concluded in the past that appointment of members is the limit of the governing body's authority over a political subdivision. In La. Atty. Gen. Op. No. 01-0029, our office stated, "it is our opinion that where a term of office is fixed by the legislature, the police jury may not remove an individual from that office before his term expires." Because the legislature has provided for the appointment of directors, and not their removal, the Parish Council limited to appointment authority only. Such an interpretation is consistent with La. Atty. Gen. Op. No. 04-0027, in which our office stated, "tourist commissions created by LSA-R.S. 33:4574(A)(2) are each political subdivisions of the state of Louisiana and are separate from the local political subdivisions in which they operate." This law gives the tourist commissions independence to operate free from control by the political subdivision in which they operate.

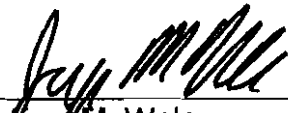
Because the Charter otherwise has more stringent requirements than state law regarding parish commissions in general, the Charter may govern different aspects of the Commission not otherwise addressed by, or inconsistent with, state law.

In conclusion, the Parish Council's authority over the Commission is limited to appointment power. The Parish President has no discernible authority over the Commission. Both state law and our opinions have affirmed that local tourist commissions are separate political entities from their respective parish governing authorities. The local governing authorities are limited by state law as to their control over these commissions.

We hope this opinion adequately addresses the concerns you have raised. If you have any further questions, please do not hesitate to contact our office.

With best regards,

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ATTORNEY GENERAL

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