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DEPARTMENT OF JUSTICE
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July 8, 2024
OPINION 24-0008

129 TAXATION - Levy & Assessment (ad valorem taxes)

The Honorable Jonathan "JT" Taylor
Mayor, Town of Livingston
P.O. Box 430
Livingston, LA 70754

La. Const. art. VI, § 26 La. R.S. 33:4562
La. R.S. 33:4563 La. R.S. 39:704
La. R.S. 33:4566

Resources allocated for acquiring, improving, and maintaining a recreational facility within a recreation district may be utilized for any project or initiative that aligns with the original proposition and the statutory objects and purposes.

Dear Mayor Taylor:

You requested an opinion of this office on behalf of the Town of Livingston (Town) regarding a special ad valorem tax. In 1998, the electorate approved a proposition for a fifteen (15) mills tax on all property subject to taxation in Recreational District 5 for the purpose of acquiring, improving and maintaining recreational facilities for the District.¹ The proposition to renew the tax in 2007 was defeated.²

In 2017, the parish council split Recreational District 5 into two separate districts: Recreational District 5 (District 5) and Recreational District 7 (District 7), which encompasses the entire Town of Livingston. Propositions for both districts were put on the ballot in 2018 and were defeated.³ As a result of the failed 2018 propositions, the parish council passed an ordinance splitting the remaining funds from the original 15 mills tax between the two districts. At the time, each district was controlled by a five-member board. The District 7 board was dissolved by the parish council in December of 2023, since the board was inactive for 4 years. Now that the board has dissolved, the money is in the control of the parish council. The Town now must go to the parish to request funding for projects within District 7. You would like to know if proceeds from the original tax, if any remain, may be spent on property located within District 7.

Louisiana Revised Statute 33:4562 provides the legal authority for the creation of recreation districts. Louisiana Revised Statute 33:4563 provides that the "objects and purposes of the recreation districts created under R.S. 33:4562 shall be to own and operate playgrounds and other facilities; or generally to engage in activities which would promote recreation and any related activity designed to encourage recreation and promote the general health and [well-being] of youths." The purpose of a recreation district is defined broadly in statute, enabling funds to be spent to support a wide array of activities and initiatives, including purchasing and acquiring lands, buildings, equipment

¹ Election results 7/18/1998. <https://voterportal.sos.la.gov> (last visited 5/23/2024).

² Election results 10/20/2007. <https://voterportal.sos.la.gov> (last visited 5/23/2024).

³ Election results 12/8/2018. <https://voterportal.sos.la.gov> (last visited 5/23/2024).

and other facilities, and for the construction and maintenance thereof. See La. R.S. 33:4566.

Louisiana Constitution Article 6, Section 26(B) grants a parish governing authority the ability to levy a millage increase for other than general purposes, if approved by a majority of the electors voting thereon in an election held for that purpose. The Louisiana Supreme Court has consistently interpreted this article of the constitution to prohibit the use of dedicated and special taxes for purposes other than those for which they were levied. *City of New Orleans v. Louisiana Assessors' Ret. & Relief Fund*, 05-2548 (La. 10/01/07), 986 So.2d 1, 14. Significantly, all proceeds of the tax must be used solely for the purpose or purposes set for in the proposition. *Id.* Moreover, Louisiana law provides that the proceeds of any special tax shall constitute a trust fund to be used exclusively for the objects and purposes for which the tax was levied. La. R.S. 39:704.

Thus, resources allocated for a recreation district or recreational facility may be utilized for any project or initiative that aligns with the statutory definitions outlined above and the purpose set forth in the original tax proposition. Whether a specific project or endeavor aligns with the objectives and purposes of a recreation district or acquiring, improving, and maintaining a recreational facility is a factual determination best left to the fact finder. The Office of the Attorney General does not serve as a fact finder in the process of rendering an opinion. La. Atty. Gen. Op. Nos. 18-0054, 16-0076, 08-0012, and 00-466.

Next, you indicated that the Town retains ownership of two parks, Johnny Sartwell Park and Circle Drive Park. Johnny Sartwell Park is designated as a park in its property description filed with the clerk of court, but Circle Drive Park does not have such a designation. You inquired as to whether the original 15 mills tax may be used for recreational purposes at Circle Drive Park since it is not designated as a park in its property description. The presence or absence of a designated park status for Circle Drive Park in its property description is not determinative. The critical factor lies in assessing whether the utilization of the 15 mills tax for proposed improvements or maintenance of Circle Drive Park aligns with the objectives and purposes delineated in statute and the original proposition. As outlined above, La. R.S. 33:4563 and 33:4566 provide discretion for the utilization of resources within recreation districts to advance recreational activities and bolster the overall health and well-being of the community. Hence, the pivotal consideration hinges on whether the proposed utilization of funds for Circle Drive Park serves to further these statutory aims and aligns with the purposes set forth in the proposition for acquiring, improving, and maintaining recreational facilities.

Considering the foregoing, it is the opinion of this office that resources allocated for acquiring, improving, and maintaining a recreational facility within a recreation district may be utilized for any project or initiative that aligns with the original proposition and the statutory objects and purposes.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

With best regards,

LIZ MURRILL
ATTORNEY GENERAL

BY: 
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