

LINCOLN parish police jury

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RUSTON, LOUISIANA 71273-0979

April 23, 2013

Mayor Walter Carpenter, Jr.
Town of Vienna
PO Box 13081
Ruston, LA 71273

RE: Lincoln Parish Fire Protection District No. 1 Appointment

Dear Mayor Carpenter:

In response to your request for an opinion concerning the term of office for the Town of Vienna's appointee to the Lincoln Parish Fire Protection District No. 1 Commission, I am forwarding you a copy of an opinion rendered by the Lincoln Parish District Attorney's Office at my request. If, after reviewing this information, you should like to discuss further, please contact me at your earliest convenience.

Sincerely,

LINCOLN PARISH POLICE JURY

Courtney Hall
Parish Administrator

Robert W. Levy, District Attorney
Third Judicial District Of Louisiana
Parishes Of Lincoln & Union

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April 23, 2013

Mr. Courtney Hall
Administrator
Lincoln Parish Police Jury
Ruston, Louisiana 71270

RE: Lincoln Parish Fire Protection
District No. 1

Dear Courtney:

On behalf of the Lincoln Parish Police Jury, you have asked for my opinion regarding the following questions:

- 1) Has the term of office of the Village of Vienna appointment to the Board of Commissioners of the Lincoln Parish Fire Protection District No. 1 expired?
- 2) If so, when would the term of office of the Village of Vienna appointment to the Board of Commissioners of the Lincoln Parish Fire Protection District No. 1 expire in the event the governing authority of the Village of Vienna chose to reappoint or replace its current appointee to the Board of Commissioners?

In response to your inquiries, I would offer the following information using the following terms. The Village of Vienna will sometimes be referred to hereinafter as "Vienna." The Board of Commissioners of the Lincoln Parish Fire Protection District No. 1 will sometimes be referred to hereinafter as "the Board." The Lincoln Parish Fire Protection District No. 1 will sometimes be referred to hereinafter as "the Fire District."

Fire Protection Districts are governed by the provisions of LSA-R.S. 40:1941, et seq. LSA-R.S. 40:1496 E provides that:

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“Two of the initial members of the board shall hold office from the January first immediately succeeding their appointment and three members shall hold office until two years from the January first immediately succeeding their appointment, the respective terms to be determined by lot. Thereafter, each member appointed shall serve for a term of two years . . .”

Since the Fire District has been in operation for in excess of twenty years, the initial one (1) year terms for certain members of the Board of the Fire District have long since expired, with each member of the Board now serving two (2) year terms.

In light of, and based solely upon the information provided to you by Walter Carpenter, Jr., Mayor of Vienna, the answer to your first inquiry appears straight forward. Mr. Carpenter indicates that he has been mayor of Vienna since January, 2012 and that no appointment has been made to the Board of the Fire District by the governing authority of Vienna during that time period. Mr. Carpenter also stated that he could find no minutes or other records of any appointment to the Board of the Fire District being made during the 2011 calendar year. Finally, you indicated that the records of the Lincoln Parish Police Jury do not reflect receipt of any notice from Vienna during the period commencing January 1, 2011 up through the present date that its appointee to the Fire District had been re-appointed or replaced. Therefore, I can only conclude that the term of office of the Vienna appointment to the Board of the Fire District has expired and that he or she is occupying that office until he or she is reappointed or replaced. Even if we assume, for argument's sake, that the governing authority of Vienna made an appointment to the Board of the Fire District during the latter part of 2010, the term of that appointment would have expired on or before December 31, 2012.

It is the second part of your inquiry that is somewhat more complicated. At the time of the initial formation of the Fire District, there were six (6) members of the Board appointed in accordance with the provisions of LSA-R.S. 4:1496 B(4), because there were four municipalities included within the boundaries of the Fire District; Downsville, Dubach, Simsboro and Vienna, having one (1) appointment each with the Lincoln Parish Police Jury having two (2) appointments. A third appointment by the Lincoln Parish Police Jury was added in 2001 to ensure that the Board was comprised of at least one member from each ward located within the boundaries of the Fire District.

The records of the Lincoln Parish Police Jury appear to indicate that the terms of office of two (2) of the Police Jury appointees to the Board of the Fire District and the Dubach and Simsboro appointees last expired on December 31, 2011, while the

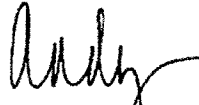
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remaining Police Jury appointee and the Downsville appointee last expired on December 31, 2012. Therefore, assuming appointments were made to the Board of the Fire District every two (2) years by Vienna as it should have been doing, it is more likely that its appointment would have last expired on December 31, 2012. Using that date for the expiration of the term of office of the Vienna appointment to the Board of the Fire District, the terms of office of four (4) members of the Board of the Fire District would have last expired on December 31, 2011. [Two (2) members appointed by the Lincoln Parish Police Jury and one (1) member appointed by Dubach and Simsboro] and the terms of office of three (3) members of the Board of the Fire District would have last expired on December 31, 2012 [One (1) member appointed by the Lincoln Parish Police Jury and one (1) member each appointed by Downsville and Vienna]. This would also be consistent with the staggered terms called for in LSA-R.S. 40:1496 E and the desire to limit the number of Board positions that could possibly turn over in any given year.

In light of the lack of supporting records regarding the Vienna appointment to the Board of the Fire District and in an effort to clear up any questions regarding the term of office of that appointment, I would suggest that the governing authority of Vienna either reappoint or replace its appointee to the Board of the Fire District at its earliest possible convenience, to serve a term to expire on December 31, 2014, the result of which would have the term of office of three (3) members of the Board of the Fire District expiring on December 31, 2014 and the term of office of four (4) members expiring on December 31, 2013.

I trust that the information provided herein adequately addresses your questions regarding appointments to the Board of the Fire District. However, should have any questions or desire to further discuss this matter, please feel free to contact me.

Yours very truly,



S. Andrew Shealy
1st Assistant District Attorney

SAS:pk