



Josh Guillory
Mayor-President / Maire-Président

July 27, 2022

Mr. Jeff Landry
Attorney General
State of Louisiana
Department of Justice
Civil Division
P.O. Box 94005
Baton Rouge, Louisiana 70804

Re: Lafayette Consolidated Government Attorney General Opinion Request

Dear Attorney General Landry:

In my capacity as Mayor-President of the Lafayette City-Parish Consolidated Government ("LCG"), I respectfully request an expedited opinion from your office related to the matter outlined hereinbelow. To assist your office in expediting this opinion, I have included herein all necessary and undisputed material facts associated with this matter.

BACKGROUND

For approximately the next two weeks, I will not be physically located within the boundaries of Lafayette Parish. However, during the entirety of this time, I have communication capability with Lafayette Parish by all modern communication methods.

I have been advised that the respective Chairs of the Lafayette Parish Council and the Lafayette City Council either have attempted, or intend to attempt, the appointment of a member of their Councils to act as Mayor-President under Section 3-06 of the LCG Home Rule Charter.

QUESTION

Section 3-06 (Mayor-President's Absence) of the LCG Home Rule Charter requires two elements to be satisfied before the Chairs of each respective Council are empowered to jointly appoint a Mayor-President from amongst their membership: (1) the Mayor-President's absence from Lafayette Parish; and (2) the Mayor-President's unavailability to Lafayette Parish, both for more than 48 hours.

Based on the established facts listed below, the question at hand is whether the joint appointment of a Mayor-President by the Chairs for each respective Council violates the provisions of Section 3-06 of the LCG Home Rule Charter.

ESTABLISHED FACTS

- (1) I am and will be physically absent from Lafayette Parish for approximately the next two weeks;
- (2) My Chief Administrative Officer and City-Parish Attorney have 24-hour access to me;
- (3) I am accessible via email, telephone, cell phone, and/or fax communication, and other similar forms of communication (FaceTime; Zoom, etc.);
- (4) I am able to personally review and sign documents, including but not limited to, correspondence, executive orders, directives, contracts, resolutions, ordinances, and any and all other documents customarily reviewed and signed by me for the past two and a half years of my administration;
- (5) I am equipped with a computer with secure WIFI access to the Lafayette Consolidated Government's network.

ANALYSIS

This request does not seek a factual determination, but rather requests an opinion as to the legality of the application of the provisions of Section 3-06(A) of the LCG Home Rule Charter to the above listed facts.

Section 3-06(A) of the LCG Home Rule Charter, provides, in pertinent part, "[w]hen the Mayor-President is absent from **and unavailable to** Lafayette Parish for more than 48 hours, the powers and duties of the office of Mayor-President shall be exercised by a member of the City Council or Parish Council jointly appointed by the chair of each Council." (emphasis added).

Notably, this provision of our Charter contains a two-prong test, both parts of which need to be satisfied prior to the Council Chairs being authorized to jointly appoint a Mayor-President – that the Mayor-President be both absent **and** unavailable to Lafayette Parish for a period of more than 48 hours. This opinion request focuses on the second prong of the test (*i.e.* unavailable to Lafayette Parish).

The word "unavailable" is undefined in the LCG Home Rule Charter. When interpreting a municipal charter, "[w]ords must be interpreted in the sense in which they

are ordinarily used and understood, unless some other interpretation is clearly indicated by the charter."¹

The ordinary and understood usage of the term "unavailable" is as follows:

unavailable (un·avail·able | \ ,ən-ə-ˈvā-lə-bəl) *adj.*

a: not possible to get or use

*// a book that is currently unavailable online.
// The conference room is unavailable this
afternoon.*

b: unable or unwilling to do something

*// Officials were unavailable for comment.
// The manager is unavailable to speak with you
right now.²*

* * * * *

By definition, one who is accessible and has the unfettered ability to communicate cannot be said to be "unavailable". Similarly, one who is able and willing to perform acts required of them, by definition, cannot be said to be "unavailable."

Applying the established facts listed hereinabove, it is obvious that under no circumstance am I "unavailable to Lafayette Parish." In fact, since my absence, I have faithfully carried out the duties and obligations imposed upon me as Mayor-President of Lafayette City-Parish Consolidated Government without issue, including participating in a telephone conference meeting on July 26, 2022, at approximately 1:20 p.m., with Mr. A.B. Rubin, Chairman of the Lafayette Parish Council.

ADDITIONAL CONSIDERATIONS

Under Section 3-09 of the LCG Home Rule Charter, my first enumerated duty as Mayor-President is to "[s]ee that all laws, provisions of [LCG's Home Rule Charter] and acts of the City Council and/or Parish Council ... are faithfully executed." Consistent with this duty, I am authoring this request for an expedited Attorney General's opinion to prevent a violation of the LCG Home Rule Charter. The mere fact that I am able to submit

¹ 2A McQuillin Mun. Corp. § 9.22 (3rd ed.).

² The Merriam-Webster Dictionary (available at <https://www.merriam-webster.com/dictionary/unavailable>).

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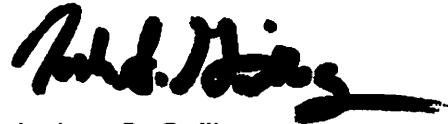
this request for an expedited Attorney General's opinion as Mayor-President is clear and convincing evidence of my "availability."

Additionally, it must be noted that to conclude that I am "unavailable" under the established facts herein would be contrary to LCG's historical interpretation and application of Section 3-06 of its Home Rule Charter. More specifically, on at least two prior occasions (once in 2011 and 2014) involving a different Mayor-President and Council, LCG interpreted Section 3-06 of its Home Rule Charter to conclude that the Mayor-President was not "unavailable" while outside the boundaries of Lafayette Parish, while being accessible through various communication methods. This opinion is attached.

Finally, to conclude that I am "unavailable" under Section 3-06(A) of the LCG Home Rule Charter would lead to absurd results. For instance, any time I leave the boundaries of Lafayette Parish for more than 48 hours, whether on official business, family vacation, or otherwise, the legislative branch of LCG, through the Council Chairs could usurp the powers of the executive branch of LCG by jointly appointing a new Mayor-President. Surely this cannot be the intent of this provision of the Charter.

Your immediate attention to this matter is greatly appreciated.

Sincerely,



Joshua S. Guillory
Mayor-President