



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

November 8, 2022

The Honorable Carolyn McAdams
Mayor, City of Greenwood
Post Office Box 907
Greenwood, Mississippi 38935-0907

Re: Compensation of Greenwood City Attorney for Providing Legal Services
to the Greenwood Tourism Commission

Dear Mayor McAdams:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, the Greenwood Tourism Commission was established by Chapter 813, Local and Private Laws of 1989. The bill has been amended several times, most recently by 2021 Miss. Senate Bill No. 3079. You quote several sections of the bill that indicate the Greenwood Tourism Commission is an entity separate and apart from the City of Greenwood but also acknowledge that the bill plainly states that the city attorney shall be the attorney for the Greenwood Tourism Commission. You question who is responsible for compensating the city attorney when he or she does legal work for the Greenwood Tourism Commission.

Question Presented

May the City of Greenwood require the Greenwood Tourism Commission to pay the city attorney for legal services provided to the Greenwood Tourism Commission, including attendance at commission meetings, advice and counsel, legal research, etc.?

Brief Response

Compensation for services provided to the Greenwood Tourism Commission by the city attorney is the responsibility of the City of Greenwood.

Applicable Law and Discussion

Funded by a one percent hotel and restaurant special tax, the Greenwood Tourism Commission (the "GTC") is a municipal entity that functions in an advisory capacity as part of the executive branch and has "authority over all matters relating to establishing, promoting and developing conventions and tourism in the city. . . ." 2021 Miss. S.B. 3079, §§ 2, 4. The GTC may also carry out tasks that the mayor may assign to it by executive order. *Id.* at § 2.

The language of S.B. 3079 mandates that “[t]he city attorney shall be the attorney for the commission.” However, it does not state what particular legal services the GTC may require. Your request relates that the city attorney may provide services such as attendance at GTC meetings, legal research, and advice and counsel. While this office has opined in the past that there is no requirement for legal counsel to be present at tourism commission meetings, the specific legal needs of the GTC are not at issue in this opinion, and those needs are questions of fact best determined by the GTC. *See* MS AG Op., *Card* at *1 (July 13, 1994) (opining that there is no need for legal counsel to be present at meetings of the Coahoma County Tourism Commission).

Municipal governing authorities are statutorily authorized to annually appoint and employ an attorney for the municipality. Miss. Code Ann. § 21-15-25; *see also* MS AG Op., *Alexander* at *1 (Apr. 25, 2014) (“We have consistently opined that a municipality may employ a municipal attorney . . . to represent the interests of a municipality.”) “The specific duties and compensation of the Town Attorney are to be prescribed and fixed by the municipal governing authorities.” MS AG Op., *Via* at *2 (Dec. 10, 2004). Section 21-15-25 provides that the municipal attorney may be paid additional compensation for duties outside the scope of the contracted-for duties and services:

Should the services and duties required of a regular municipal attorney at any time during his term of office become greater than that anticipated by the governing authorities at the time of his appointment, the governing authorities, by unanimous vote, and on proper finding, may increase the compensation of such attorney for the remaining portion of his term in such amount as the governing board may find and adjudge to be fair and reasonable to compensate said attorney for his excessive and unanticipated services and duties.

Id. The City of Greenwood (the “City”) must determine whether the legal services provided to the GTC are within the prescribed duties of the city attorney and therefore covered by the base salary or whether such services provided to the GTC are outside those covered by the contracted-for compensation and require additional compensation. Either way, the statute provides that the city attorney is to be paid by the municipality for the services he or she provides. It is the opinion of this office that the city attorney is required to provide services to the GTC, and the City is responsible for paying the city attorney, either as part of a regular base salary or in the form of additional compensation. “The determination as to whether a particular service is outside the scope of the regular duties and employment contract of the municipal attorney is a factual one to be made by the governing authorities.” *Alexander* at *2.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ *Misty Monroe*

Misty Monroe
Assistant Attorney General