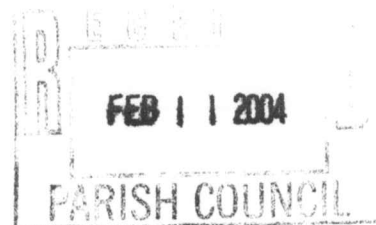




CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
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FEB 06 2004
OPINION 04-0013

Mr. Lance Marino
Council Chairman
Parish of St. Charles
P.O. Box 302
Hahnville, LA 70057

Dear Councilman Marino:

This office is in receipt of your request for an opinion of the Attorney General in regard to a supplemental agenda at a regularly published scheduled meeting of the St. Charles Parish Council. You ask the following:

“Once an agenda has been published regarding matters for discussion at a regular published scheduled meeting, do additional items placed on a Supplemental Agenda (which comes out at 10:00 a.m. on the day of the meeting) become part of or an extension of the regular Agenda or does the Supplemental Agenda fall under the Sunshine Law, item 7 Notice of meetings (b)(I) - (ii).”

R.S. 42:7, Notice of meetings, provides in part as follows:

A. (1)(a) All public bodies, except the legislature and its committees and subcommittees, shall give written public notice of their regular meetings, if established by law, resolution, or ordinance, at the beginning of each calendar year. Such notice shall include the dates, times, and places of such meetings.

(b)(I) All public bodies, except the legislature and its committees and subcommittees, shall give written public notice of their regular, special, or rescheduled meeting no later than twenty-four hours before the meeting.

(ii) Such notice shall include the agenda, date, time, and place of the meeting, provided that upon approval of two-thirds of the members present at a meeting of a public body, the public body may take up a matter not on the agenda.

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We must conclude, as observed in Atty. Gen. Op. 87-649, that after the agenda has been published for a regularly scheduled meeting that additional items can only be placed on the agenda when there is "approval of two-thirds of the members present at the meeting" as set forth in R.S. 42:7. However, the opinion included an admonition that frequent use of the agenda amendment procedure should be avoided because such could become a subterfuge for avoiding advance public notice of the actual agenda.


Additionally, in the latter opinion this office observed, "If an item is taken up illegally, that is, without the two-thirds vote and without prior notice, the action becomes voidable rather than absolutely null and void." It was recognized that in accordance with R.S. 42:10 the Attorney General, the District Attorney or any person who has been denied any right conferred by the provisions of R.S. 42:4.1 through R.S. 42:8 or who has reason to believe that the provisions of R.S. 42:4.1 through R.S. 42:8 have been violated may institute enforcement proceedings as provided in R.S. 42:11. This would include a writ of mandamus, injunctive relief, declaratory judgment or a judgment rendering the action void as provided in R.S. 42:9.

In conclusion, we would advise that any supplement agenda would not become a part of the regular agenda by placing the additional items on a supplemental agenda at 10:00 on the morning of the day of the meeting. It is only to be brought before the Council after two-thirds of the members present at the public meeting approve considering the matter under the Sunshine Law.

We hope this sufficiently answers your inquiry, but if we can be of further assistance, do not hesitate to contact us.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By: 
BARBARA B. RUTLEDGE
Assistant Attorney General

CCF/bbr