



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

OPINION 15-0041



Ms. Tiffany K. Clark
St. Charles Parish Council
P.O. Box 302
Hahnville, LA 70057

90-A-1 PUBLIC FUNDS & CONTRACTS

Pursuant to the St. Charles Parish Charter, the Parish President must execute the authorizations set forth in the budget ordinance including the expenditure of funds for specific line item appropriations unless there is authority to not do so.

Dear Ms. Clark:

Your request for an Attorney General's Opinion has been assigned to me for research and reply. On behalf of the St. Charles Parish Council ("Council"), you have asked for our opinion as to what steps are available to the Council to have a project implemented.

According to your request, the project was approved by the Council. You also indicate that the Council obtained a cost estimate for the project and believes the funds necessary for the completion of the project have been appropriated and included in the properly adopted budget. Notwithstanding, the Parish President has declined to implement the project. It is our understanding that the Parish President is of the opinion that the funds needed for the completion of the project far exceed the amount appropriated. As such, the Parish President has declined to implement the project without the necessary funds being appropriated.

In Attorney General Opinion No. 14-0120, we recognized that a budget, once adopted by ordinance, becomes law and is presumed constitutional. We also recognized that an elected mayor is the chief executive and administrative officer who serves as the head of the executive branch. He is the executive officer and supervises and directs the operations of all units of the city government. He is charged with the enforcement of applicable state law, including the provisions of any applicable charter or ordinances. See *Plaisance v. Davis*, 03-0767 (La.App. 1 Cir. 11/7/03), 868 So. 2d 711, writ denied, 03-3362 (La. 2/13/04), 867 So.2d 699. Accordingly, we opined that upon final passage of a city budget, the mayor, as chief executive officer, must execute the authorizations set forth in the budget including the expenditure of funds for specific line item appropriations. The mayor cannot ignore an appropriation if there is not authority to do so and cannot frustrate the intent of the appropriation. However, the mayor is not required to spend the entire amount of the appropriation if he can carry out the purpose of the appropriation with less money.

Article III, Section A of the St. Charles Parish Charter ("Charter") provides that the Council shall be the governing authority and shall be vested with all legislative power within St. Charles Parish, including the power to make appropriations. Article III, Section

B of the Charter provides that the Parish President shall be the chief executive officer and shall be vested with the executive power of the parish.

Therefore, in accord with Attorney General Opinion No. 14-0120, it is the opinion of this office that upon final passage of a budget, the Parish President, as chief executive officer, must execute the authorizations set forth in the budget including the expenditure of funds for specific line item appropriations. The Parish President cannot ignore an appropriation if there is not authority to do so and cannot frustrate the intent of the appropriation.

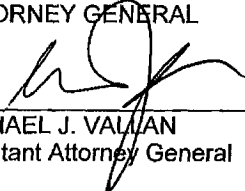
Here, it appears that the Parish President is taking the position that the appropriation is insufficient and without having the funds necessary to complete the project, it would be pointless and a waste of the public funds to implement the project. Whether such a position is valid and provides the Parish President with the requisite authority to not implement the project appears to be a question of fact best decided by a court of competent jurisdiction. Accordingly, in the event the Council disagrees with the position taken by the Parish President, it should seek guidance from a court of competent jurisdiction on this issue.

We trust this adequately responds to your request. If you should have any questions about the response contained herein, please feel free to contact our office.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY:



MICHAEL J. VALLAN
Assistant Attorney General

JDC/MJV/as

B of the Charter provides that the Parish President shall be the chief executive officer and shall be vested with the executive power of the parish.

Therefore, in accord with Attorney General Opinion No. 14-0120, it is the opinion of this office that upon final passage of a budget, the Parish President, as chief executive officer, must execute the authorizations set forth in the budget including the expenditure of funds for specific line item appropriations. The Parish President cannot ignore an appropriation if there is not authority to do so and cannot frustrate the intent of the appropriation.

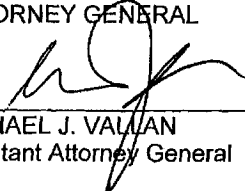
Here, it appears that the Parish President is taking the position that the appropriation is insufficient and without having the funds necessary to complete the project, it would be pointless and a waste of the public funds to implement the project. Whether such a position is valid and provides the Parish President with the requisite authority to not implement the project appears to be a question of fact best decided by a court of competent jurisdiction. Accordingly, in the event the Council disagrees with the position taken by the Parish President, it should seek guidance from a court of competent jurisdiction on this issue.

We trust this adequately responds to your request. If you should have any questions about the response contained herein, please feel free to contact our office.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY:



MICHAEL J. VALLAN
Assistant Attorney General

JDC/MJV/as