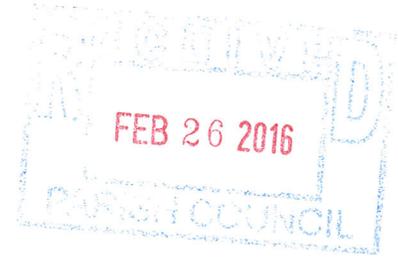




Jeff Landry
Attorney General

State of Louisiana

DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
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February 16, 2016
OPINION 15-0164

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

90- B- 4 PUBLIC MEETINGS - State & Local Governing Bodies

La. Const. art. XII, § 3 La. R.S. 42:12
La. R.S. 42:13 La. R.S. 42:14
La. R.S. 38:1607 La. R.S. 12:1-206

The Sunset Drainage District is required to hold at least one regular meeting on the second Monday of each month, unless the majority of its members vote to change the date.

Dear Ms. Clark:

On behalf of the St. Charles Parish Council ("Council"), you have requested an Attorney General's opinion concerning the number of meetings to be held by the Sunset Drainage District ("SDD"). Specifically, you ask whether the SDD is required to hold a predetermined number of public meetings, and if so, the frequency of meetings.

The Louisiana Constitution protects the right to observe the deliberations of public bodies, except in cases established by law. La. Const. art. XII, § 3.¹ The Open Meetings Law, La. R.S. 42:11 *et seq.*, defines the term "public body" to include "special district boards,"² such as the SDD. Further, as the SDD's board members are subject to the control of a public authority, the SDD is considered a public corporation subject to the Open Meetings Law.³

La. R.S. 38:1614 provides that once a drainage district is created it shall have both a corporate status and all the powers of a corporation. The Louisiana law governing corporations is found within the provisions of La. R.S. 12:1-101 *et seq.* Specific reference is made to La. R.S. 12:1-206 concerning bylaws, which provides in part that "[t]he bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation." Since there is no statutory requirement over the number of public

¹ See generally La. Atty. Gen. Op. Nos. 14-0106 and 13-0189.

² La. R.S. 42:13(3).

³ La. R.S. 42:14(A) requires that every meeting of a public body shall be open to the public unless closed pursuant to exceptions provided for within the Open Meetings Law. La. Atty. Gen. Op. No. 14-0106. The law also requires that all votes necessary to conduct business be taken at a public meeting. See La. Atty. Gen. Op. No. 13-0189.

meetings that the SDD is mandated to hold, it follows that the SDD has the power to determine their frequency.⁴

According to the SDD's bylaws provided by your office, since 1924, the SDD is required to hold "[r]egular meetings of the Board for the transaction of current business... on the 2nd Monday of each month."⁵ The SDD, however, "from time to time, at its pleasure, [is permitted to] change the date of the meeting upon the majority vote of its members at any meeting of the Board."⁶ The SDD can also hold special and emergency meetings, provided that it follows the procedure stipulated in its bylaws.⁷

As noted in your request, the Council is the governing authority of the SDD.⁸ Pursuant to La. R.S. 38:1607(C)(1), the Council received statutory authorization to replace the board of the SDD. To this end, the St. Charles Parish passed Ordinance No. 13-8-15 ("Ordinance"), appointing and designating the Council as the governing authority of the SDD. Section II of the Ordinance specifically states that "all functions of said Board of Commissioners of the Sunset Drainage District are hereby transferred to the St. Charles Parish Council effective August 15, 2013." Therefore, as the Council has all the functions and responsibilities previously performed by the Board of Commissioners of the SDD, it follows that the Council is required to hold official meetings in the same manner as previously held by the SDD board.⁹ Also, when acting as the SDD's governing authority, the Council has authority to change the date of meetings.¹⁰

We are not aware of any records showing that the SDD's original bylaws have been amended. As a result, the Council is subject to the predetermined public meetings requirement as provided in the above SDD's articles.¹¹ As long as the Council complies with the notice requirements of the Open Meetings Law, there is no legislative prohibition against conducting drainage business at its regular council meeting, provided the Council is clear regarding the capacity in which it is acting.¹²

In sum, it is the opinion of this office that the SDD is required to hold at least one regular meeting on the second Monday of each month, unless the majority of its members vote to change the date.

⁴ See La. Atty. Gen. Op. No. 93-62.

⁵ SDD's Bylaws, Article IV.

⁶ *Id.*

⁷ SDD's Bylaws, Article V.

⁸ Also see La. R.S. 38:1607(C)(1) and Parish Ordinance 13-8-15.

⁹ La. Atty. Gen. Op. No. 14-0087.

¹⁰ It is important to note that since the SDD has a separate corporate identity from the Council, the members of the Council should exercise caution to differentiate when they are acting on representation of the SDD and on behalf of the Parish. La. Atty. Gen. Op. No. 14-0087.

¹¹ The SDD's Personnel Policies, Rules and Procedures, which was also provided by your office, do not change this meeting obligation because Section 1(3) of the policy states that "[t]he Board shall meet at such time and place as designated by the Board."

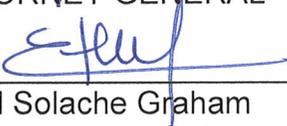
¹² See La. Atty. Gen. Op. No. 77-1614.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JEFF LANDRY
ATTORNEY GENERAL

By:



Ethel Solache Graham
Assistant Attorney General

JL: ESG