



# ST. CHARLES PARISH

PAUL J. HOGAN, PE  
COUNCILMAN, DISTRICT IV

## MEMORANDUM

**2nd Request**  
**5-29-12**

DATE: MAY 9, 2012

TO: MR. LEON C. VIAL, III  
LEGAL SERVICES DIRECTOR

FROM: PAUL J. HOGAN, PE  
COUNCILMAN, DISTRICT IV *Paul J. Hogan*

RE: PLANNING COMMISSIONERS - RECUSAL FROM PARTICIPATION

At the last few Planning Commission Meetings, several Commissioners have recused themselves from participating in making recommendations to changes in the Parish Code. One Commissioner indicated that his employer owns the same land type as a proposed Code change is related to (see the attached file number PZO-2012-01 to which he recused himself from participation). Another Commissioner recused himself due to his ownership of the same property type as the proposed ordinance pertained to (see the attached file number PZO-2012-03 to which he recused himself from participation). I am of the opinion that these recusals by these Commissioners are not warranted.

The Council Secretary received the attached letter dated December 8, 2009, which partially addresses participation in these types of situations. Upon reading the attached letter, it infers that participation is allowed, provided that the item being considered pertains to an entire class or group of persons and not an individual person or group to which they are directly tied.

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The following hypothetical situation shows why the recusal, in my opinion, is not warranted:

Let's say a proposed ordinance, which addresses proposed changes to residential property, being of the type that each Commissioner's home is located; using their logic, each Commissioner would have to recuse themselves, which would in effect end the process to amend the Code. If it were an ordinance to change code just for their lots, then recusal and other issues should come into play.

Please review this information and provide an opinion regarding whether or not Commissioners should recuse themselves in these types of situations.

PJH/CTM<sup>342/361</sup>:ag

attachments

**2012-0057**

**INTRODUCED BY: PAUL J. HOGAN, PE, COUNCILMAN, DISTRICT IV**  
**ORDINANCE NO.**

An ordinance to amend the Code of Ordinances Appendix A, Section VI. E. Batture Districts to add (II) B-2(M) Moderate Industrial Batture District and add (III) and revise B-2 Industrial Batture District.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That the St. Charles Parish Code of Ordinances, Appendix A, Section VI. E. Batture districts be amended by adding and revising the following:

**As Written**

- (II) *B-2 Industrial batture district:*
  - 1. Use Regulations:
    - a. Land shall be used only for the following purposes:
      - 1. Commercial and/or industrial port facilities
      - 2. Sand extraction pits.
      - 3. Fueling dock and/or facilities;
      - 4. Electrical generating plants.
      - 5. Coal handling, transfer, and storage facilities.
      - 6. Petroleum and petroleum by-products and storage facilities.
      - 7. Seaplane facilities.
      - 8. Milling facilities and support uses.
      - 9. Any other similar manufacturing or industrial establishment, which shall adhere strictly to all State and Federal mandates, and which, under normal operations, will not be injurious to employees and the general public from health or safety factors.
      - 10. Aids to navigation (as deemed necessary by the U.S. Coast Guards.
  - 2. Prohibited Uses:
    - a. Medical waste storage, treatment, or disposal facilities.

**Revised**

- (III) *B-2. Industrial batture district:*
  - 1. Use Regulations:
    - a. Land shall be used only for the following purposes:
      - 1. All uses in the B-2(M) Moderate Industrial batture district
      - 2. Electrical generating plants
      - 3. Coal handling, transfer, and storage facilities.
      - 4. Petroleum and petroleum by-products and storage facilities.
      - 5. Fueling dock and/or facilities
      - 6. Any other similar manufacturing or industrial establishment which shall adhere strictly to all State and Federal mandates, and which, under normal operations, will not be injurious to employees and the general public from health or safety factors.
  - 2. Prohibited Uses:
    - a. Medical waste storage, treatment or disposal facilities.

**Adding**

- (II) *B-2(M) Moderate Industrial batture district:*
  - 1. Use Regulations:
    - a. Land shall be used only for the following purposes:
      - 1. Commercial and/or industrial port facilities
      - 2. Sand extraction pits
      - 3. Loading and unloading facilities for earthen materials
      - 4. Milling facilities and support uses
      - 5. Aids to navigation (as deemed necessary by the U.S. Coast Guard
  - 2. Prohibited Uses:
    - a. Medical waste storage, treatment, or disposal facilities.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

And the ordinance was declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012, to become effective five (5) days after publication in the Official Journal.

Amend Code-App.A, Sec. VI Zoning district criteria & regulations (2-9-12).doc

CHAIRMAN: \_\_\_\_\_

SECRETARY: \_\_\_\_\_

DLVD/PARISH PRESIDENT: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

PARISH PRESIDENT: \_\_\_\_\_

RETD/SECRETARY: \_\_\_\_\_

AT: \_\_\_\_\_ RECD BY: \_\_\_\_\_

INTRODUCED BY: PAUL J. HOGAN, PE, COUNCILMAN, DISTRICT IV  
ORDINANCE NO. \_\_\_\_\_

An ordinance of the Parish of St. Charles providing that the Code of Ordinances, Parish of St. Charles, State of Louisiana be amended by revising Appendix A, St. Charles Parish Zoning Ordinance of 1981 by revising the following subsections of Section VI.: C. [III.] 1. b. (6); C. [IV.] 1. b. (1); D. [I.] 1. b. (1); and D. [II.] 1. b. (2), by inserting additional verbiage.

**THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:**

**SECTION I.** That Appendix A, Section VI. Zoning district criteria and regulations, C. Commercial districts, [III.] C-2 General commercial district, 1. Use Regulations, b. Special exception uses and structures include the following, (6); C. Commercial districts, [IV.] C-3 Highway commercial district, 1. Use Regulations, b. Special exception uses and structures, (1); D. Manufacturing and industry districts, [I.] M-1 Light manufacturing and industry district, 1. Use Regulations, b. Special exception uses and structures (variation), (1); and D. Manufacturing and industry districts, [II.] M-2 Heavy manufacturing and industry district, 1. Use Regulations, b. Special permit uses and structures, (2), are each amended as follows:

**AS WRITTEN:**

Temporary on-site construction buildings for a period of one (1) year upon approval of the Planning Director.

**AS REVISED:**

Temporary construction facilities for a period of one (1) year upon approval of the Planning Director. Prior to occupancy of the property, the applicant shall install a six (6) foot high sight-obstructing temporary fencing along all property lines abutting any residential use. The fencing shall also be required for other abutting uses as deemed necessary and in the public's best interest by the Planning Director. Temporary fencing along the common property line(s) shall also be required for existing temporary construction facilities within thirty (30) days of any residential construction activities commencing on adjacent properties.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

And the ordinance was declared adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: \_\_\_\_\_

SECRETARY: \_\_\_\_\_

DLVD/PARISH PRESIDENT: \_\_\_\_\_

APPROVED: \_\_\_\_\_ DISAPPROVED: \_\_\_\_\_

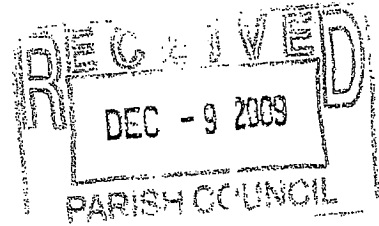
PARISH PRESIDENT: \_\_\_\_\_

RETD/SECRETARY: \_\_\_\_\_

AT: \_\_\_\_\_ RECD BY: \_\_\_\_\_



STATE OF LOUISIANA  
DEPARTMENT OF STATE CIVIL SERVICE  
**LOUISIANA BOARD OF ETHICS**  
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December 8, 2009

Ms. Barbara Jacob-Tucker  
St. Charles Parish Council Secretary  
P.O. Box 302  
Hahnville, LA 70057

**RE: Board Docket No. 2009-954**

Dear Ms. Jacob-Tucker:

The Louisiana Board of Ethics, at its November 20, 2009 meeting, considered your request for an advisory opinion regarding whether Paul Hogan, a member of the St. Charles Parish Council, employed by RJM enterprises, a developer, may introduce and vote on ordinances which equally affect all individuals wishing to develop property and development firms.

The Board declined to render an opinion as to Mr. Hogan's participation in regard to ordinances that concern the development of property absent specific information about the ordinances. Generally Section 1112 of the Code of Governmental Ethics prohibits a public servant from participating in a transaction in which he or his employer has a substantial economic interest involving the governmental entity. A "substantial economic interest" is an economic interest which is of a greater benefit to a public servant or other person than to the general class or group of persons.

The Board issues no opinion as to past conduct or laws other than Code of Governmental Ethics. If you have any questions, please contact me at (225) 219-5600 or (800) 842-6630.

Sincerely,

**LOUISIANA BOARD OF ETHICS**

Deidra L. Godfrey  
For the Board

AN EQUAL OPPORTUNITY EMPLOYER