

PETITION TO ADDRESS THE COUNCIL

St. Charles Parish Council Chairman  
P. O. Box 302  
Hahnville, LA 70057  
(985) 783-5000

Today's Date:

12-9-19



Dear Chairman:

Please place my name to address the Council on:

DATE:

12-16-19

SPECIFIC TOPIC:

RECAP - TREES IN DRAINAGE SERVICED THAT BELONG TO ST CHARLES PARISH - FINALE

(\*See specific guidelines on the reverse side and refer to Parish Charter Article VII Sec. I)

DOCUMENTS, IF ANY: YES NO

DOCUMENTS MUST BE ATTACHED AT THE TIME OF SUBMISSION

NAME:

VICTOR BUCCOLA

COMPANY / ORGANIZATION:

MAILING ADDRESS:

105 BURGUIERES LAN

PHONE:

504-810-1717

EMAIL ADDRESS:

VLBAKALA55@GMAIL.COM

SIGNATURE:

Victor Buccola

Dear Constituent:

Thank you for your active participation. Your views and comments will be considered by the Council in making our decisions. The Council has a considerable amount of business to conduct in a limited amount of time, therefore please note the following items that are expected of you:

- The Home Rule Charter provides for citizens to address the Council. All requests and pertinent information must be received in writing by the Council Secretary at least one (1) week prior to the scheduled meeting; request may be hand-delivered, mailed, emailed (scpcouncil@stcharlesgov.net), or faxed (985-783-2067) to be received by 4:00 pm. It makes no provision for initiating debate, discussion, or question and answer sessions with Councilmembers or Administration Officials. Your right is also guaranteed to examine public documents as you prepare your presentation. Should you have any questions for Councilmembers and/or Department Heads as you prepare, please forward such inquiries to the Council Office to insure a timely response. Should you wish to speak to any Official or Department personally; a complete list of contact information will be furnished a your request.
- Please be brief and limit your comments to the specific subject matter on which you have requested to address the Council. Please reference the Council guidelines for time limit specifications.
- Please forward supporting documents to the Council Secretary for distribution to the Parish Council at the time your form is submitted in order for the Council to prepare themselves, if necessary.
- Upon completion of your allotted time to address the Council, please respect the time given to Councilmembers to respond to your comments by not interrupting or interjecting remarks.
- Slanderous remarks and comments will not be tolerated. If slanderous remarks or comments are made, your opportunity to address the Council will end, regardless of the remaining time left to address the Council.
- Repetitious comments and subject matter will be strictly limited.

A confirmation letter will follow when your name is placed on the agenda.

Sincerely,  
*Julia Fisher-Perrier*

JULIA FISHER-PERRIER  
COUNCIL CHAIRMAN  
(OVER)

TO: Terrell Wilson, SCP Councilman District 1

E-mail: [twilson@stcharlesgov.net](mailto:twilson@stcharlesgov.net)

TO: Wendy Benedetto, SCP Councilwoman at Large Division A

E-mail: [wbenedetto@stcharlesgov.net](mailto:wbenedetto@stcharlesgov.net)

TO: Paul Hogan, SCP Councilman at Large Division B

E-mail: [phogan@stcharlesgov.net](mailto:phogan@stcharlesgov.net)

FROM: Veronica Buccola (daughter) [vlbuccola2@gmail.com](mailto:vlbuccola2@gmail.com) , cell 504-559-9361

and Victor Buccola (father) [vlbakala55@gmail.com](mailto:vlbakala55@gmail.com) , cell 504-810-1717

DATE: 12/4/18 – via email

SUBJECT: Request for assistance and Parish removal of two tall trees located within a major drainage canal

Good Day Council Representatives Wilson, Benedetto, Hogan and other Parish officials:

We have been in recent contact with LSU AG Center County Agent Rene Schmit regarding our concern about an excessively leaning live oak tree and a damaged sweet gum tree that are both wholly located and growing within a twenty-foot wide St. Charles Parish drainage servitude; this servitude abuts the rear property line of municipal address 107 Burguieres Lane in Destrehan, property belonging to Veronica Buccola.

The portion of land where these trees reside, and which is subject to a drainage servitude in favor of St. Charles Parish, belongs (in title) to abutting property owners Frank and Bettie Abbate, municipal address 173 Longview Drive. The unnamed drainage canal located within the drainage servitude abuts the entire 65 feet rear property line of 107 Burguieres Lane, which adjoins the rear property line of 173 Longview Drive. The drainage way within this drainage servitude is the upper portion of a major drainage canal, as defined and described by the SCP Code of Ordinances. Because the entire portion of the major drainage canal to the rear of 107 Burguieres Lane was fenced in many years ago by the adjoining land owner, St. Charles Parish public works maintenance personnel have historically not maintained this section of the drainage canal and servitude because no gate access that would easily allow access for parish employees was provided by the land owner.

Concerning the two trees, it was earlier suggested to us by District 1 Councilman Wilson that we ask County Agent Rene Schmit to first visit this site to assess the trees and address our concerns. We are appreciative that Mr. Schmit visited this site last Tuesday, November 27, 2018. He subsequently provided to us in writing his professional and expert recommendation relative to our concerns about these particular trees. We feel his written assessment and recommendation supports our position that these trees are problematic. Attached with this emailed memorandum is his letter to us in this regard. Pictures of the two trees taken by Mr. Schmit are also included for your convenience and review. However, for you and any other Parish officials to fully appreciate our concerns, we ask you to please soon visit this area and view these hazardous trees for yourself. Assuming visits to also assess the situation for yourself will occur, we suggest anyone doing so don the appropriate footwear for walking in dirt and mud since some demolition work at 107 has been recently performed.

Veronica Buccola acquired 107 Burguieres Lane in late 2017. She recently initiated the permitted demolition of the old, residential structure and accessories buildings at this address, commencing the middle of last month. Once demolition is deemed completed, and upon the securing of the new construction permit from the Planning and Zoning Department, we anticipate breaking ground for new construction in early 2019. The replacement, single family residence will be legally permitted to be set back five feet from the rear property line due to a grandfather clause provision that provides for this.

We also feel these two trees are stressed due to less than desirable growth space available, which has likely contributed to their conditions. One is damaged near the top and has lost substantially sized and weighted limbs. The other is leaning excessively into Veronica's airspace where the roof on a structure to be built upon an elevated foundation will be constructed. We are concerned if these two trees are not removed from the servitude and canal, they will have the potential to cause future, substantial damage to the new residence and the legally permitted fence that will be erected in the rear yard inside the property line. Property damages caused by these two hazardous trees, if left alone, will likely be reoccurring events. What is even more disturbing is the distinct possibility for bodily injury or death to anyone within the residence should the unthinkable ever occurs when either of these trees and/or tree limbs succumb to forces of nature regardless of weather conditions, whereby at which times the laws of physics and the effects of gravity will prevail.

We are respectfully requesting St Charles Parish government to completely remove these two trees from the drainage canal so as to eliminate any possibility of future damages to this homestead because of these two trees. Unquestionably, any future damages that would be attributable to either these trees would be eliminated with the removal of these trees from the footprint of this major drainage canal.

We realize the use of heavy equipment to access this particular section of the servitude used to be very difficult or just not possible to accomplish with structures, including fences, all around and in the way. However, at the present time, the property at 107 Burguieres Lane is now temporarily vacant. The lot is void of any structural obstacles that would prevent the easy access of workers and equipment to remove these trees from the parish's drainage servitude and major drainage canal. Veronica is willingly agreeable to grant St Charles Parish unfettered access across her property to accomplish this task, and she will hold the Parish not responsible for any physical damage that will likely occur when the appropriate heavy equipment is used on her property to access the servitude. Rutting of the ground is anticipated, acceptable and of no concern. Veronica will be having additional fill brought in to elevate the foundation of the new house, in order to meet and exceed Base Flood Elevation requirements.

The new construction schedule is presently on hold, for more than one reason, but primarily because of the pending receipt of the requisite Letter of No Objection from the Pontchartrain Levee District, as is required by local code. However, as soon as that letter is received and the construction permit is obtained, we will be ready to resume moving forward with this project. Hopefully this will occur well before the spring rise of the Mississippi River which could negatively affect the construction schedule relative to foundation work.

We feel the time is more than ripe for St Charles Parish government officials to recognize these ticking timber bombs for what they are – too close for comfort, overcrowded, unsafe and especially potentially hazardous during hurricane season. These trees and this situation, if not timely mitigated, will become a matter of health, welfare and safety for the occupants or visitors in Veronica's new home. We encourage St. Charles Parish to be prudently proactive when considering the facts and circumstances for this request. We trust that you, as well as any and all others involved, will agree with us about the seriousness of this odd situation. We pray the Parish administration, including Public Works and Risk Management teams will agree and take affirmative action to respond accordingly. Addressing this matter by removing these hazards, sooner rather than later, ensures all of us that there will be no future cost association with any losses attributable to probable property damages or possible personal injuries caused by these trees.

Please contact either of us with any questions or concerns in this matter. We look forward to your timely response and appreciate your public service in the Parish of Plenty.

Thank you – Veronica Buccola and Victor Buccola





Cooperative Extension Service

St. Charles Parish  
1313 Paul Maillard Road, Suite E  
Post Office Box 1766  
Luling, Louisiana 70070  
(985)785-4473  
Fax: (985)785-4475  
E-mail: [stcharles@agcenter.lsu.edu](mailto:stcharles@agcenter.lsu.edu)

November 28, 2018

Buccola Residence  
107 Burguieres Lane  
Destrehan, LA. 70047

Hello, Mr. Victor;

This letter is in follow-up to your request for an inspection of the live oak and sweetgum trees located on the drainage servitude on western side of 107 Burguieres Lane in Destrehan.

I conducted the inspection on Tuesday November, 27<sup>th</sup> and determined that the live oak tree, although exhibiting no insect or disease problems, to be a significant safety hazard due to its angle of weighted lean to the eastern side. This lean is greater than a 45 degree pitch and will remain on-going. A primary contribution to this tree being a safety problem is that a majority of the primary and heaviest weighted limbs are located on one side of the tree - the eastern side – thus contributing to the forced lean. Unfortunately there is no advantage to removing the weighted limbs as that would result in not enough canopy left to support the tree's ability to function normally. It is my recommendation that strong consideration be given to removing this tree as it will only become less stable as the increase of pitch continues. (Keep in mind that as this tree continues to grow so will the limbs increase in their weight as will the direction of the tree in a downward motion).

In regards to the sweetgum tree, there were a few upper limbs that exhibited breakage and some decay. Certainly these limbs should be removed to reduce further breakage and decay. Overall, I found the sweetgum tree to be in relatively good health.

Let me know should you have any questions or need for any additional information. Thank you.

Sincerely,

Rene' Schmit  
County Agent  
St. Charles Parish

For the latest  
research-based information  
on just about anything,  
visit our website:  
[www.LSUAgCenter.com](http://www.LSUAgCenter.com)



Jeff Landry  
Attorney General

## State of Louisiana

DEPARTMENT OF JUSTICE  
CIVIL DIVISION  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

June 11, 2018  
OPINION 18-0040

Mr. Craig Romero  
Executive Director  
Port of Iberia District  
P.O. Box 9986  
New Iberia, LA 70562

22-1 Drainage and Drainage Districts  
63 Levee, Drainage Districts & Flood Control  
La Const. Art. VII § 14

Liability for risks to health and safety occurring on private lands covered by public servitudes may be mitigated by the parish governing authority and public funds may be expended in these efforts.

Dear Mr. Romero:

You have requested an opinion from this office concerning whether the parish of New Iberia may remove trees that are situated within a publicly recorded drainage servitude over private land. Specifically, your request deals with a drainage servitude established covering Drainage Channel L-2D-1 ("the drainage servitude") that includes within its boundaries an adjacent road, all situated on private property ("the servient estate"). For the purposes of this opinion, the parish governing authority is the dominant estate, and the servient estate is the private property upon which a part of the drainage servitude is situated. The road in question falls completely within, and is burdened by, the drainage servitude and is used primarily by the businesses that own the servient estate. At some point, an employee of one of the businesses situated on the servient estate was traversing the road in a large forklift and, in order to avoid overhanging limbs from several trees located on the servitude, moved to the right of the road, and the forklift overturned into the drainage canal, resulting in injury. This accident prompted your request for an opinion from our office as to whether it is permissible for the Parish to remove the trees from within its servitude.

According to the information and documents provided to this office, the servitude or right of way in question was established by agreement in 1992 as a part of a drainage project undertaken by the Parish. The servitude agreement grants the Parish a servitude 100' in width on each side of the drainage channel in consideration of "the benefits and improvements to our [property owner's] lands derived from the operation and maintenance of the drainage project . . ." , and for the recited consideration, the Parish is given "the right, liberty, and authority to enter upon and to construct, operate and maintain a drainage canal, levee, and appurtenances in, over and upon" the property burdened by the servitude. Thus, the rights of servitude acquired pursuant to the agreement affect the entirety of the right of way for so long as the Parish "shall continue to use said easement or right-of-way for a drainage canal, levee, and appurtenances."

There can be little question about the Parish's authority to operate and maintain the subject drainage project. La. R.S. 33:1231236(13), establishes the powers of police juries and other parish governing authorities with respect to drainage, in pertinent part, as follows:



1236. Powers of parish governing authorities

(13) To construct and maintain drainage, drainage ditches, and drainage canals; to open any and all drains which they may deem necessary and to do and perform all work in connection therewith; to cut and open new drains, ditches and canals, to acquire lands for necessary public purposes, including rights of way, canals and ditches by expropriation, purchase, prescription or by donation; to enter into contracts for the construction of such drainage works, and to purchase machinery and have the work performed under their own supervision; to allocate, use and expend the general alimony of the parish for any of the above purposes; to incur debt and issue bonds for drainage and drainage canals in the manner provided for by Subtitle II of Title 39; and use such other funds as may be legally expended for such purposes . . . [emphasis supplied]

Additionally, the authority of the Parish to remove trees within its drainage right of way in the exercise of its powers to provide for drainage is well-established in the jurisprudence. See, for instance, *Accardo v. Chenier Prop. Partners, LLC*, No. 2011 CA 0153, (La.App. 1 Cir. 06/15/11), 2011 La. App. Unpub. LEXIS 347. This is particularly true where the Parish as servitude holder determines that a tree poses a risk of liability that may be eliminated by the tree's removal from the servitude. *Leblanc v. Trappey*, No. 2002-1103 (La. App. 3 Cir. 02/05/03), 838 So. 2d 860.

The Parish, as servitude holder, is entitled to take reasonable measures to protect itself from liability concerns by exercising its right to remove objects from within its servitude, and it may make such decisions as a matter of policy weighing the magnitude of the risk against the cost of remedial measures to eliminate both known and potential exposure. Such a decision may be determined based upon the particular facts and circumstances confronting the Parish taking into account the degree of risk, the cost to eliminate the risk, the possibility of future demands by property owners similarly situated, and other relevant factors.

It is therefore the opinion of this office that the specter of liability litigation over risks to health, safety and the public fisc occurring on private lands covered by public servitudes can be mitigated by the parish governing authority, and public funds can be expended in these efforts. This is certainly not to suggest or imply that liability issues may exist with respect to any of the trees or other objects located within the servitude. Such a determination is not within the limits of this opinion, and no attempt has been made by this office to assess or evaluate any particular risk of liability.

Because the question of potential liability of a servitude holder is indeterminable other than on a case-by-case basis, determinations as to the extent of mitigation of potential risks are policy determinations best left to parish governing authorities. It is these public servitude holders who may presumably be better informed about the state of public



servitudes they administer, and therefore have better perspective and the ability to make risk mitigation decisions more quickly and reliably than the general public. Therefore, with regard to the situation described in your opinion request, the parish governing authority, in its discretion and in order to protect health and safety may, but is not required to, remove trees located within a public servitude over private land.

Finally, we understand that a concern has been raised with respect to Art. VII, § 14's prohibition against the donation, loan, or pledge of public funds in connection with the removal of the trees on private property even though the trees are within the Parish drainage servitude. It is opinion of this office that as long as the Parish acts within its legitimate right to maintain its public drainage servitude and expends public funds in accordance with La. R.S. 33:1236 and other applicable laws, there can be no question of a donation, loan, or pledge of public funds in contravention of Art. VII, § 14 of the Louisiana Constitution.

We trust that this sufficiently answers your inquiry; however, if we may be of further assistance, please do not hesitate to contact our office.

Sincerely,

JEFF LANDRY  
ATTORNEY GENERAL

By:



Carey T. Jones  
Assistant Attorney General

JL: CTJ

PETITION TO ADDRESS THE COUNCIL ON 8/5/19, **WITH QUESTIONS (needing answers)**

**(NOTE – this document was printed in the 8/5/19 SCP Agenda)**

As indicated on the PETITION TO ADDRESS THE COUNCIL form, we have many questions for the Council and/or the Administration. We are submitting these questions one week prior to the 8/5/19 Council Meeting, so there presumably should be no excuse for parish government not being able to **insure a timely response**. If the Council so chooses to disregard any of the following questions by not providing verbal answers immediately AFTER my presentation to the Council, then we presume every question will be answered in writing, within a reasonable amount of time (10 calendar days) in our effort to realize an insured timely response.

**QUESTIONS FROM THE BUCCOLAS NEEDING ANSWERS TO BE PROVIDED BY THE ST CHARLES PARISH GOVERNING AUTHORITY or the Parish Attorney** - We are requesting Madame Chairman Julia Fisher-Perrier, any other Council member, and Parish Attorney Robert Raymond to please be prepared to provide answers to these questions during the public meeting.

- On May 6, 2019 the Buccolas invited seven Council members to personally visit the site of the two problematic trees residing in a publicly recorded dedicated drainage servitude. Please reveal the names of only those seven Council members who have visited the site and have personally seen the situation. Councilmen Wilson and Hogan are exempt from this question. **Madame Chair, which Council members have taken interest and visited the site as we have asked?**
- Councilwomen Benedetto indicated to Victor Buccola on June 17, 2019 that she was working on sponsoring a Resolution addressing the removal of the two trees. The Resolution introduction was abandoned because the Buccolas decided to withdraw the request, but amended the request for the measure to be introduced as an Ordinance instead (revised Ordinance attached). **We now ask Ms. Benedetto, does she and/or any other Council member intend to sponsor and co-sponsor this Ordinance? If yes, will Ms. Benedetto or Madame Chair please reveal the names of the co-sponsors, if any?**
- **Does the SCP Council agree or disagree with the Public Works Director who has stated at the 5/6/19 meeting that the decision to remove or not remove trees from public drainage servitudes is the responsibility of the Risk Management Officer? Madame Chair, will you or any other Council member please ask for a show of Council members' hands of those who agree that this decision is that of the Risk Management Officer to make? Or, is this a determination that only the governing authority is authorized to make?**
- Concerning the proposed Ordinance (revised version attached), it was communicated to Victor Buccola that the Council was apprehensive about entertaining this measure as an Ordinance, for reasons that are unclear to us. The proposed Ordinance, as drafted by Victor Buccola, was supposedly to be reviewed by the Parish Attorney at the request of the Council. Purportedly, Parish Attorney Robert Raymond has indicated that the proposed Ordinance is unnecessary because the matter of removing hazardous trees in drainage servitudes is already covered in the St. Charles Parish Code of Ordinances. We are requesting any Council member to please ask Mr. Raymond to please elaborate at length on this matter and be prepared to cite precise code sections that pertain to objects such as trees located in drainage servitudes. **Madame Chair, will you or any other Council member please ask the Parish Attorney to elaborate on trees in the**



**servitude that the administration has already gone on record as being specifically for drainage only?**

- In the email Victor Buccola received from Risk Manager Champagne on June 19, 2019, she wrote that the drainage servitude is for drainage only, and that the trees we have been complaining about, in her opinion, do not impede drainage, therefore she considered the removal of the trees a civil matter to be addressed between private land owners. **If the servitude is for drainage only, why are trees growing in the drainage servitude? Madame Chair, will you or any other Council member please ask the Parish Attorney if trees are considered objects, objects for which the Parish is responsible to care for and maintain? Should the parish be concerned if those objects have the potential to cause property damage or personal injuries or even death? Madame Chair, will you or any other Council member please ask the administration to straighten the live oak tree or remove it, and remove the sweet gum tree that is causing itself damage and overcrowding the servitude?**

The Buccolas have now been before this Council four times this year asking for assistance. We want – **we need** – we expect these hazardous trees to be removed by the parish from the drainage servitude behind our property. The SCP governing authority is the dominant servitude holder, first in line to make an informed decision concerning the removal of these trees thereby mitigating all potential liability risks. Construction of a legally permitted new home is being delayed. State law clearly says that no one other than this governing authority has the power to make this determination, as per LSA RS **33:1236(13)**. For this Council to **not** do its job in this instance, or any other instance concerning removing objects from within the drainage servitudes, is a perfect example of this Council violating its oath of office. **Ladies and Gentlemen, does anyone on this Council really want this situation to be the first publicized example of you individually violating your sworn oath of office?**

This Council has been lied to by the administration concerning whose responsibility it is to determine if and when trees in drainage servitudes must be removed. I do not care to believe the lie was intentional; I want to believe it was an honest but unwise error in judgment rendered by the administration without realizing what the law allows.

In light of my revelation to you that it is only this Council's call to make, as per LSA RS 38:1236(13), the parish's legal advisor has apparently failed this Council and the citizens by not correctly legally advising you in this matter. **Madame Chair, will you or any other Council member please ask the parish attorney: why does LSA RS 33:1236(13). not apply to the St. Charles Parish Council? If it does apply, please also ask our parish attorney if the Council alone refuses to make the determination, would this be a violation of state law because it would then be considered a violation of the oaths of office?**

We have come before you tonight –AGAIN - trying to help this Council, ensuring that it steps up to the plate and accepts its responsibility to be our voice and decide. After all, in theory, this Council is here to represent all the good citizens of SCP, regardless if all the people voted at all, or even voted for you. **Madame Chair, or any other Council member, is this one of those times when some of**

**you apparently feel you are smarter than your constituents and you simply refuse to take action because you do not want to be told how to act?**

What I am trying to impress upon this Council is you must fulfill your obligation to the citizens you were elected to represent, otherwise you may find yourselves being turned out of office in the next election cycle. This could be the year if this Council shows the voting public in SCP that its membership refuses to honor the mandates contained in our Home Rule Charter, State Law, and in the State Constitution. The Rule of Law is paramount, and this Council must act accordingly.

On a side note, in light of LSA RS **33:1236(13)**, when it comes to dealing with drainage servitude matters, in my opinion the SCP Code is inconsistent with state law in that our Code assigns responsibility to make these determinations to the department which is the beneficiary of the right-of-way, easement, or servitude. **This is inconsistent with state law and needs to be fixed; would any of you on this Council or the parish attorney agree or disagree with this? Also, how and/or why is the St. Charles Parish Office of Risk Management involved, because Risk Management is NOT the department which is the beneficiary of the servitude.**

## **Sec. 15-25. - Shrubs, trees, and plantings.**

(a) No shrubs, trees, and plantings on parish right-of-ways, easements, and servitudes should be allowed to impede the vehicular site lines of vehicles travelling on or entering onto parish streets which are located within such right-of-ways, easements, and servitudes. When a question exists as to whether or not lines of sights are impeded, the benefit of the doubt shall rest with on the side of the line of sight being impeded. **After such time that a hindrance or interference is found to exist, the department which is the beneficiary of the right-of-way, easement, or servitude has the authority to address the hindrance or interference as allowed by law.**

(b) No shrubs, trees, and plantings should be allowed within parish right-of-ways, easements and servitudes if they hinder or unreasonably interfere with their purpose **as determined by the department which is the beneficiary of the servitude**, unless authorized by ordinance. **After such time that a hindrance or interference is found to exist, the department which is the beneficiary of the right-of-way, easement, or servitude has the authority to address the hindrance or interference as allowed by law.**

(d) **In addressing hindrances or interferences, only items which are located completely or substantially within** the right-of-ways, easements, or **servitudes may be removed as needed.**

( [Ord. No. 14-12-11, § I, 12-15-14](#) )



## PETITION TO ADDRESS THE COUNCIL

St. Charles Parish Council Chairman  
P. O. Box 302  
Hahnville, LA 70057  
(985) 783-5000

Today's Date: MONDAY  
7/29/19

Dear Chairman:

Please place my name to address the Council on:

DATE: MONDAY, AUGUST 1, 2019

SPECIFIC TOPIC: PROPOSED ORDINANCE AUTHORIZING REMOVAL

OF TWO HAZARDOUS TREES IN PARISH DRAINAGE SERVITUDE

(\*See specific guidelines on the reverse side and refer to Parish Charter Article VII Sec. I)

DOCUMENTS, IF ANY:  YES  NO TWO WORD DOCUMENTS

DOCUMENTS MUST BE ATTACHED AT THE TIME OF SUBMISSION

NAME: VICTOR + VERONICA BUCCOLA

COMPANY / ORGANIZATION: \_\_\_\_\_

MAILING ADDRESS: 105 BUNGUIERES LANE DESTREHAN, LA 70047

PHONE: 504-816-1717 EMAIL ADDRESS: VLBARALASS@GMAIL.COM

SIGNATURE: Victor L Buccola

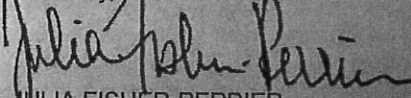
Dear Constituent:

Thank you for your active participation. Your views and comments will be considered by the Council in making our decisions. The Council has a considerable amount of business to conduct in a limited amount of time, therefore, please note the following items that are expected of you:

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A confirmation letter will follow when your name is placed on the agenda.

Sincerely,



JULIA FISHER-PERRIER  
COUNCIL CHAIRMAN

(OVER)

11 2019-0273

A resolution requesting that the Louisiana Attorney General provide an Opinion with regards to the power and authority which the St. Charles Parish Administration and Governing Authority may or may not have with respect to removing trees that are situated within a publicly recorded dedicated drainage servitude located on private property.

**Sponsors:** Mr. Hogan

Reported:

Councilman Hogan Recommended: Approval

Public comment opened

Mr. Victor Buccola, Destrehan

**A motion was made by Councilmember Benedetto, seconded by Councilmember Woodruff, to extend Mr. Buccola's time an additional three minutes. The motion carried by the following vote:**

**Yea:** 9 - Benedetto, Hogan, Wilson, Clulee, Gibbs, Woodruff, Bellock, Fletcher and Fisher-Perrier

**Nay:** 0

**Time Extended**

Council Discussion

Legal Services Director Robert Raymond spoke on the matter.

Public Works/Wastewater Director Clayton Faucheux spoke on the matter.

**Proposed resolution failed for lack of a majority by the following vote:**

**Yea:** 1 - Hogan

**Nay:** 8 - Benedetto, Wilson, Clulee, Gibbs, Woodruff, Bellock, Fletcher and Fisher-Perrier

**Failed**

**APPOINTMENTS**

12 2019-0187

A resolution to appoint Mr. Randy D. Matherne to the St. Charles Parish Library Board of Control as the District IV Representative.

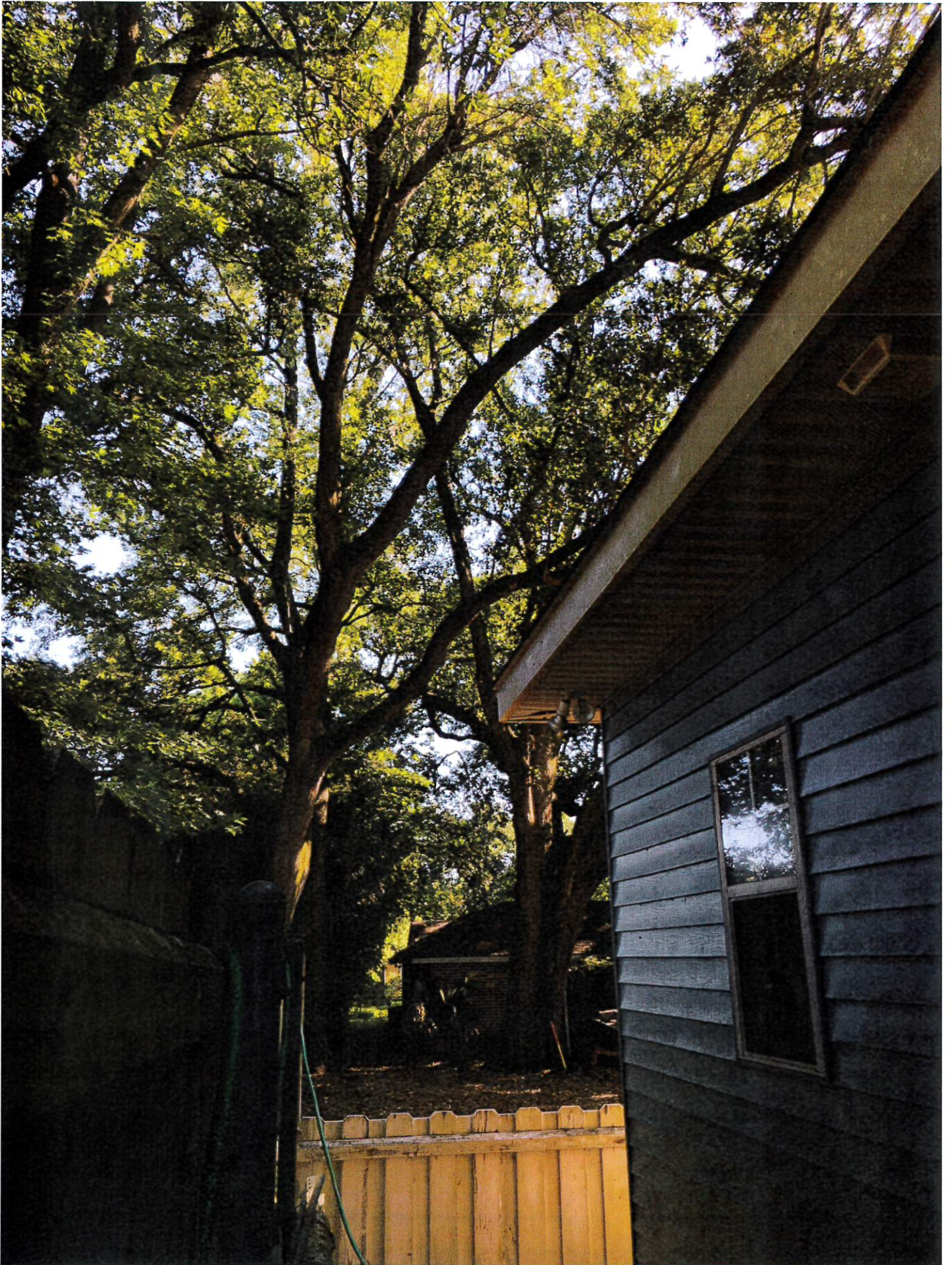
**VOTE ON THE APPOINTMENT OF MR. RANDY D. MATHERNE**

**Yea:** 9 - Benedetto, Hogan, Wilson, Clulee, Gibbs, Woodruff, Bellock, Fletcher and Fisher-Perrier

**Nay:** 0

Enactment No: 6436

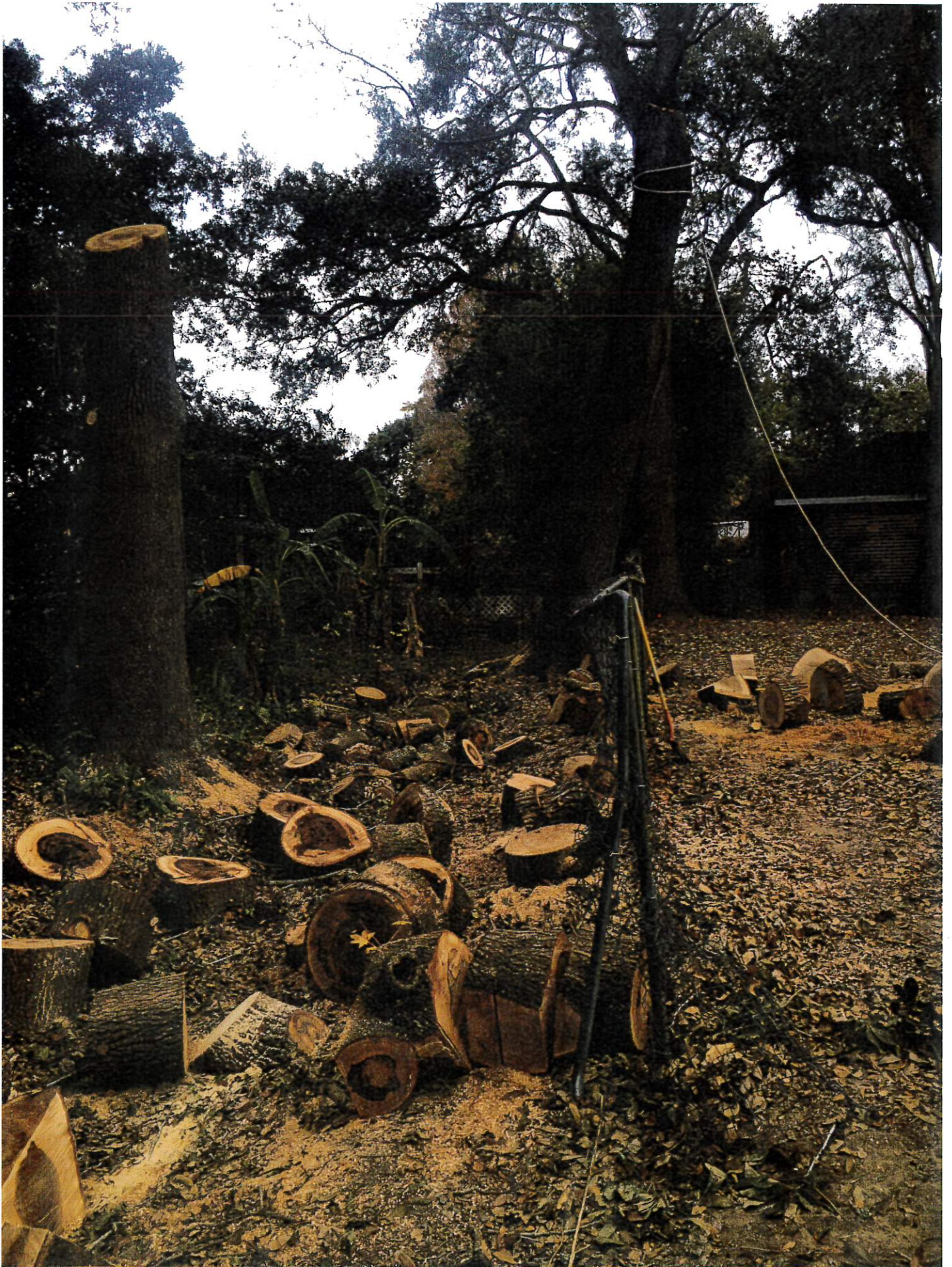














# CONSTITUTION OF THE STATE OF LOUISIANA OF 1974 (As of December 1, 2019)

## ARTICLE II.DISTRIBUTION OF POWERS

### §1. Three Branches

Section 1. The powers of government of the state are divided into three separate branches: legislative, executive, and judicial.

### §2. Limitations on Each Branch Section

2. Except as otherwise provided by this constitution, no one of these branches, nor any person holding office in one of them, shall exercise power belonging to either of the others.

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## RS 14:134 SUBPART F. OFFICIAL MISCONDUCT AND CORRUPT PRACTICES

### §134. Malfeasance in office

A. Malfeasance in office is committed when any public officer or public employee shall:

(1) Intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; or

(2) Intentionally perform any such duty in an unlawful manner; or

(3) Knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him, or to perform any such duty in an unlawful manner.

B. Any duty lawfully required of a public officer or public employee when delegated by him to a public officer or public employee shall be deemed to be a lawful duty of such public officer or employee. The delegation of such lawful duty shall not relieve the public officer or employee of his lawful duty.

C.(1) Whoever commits the crime of malfeasance in office shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars, or both.

(2) In addition to the penalty provided for in Paragraph (1) of this Subsection, a person convicted of the provisions of this Section may be ordered to pay restitution to the state if the



state suffered a loss as a result of the offense. Restitution shall include the payment of legal interest at the rate provided in R.S. 13:4202.

(3) If the individual convicted of the crime of malfeasance in office is a P.O.S.T. certified full-time, part-time, or reserve peace officer, the P.O.S.T certification of that peace officer shall be immediately revoked pursuant to R.S. 40:2405(J).

Amended by Acts 1980, No. 454, §1; Acts 2002, 1st Ex. Sess., No. 128, §6; Acts 2010, No. 811, §1, eff. Aug. 15, 2011; Acts 2016, No. 273, §1.

- **ARTICLE I. - ESTABLISHMENT OF HOME RULE**

St. Charles Parish is a local governmental subdivision as defined by Article VI, Section 44 of the Louisiana Constitution of 1974. The Parish shall operate under this home rule charter under authority of Article VI, Section 5 of the constitution.

- **ARTICLE II. - POWERS & FUNCTIONS OF THE PARISH**

Except as otherwise provided by this Charter, St. Charles Parish shall continue to have all powers, functions, rights, privileges, immunities, and authority previously possessed under the laws of the state. The parish shall have and exercise such other powers, rights, privileges, immunities, authority and functions not inconsistent with this Charter as may be conferred on or granted to a local governmental subdivision by the constitution and laws of the State. **The parish is hereby granted the right and authority to exercise any power and perform any function necessary, requisite, or proper for the management of its affairs, not denied by this Charter or general law, or inconsistent with the constitution.** The parish shall have the right and authority to exercise general police power.

- **ARTICLE III. - ORGANIZATION, STRUCTURE AND DISTRIBUTION OF POWERS AND FUNCTIONS**

- **Section A. - The governing authority.**

*1. Name, Composition and Qualifications of Members*

a. **The name of the governing authority shall be the St. Charles Parish Council which shall consist of nine (9) members.**