



BARBARA JACOB-TUCKER
COUNCIL SECRETARY

ST. CHARLES PARISH

OFFICE OF THE COUNCIL SECRETARY

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December 13, 2010

Mr. James D. "Buddy" Caldwell
Louisiana Attorney General
P. O. Box 94005
Baton Rouge, LA 70804

Dear Attorney General Caldwell:

In correspondence dated November 24, 2010, Councilman Hogan requested an opinion on Council Rule 31 (see attached letter). In your letter to him dated November 30, 2010, he was advised; "before an opinion request by an individual officer of a local governing authority may be processed, the request and the specific question must first be presented to the governing body for approval."

I have attached the minutes taken at December 6, 2010, Parish Council meeting, along with the printed vote record, as per your request.

The opinion I am requesting is as follows:

Is Rule 31 legal as written?

"A vote may be reconsidered at any time during the same meeting. A vote can be reconsidered at any future meeting provided the Ordinance has not become law." Note: At the next meeting the vote would be reconsidered without any Public Hearing or Public Notification.

Or

Should Rule 31 be revised as follows?

"A vote may be reconsidered at any time during the same meeting." Note: This would allow for the Public to be informed of the changes at the same meeting.

Your expedited opinion will be appreciated.

Sincerely,

BARBARA JACOB-TUCKER, LCMC, CAA, CMA, CPO
COUNCIL SECRETARY

BJT:nb

attachments



ST. CHARLES PARISH

PAUL J. HOGAN, PE
COUNCILMAN, DISTRICT IV

November 24, 2010

Mr. James D. "Buddy" Caldwell
Louisiana Attorney General
P.O. Box 94005
Baton Rouge, LA 70804

Dear Attorney General Caldwell:

I am requesting an opinion on the attached proposed resolution which changes Parish Council Rule 31.

Rule 31 As written:

"A vote may be reconsidered at any time during the same meeting. A vote can be reconsidered at any future meeting provided the Ordinance has not become law."

Rule 31 As revised:

"A vote may be reconsidered at any time during the same meeting."

By reading the attached proposed resolution you will get a full explanation of why I feel this rule should be changed and why in its present state is unfair to the citizens of our Parish.

If you have any questions, please contact the Council Secretary, Mrs. Barbara Jacob-Tucker at (985) 783-5127.

Sincerely,

PAUL J. HOGAN, PE
COUNCILMAN, DISTRICT IV

PJH/BJT306:ag

attachment

Office

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Email: phogan@st-charles.la.us

2010-0361

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

A resolution to amend the Parish Council Rules to revise Rule 31 to only allow reconsideration's of Ordinances and Resolutions at the same meeting.

WHEREAS, the St. Charles Parish Home Rule Charter, Article IV, Ordinances and Resolutions, provides for the enactment of an Ordinance and the submission of ordinances and resolutions to the Parish President; and,

WHEREAS, the procedure includes that upon adoption by the Parish Council each ordinance and resolution shall be signed by the Council Secretary and Chairman and presented to the Parish President within two (2) days after adoption; and,

WHEREAS, the Parish President, within six (6) calendar days, shall return it to the Council Secretary, with or without his approval; and,

WHEREAS, with or without the Parish Presidents approval it shall be effective the fifth day following publication in the official journal and if vetoed it shall be returned to the Parish Council to vote whether or not to override the veto; and,

WHEREAS, once an Ordinance or Resolution is signed by the Council Secretary and Council Chairman and submitted to the Parish President the procedural disposition of the Ordinance or Resolution is clearly prescribed in the Home Rule Charter and the only "reconsideration" allowed by the Council is upon the veto of the Parish President; and,

WHEREAS, any Councilmember at any regular or special Council Meeting may propose the introduction of an Ordinance or consideration of a Resolution, the effect of which is to repeal or amend a prior Ordinance or Resolution all in accordance with the Home Rule Charter; and,

WHEREAS, to reconsider an Ordinance (after publication and public hearing requirements of the law have been met) without giving the public prior written public notice of the intent to reconsider by publication in the Official Journal (whereby affording the public a Public Hearing on the reconsideration) is unfair to the citizens and is something the Council wishes to avoid.

NOW, THEREFORE, BE IT RESOLVED, THAT WE, THE MEMBERS OF THE ST. CHARLES PARISH COUNCIL, do hereby amend Rule 31 as follows:

RULE 31. (AS WRITTEN)

A vote may be reconsidered at any time during the same meeting. A vote can be reconsidered at any future meeting provided the ordinance has not become law.

RULE 31. (REVISED)

A vote may be reconsidered at any time during the same meeting.

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

And the resolution was declared adopted this ____ day of _____, 2010 to become effective five (5) days after publication in the Official Journal.

Amend Council Rule 31 (10-2-10)

CHAIRMAN: _____

SECRETARY: _____

DLVD/PARISH PRESIDENT: _____

APPROVED: _____ DISAPPROVED : _____

PARISH PRESIDENT: _____

RETD/SECRETARY: _____

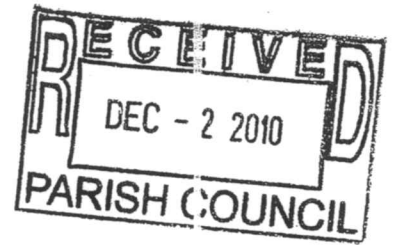
AT: _____ RECD BY: _____

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JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

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



November 30, 2010

Mr. Paul J. Hogan, PE
Councilman, District IV
St. Charles Parish
P.O. Box 302
Hahnville, LA 70057

Dear Mr. Hogan:

Your letter dated November 24, 2010, addressed to Attorney General James D. Caldwell, requesting an opinion of this office was received. The Attorney General's policy requires that before an opinion request by an individual officer of a local governing authority may be processed, the request and the specific question must first be presented to the governing body for approval and a copy of the minutes of the governing body showing that the request and question was presented be attached to your request.

Very truly yours,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY:

KENNETH C. DEJEAN
GENERAL COUNSEL

KCD:arg

VOTE RECORD - St. Charles Parish Voting System
Parish Council
12/06/2010 19:04:23

Agenda Item: remove ^{from the Table} 2010-0361
Sequence Number: 17

Vote Outcome: Pass

Voting Rules: Majority
Voting Body: Members Present

Total Yea: 8
Total Nay: 1
Total Abstain: 0
Total No Vote: 0
Total Absent: 0

Marcus Lambert: Yea
Dennis Nuss: Nay
Carolyn Schexnaydre: Yea
Billy Raymond, Sr.: Yea
Larry Cochran: Yea
Terry Authement: Yea
Shelley Tastet: Yea
Wendy Benedetto: Yea
Paul Hogan: Yea

VOTE RECORD - St. Charles Parish Voting System
Parish Council
12/06/2010 19:04:59

Agenda Item: post Ind ~ *req. an Att. Gen. Op. 2010-0361*
Sequence Number: 18

Vote Outcome: Pass

Voting Rules: Majority
Voting Body: Members Present

Total Yea: 9
Total Nay: 0
Total Abstain: 0
Total No Vote: 0
Total Absent: 0

Marcus Lambert: Yea
Dennis Nuss: Yea
Carolyn Schexnaydre: Yea
Billy Raymond, Sr.: Yea
Larry Cochran: Yea
Terry Authement: Yea
Shelley Tastet: Yea
Wendy Benedetto: Yea
Paul Hogan: Yea