

Council (persons to address the Council): *see list on page 9*

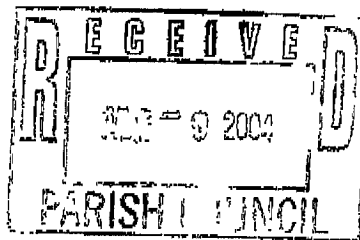
2004-0320

1.

**PETITION TO ADDRESS THE COUNCIL**

St. Charles Parish Council Chairman Today's Date:

*8-5-04*



P. O. Box 302

Hahnville, LA 70057

(985) 783-5000

Dear Chairman:

Please place my name to address the Council on:

DATE: August 16, 2004 \_\_\_\_\_

SPECIFIC TOPIC: When do I and the good people of St. Charles Parish get the answers to many questions previously requested LAST YEAR on May 3, 2003 ?

**one subject only**

**Answers to questions** previously submitted in writing at the May 3rd, 2003 Council meeting. A copy of all questions is attached again. TO DATE, NONE OF THESE QUESTIONS HAVE BEEN ANSWERED IN EITHER A PUBLIC FORUM OR IN WRITING, AS REQUESTED. These questions require answers from the elected body of the Legislative Branch of Government, however the Executive (Administrative) Branch is welcomed to submit answers of their own, but if they do so, their answers must be separate from those provided by the Legislative Branch. Our Home Rule Charter form of government was designed to provide checks and balances which can not be maintained if one branch of government provides answers for more than itself. Chairman Marino, please provide a copy of these unanswered questions to the Administration. Answers from the Executive branch are strictly optional, but are very important in the big picture of our self rule form of government. Fifteen months is by far more than ample time to provide answers to these important questions.

DOCUMENTS, IF ANY: YES - copy attached

NAME: Victor L. Buccola

ADDRESS: 105 Burguieres Lane, Destrehan, La. 70047

PHONE: 504-310-7728

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:

The Home Rule Charter provides for citizens to address the Council. 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 at your request.

Please be brief and limit your comments to the specific subject matter on which you have requested to address the Council.

Please forward supporting documents to the Council Secretary for distribution to the Parish Council before your scheduled appearance 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,

LANCE MARINO

COUNCIL CHAIRMAN

## **RIGHT TO DIRECT PARTICIPATION COUNCIL GUIDELINES**

No person shall be denied the right to observe and, within Council guidelines, to address the Council provided that the person has submitted a written request containing the nature of the **subject** to be discussed. All requests and pertinent information must be received by the Council Secretary at least one (1) week prior to the scheduled meeting. (Home Rule Charter, Article VII., Section I.)

Each person may speak once no longer than five (5) minutes except, with two-thirds (2/3) consent of the Council, an additional three (3) minutes may be granted to either individuals or groups. Any representative of a group addressing the Council shall state the complete name of the group in the letter request. A letter signed by a simple majority of the members of the Board of Directors of the group, organization or association stating permission to address the Council; the date and time that meeting was held giving said permission and

the subject to be addressed. A bonafide charter of the organization certified (ratified) by the State of Louisiana shall be filed with the Council Secretary. A current list of Executive Officers and/or Board Members shall be submitted to the Council Secretary annually or when changes occur.

Return to [HOME](#)

Questions for the St. Charles Parish Council and the Administration (to be answered jointly, but preferably separately so the thoughts, beliefs and answers of the separate branches of local government can be compared).

The St. Charles Parish Council routinely accepts and approves Acts of Dedication, and the Parish President routinely allows them to become law. **Question: Once any Act of Dedication becomes law, is it mandatory for the proper public officials, e.g. code enforcement officials, to enforce all of the provisions contained within the Statement of Dedication (which is contained within an Act of Dedication)? If No, a detailed explanation is warranted and please cite specific state and/or local laws which allow for the selective, non-enforcement of code provisions which seemingly indicate that the enforcement of these code provisions is mandatory.**

**Question: Because any Act of Dedication is mandatory and includes a Statement of Dedication which is printed on every survey as is required by parish code, isn't it true that the enforcement of the Act of Dedication, including the provisions of the Statement of Dedication, are therefore ministerial duties? Yes or No.**

**Question: If the enforcement of all provisions and stipulations found in the Act of Dedication are ministerial duties, then enforcement is mandatory unless the Council votes to waive the requirements and/or to do otherwise. True or False? If False, please elaborate why.**

Ministerial duties are required by law. **Question: Are there any penalties (civil or criminal) or other consequences for parish officials not enforcing ministerial duties? If Yes, please elaborate. If no, there should be.**

Our Parish Attorney has gone on record (4/21/03) to state the Act of Dedication is mandatory because it is required in our Code, however its enforcement is left to the discretion of the Administration and/or the public officials responsible for protecting and enforcing the provisions which are designed to protect the general welfare, safety and well being of all parish citizens. **Question: Is it the intent (belief) of the Council (please poll each Councilperson for his/her response) that the enforcement of any Act of Dedication is mandatory (ministerial) or discretionary?**

**Question: If enforcement of any of the mandatory provisions required in an Act of Dedication are discretionary, please explain what part of local code or State law authorizes the Administration to designate any Act of Dedication as a discretionary duty? Please explain why and cite legal authority why their enforcement is left up to the discretion of any public official other than the St. Charles Parish Council.**

Note: state and local law allows the use of discretion, but within guidelines and specific limits of authority granted by the governing authority. **Question: What are the specific limits of any discretionary power which any code enforcement official, or the Administration may wield when faced with the decision to enforce, or not enforce, any provision of an Act of Dedication?**

Comment: If the act of enforcement of any part of the Act of Dedication is subject to the discretion of those responsible for enforcing the code, then the Act of Dedication, which includes the Statement of Dedication is a big joke and all the people of St. Charles Parish are the big losers. **Question: True or False? If False, a detailed explanation is warranted.**

An ACT OF DEDICATION is a living, legal document which is required by and made to St. Charles Parish. **Question: Who is St. Charles Parish? Answer: St. Charles Parish is every legal citizen and/or resident within this parish. True or False? If False, then please clearly explain, who is St. Charles Parish?**

An Act of Dedication is a mandatory, legal document which developers are required to prepare and submit to the people of St. Charles Parish wherein the developer declares that his dedications and grants shall be used for the benefit of St. Charles Parish or any successor government body of St. Charles Parish, which shall be bound by all the terms and conditions contained within the Act of Dedication. **Question: Isn't this provision of the agreement a mandatory obligation, and**

therefore a ministerial duty of all parish employees to enforce?

**Question: Can the Council or the Administration cite any example in the history of St. Charles Parish when a legal public servitude has been abandoned without Council approval? If Yes, please cite a recent example. If No, please cite any example in the history of St. Charles Parish when a legal public servitude has been abandoned with Council approval.**

**Question: Can the St. Charles Parish Administration, by omission or commission, convey property rights (assigned to the general public) without an ordinance by the council? If Yes, please provide specific legal authority of state and /or local law which authorizes the exercise of such power by anyone other than the governing authority. If No, is the mere conveyance (to an individual property owner) of property rights dedicated by ordinance to the public use (e.g., a drainage servitude) a legal option or a use of unauthorized power, or an abuse of authorized power? Please explain in detail.**

**Question: Is a legal public servitude for drainage subject to prescriptive use? If yes, please cite legal authority and provide an example of any such situation in St. Charles Parish. If No, is the Parish Administration required to ensure (maintain and police) that the legal public servitude for drainage is not used in any manner by any person or persons which is inconsistent with the purpose for which the servitude was initially dedicated to the general public?**

**Please cite references to all provisions in local code and state law which apply specifically to situations which allow the Administration to use any measure of discretion when determining when to enforce, or not enforce, any and all provisions of an Act of Dedication.**

**NOTE:** The decision of the Council and the Administration to provide answers to some or all of these questions is not mandatory, i.e. it is not a ministerial duty. If any of the submitted questions can not, or will not, be satisfactorily answered for whatever reasons, please explain those reasons thoroughly and indicate at which time and date the questions will be answered for the benefit of the citizens of St. Charles Parish.

These questions were handed to the Council and the Administration during the Persons to Address the Council session on Monday, May 3, 2003.