



ST. CHARLES PARISH

PAUL J. HOGAN, PE

COUNCILMAN AT LARGE, DIVISION B

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MEMORANDUM

26th Request
11-7-19

DATE: AUGUST 2, 2019

TO: MR. ROBERT RAYMOND
LEGAL SERVICES DIRECTOR

FROM : PAUL J. HOGAN, PE
COUNCILMAN-AT-LARGE, DIVISION B

RE: LO-2019-0005
PARISH LEGAL ADVISOR: DUTY AND OBLIGATION

Please provide a legal opinion as to whether or not it is the duty and obligation of the Parish Legal advisor, pursuant to "Sec. 2-21 of the Code of Ordinances" (see attached), and "Article III, Section C., Subsection 3.a. of the St. Charles Parish Home Rule Charter" (see attached), to provide legal advice to Councilmembers when requested, relative to the wording of proposed ordinances so as to help produce draft ordinances, that if adopted, would be enforceable and able to withstand legal challenges if adopted.

Thank you.

PJH/MI634:ag

Attachments

cc: Parish Council
Honorable Joel T. Chaisson, II, District Attorney w/attachments
Honorable Jeff Landry, Louisiana Attorney General w/attachments
Ms. Anna Thibodeaux, St. Charles Herald-Guide w/attachments
Mr. Nick Reimann, The Advocate w/attachments

Sec. 2-21. - Department of legal services.

- (a) *Created.* There is hereby created the department of legal services.
- (b) *Duties.* The duties of the department shall be:
 - (1) To represent the parish president and the council in all matters in which legal services are requested;
 - (2) To advise the parish president and the council in all legal matters where opinions are required;
 - (3) To prosecute or defend any and all suits or actions in which the parish president or council may be parties;
 - (4) To provide necessary personnel, with the consent and direction of the parish president to accomplish its purpose; and
 - (5) To perform other such duties as may be directed by the parish president.
- (c) *Director.* The director of legal services shall be appointed by the parish president as stated in article III, section C.1.b. of the Home Rule Charter; and the director's duties shall consist of carrying out the functions and responsibilities of the department of legal services.
- (d) *Effect Upon District Attorney.* The district attorney office of the 29th Judicial District is hereby relieved of any and all duties and obligations to represent the parish president and parish council unless otherwise requested by the council or president.

(Ord. No. 84-11-4, 11-5-84)

Editor's note— Ord. No. 84-11-4, adopted Nov. 5, 1984, effective Jan. 1, 1985, did not specifically amend this Code; hence inclusion as § 2-21 was at the discretion of the editor.

companies designated as depositors by resolution of the council, subject to the requirements imposed by law as to surety and guarantee of deposits.

- v. Disburse all funds in the parish treasury; and no money shall be paid out of the treasury unless he first (a) verifies the appropriation, allotment and availability of funds to cover the claim concerned and certifies thereto, and (b) determines that such checks and warrants drawn against the parish treasury and signed by the director of finance shall be co-signed by the parish president or in his absence, by some other officer designated by the parish president.
 - vi. Administer a general accounting system for the parish and each of its departments, offices and agencies and special districts.
 - vii. Prepare and submit to the parish president a monthly statement of the revenues and expenditures for the preceding month and for the fiscal year up to and including the preceding month, which statement shall be sufficiently detailed as to appropriations, allotments and funds to show the exact financial condition of the parish.
 - viii. Prepare and submit to the parish president at the end of each fiscal year a report of the financial transactions of that year and a complete statement of the financial condition of the parish at the end of the year; and
 - ix. Perform such other duties as the parish president may prescribe.
- b. As soon as possible after the adoption of this Charter, the parish council, after consultation with the finance director and the parish president, shall by ordinance establish a system of treasury management which will include procedures and controls for the receipt, custody and disbursement of all funds belonging to, or under the control of the parish council, and for the investment of idle fund balances, such ordinance to be in conformity with the general procedures set forth in this Charter.

3. *Parish Legal Advisor*

- a. The district attorney of the 29th Judicial District shall continue to serve as the legal advisor to the parish council and parish president and all parish departments, offices and agencies, provided, however, that at such time the council determines that the parish would be better served by a separate full

or part-time legal department, it may create such a department and provide for its organization and functions by ordinance in accordance with [the] general provisions of Section C, Subsection 1 of this article. In special matters, the council may retain special attorneys to represent the parish or perform certain duties subject to the restrictions imposed by the statutes of this State.

4. *Planning and Zoning*

- a. The planning commission heretofore created by the St. Charles Parish Police Jury shall continue in existence, and the members thereof holding office on the effective date of this Charter shall each continue to hold office until the expiration of the term for which he was appointed. As the terms of these members expire, their successors shall be appointed by the parish council. In addition to the members already appointed, the council shall designate that one of its members, a member of the parish school board designated by the school board and the parish president or an administrative employee designated by him shall serve as ex-officio, non-voting members of the commission. Each person so designated shall serve at the pleasure of the body or official who appointed him.
- b. The planning commission shall constitute the zoning commission for the Parish of St. Charles, and shall exercise all the powers, duties and functions which are conferred or imposed on parish zoning commissions by the general laws of the State or by special laws applicable to St. Charles Parish.
- c. There shall be a planning and zoning department headed by a planning and zoning director appointed by the parish president. Under the supervision of the president and with the advise [advice] of the planning commission, the planning and zoning director shall:
 - i. Conduct studies necessary to prepare official maps and other maps, plats, charts and reports which, taken together, will constitute a proposed master plan for the social, economic and physical development of the parish. Such proposed plan shall be submitted to the planning commission for review and shall include, but shall not be limited to recommendations for: the most desirable density of population in the various parts of the parish; the most desirable use of land for residential, commercial, agricultural, industrial and other purposes; a system of principle [principal] streets, highways and other