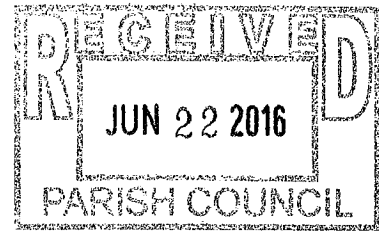




Jeff Landry
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DEPARTMENT OF JUSTICE
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June 20, 2016
OPINION 16-0075

Paul Hogan
Councilman at Large, Division B
St. Charles Parish Council
P.O. Box 302
Hahnville, LA 70057

84 Parishes

La. R.S. 42:111 *et seq.*

An ordinance not on the agenda and not an emergency must be placed on the agenda unanimously by the Parish Council prior to it being voted upon.

Dear Councilman Hogan,

Your request for an Attorney General's opinion regarding the consideration of ordinances not on the agenda has been assigned to me for research and reply. Your request specifically questions the propriety of the St. Charles Parish Council's ability to act upon an ordinance which is not an emergency and not on the agenda in light of La. R.S. 42:19(A)(1)(b)(ii)(cc) and St. Charles Parish's Home Rule Charter ("Charter").

La. R.S. 42:11 *et seq.* provides for Louisiana's Open Meetings Law. La. R.S. 42:14(A) requires that, "[e]very meeting of any public body shall be open to the public unless closed pursuant to R.S. 42:16, 17, or 18." Specifically, La. R.S. 42:19(A)(1)(b)(ii)(cc) states:

Upon unanimous approval of the members present at a meeting of a public body, the public body may take up a matter not on the agenda. Any such matter shall be identified in the motion to take up the matter not on the agenda with reasonable specificity, including the purpose for the addition to the agenda, and entered into the minutes of the meeting. Prior to any vote on the motion to take up a matter not on the agenda by the public body, there shall be an opportunity for public comment on any such motion in accordance with R.S. 42:14 or 15. The public body shall not use its authority to take up a matter not on the agenda as a subterfuge to defeat the purposes of this Chapter.

This statute allows a public body to take up a matter not on the agenda when the requirements of La. R.S. 42:19(A)(1)(b)(ii)(cc) are met.¹

Accordingly, if the requirements of La. R.S. 42:19 are met, then the Parish Council may take up an item not on the agenda.

¹ Our office concluded in La. Atty. Gen. Op. No. 14-0173, "[i]f an individual police juror wishes to add an item to the agenda at the time of the meeting, he or she may move to amend the agenda pursuant to La. R.S. 42:19."

Next, you ask whether the Charter allows the Council to adopt an ordinance in the same meeting in which it is introduced. Article IV Section B(3)(b) of the Charter provides:

An ordinance may be introduced by any Council member or by the Parish President at any regular or special meeting of the Council. Upon introduction of any ordinance, the Council Secretary shall distribute at least one copy to each of the Council members and to the Parish President. After the ordinance has been introduced and unless it is rejected at the same meeting by the affirmative vote of not less than two-thirds of the Council members, the Council shall cause the ordinance, or a summary thereof to be published in the Official Parish Journal at least once together with a notice of the date, time, and place, when and where it will be given a public hearing and be considered for final passage. The publication shall be at least one week prior to the time advertised for the hearing. No ordinance may be adopted at the same meeting at which introduced unless declared an emergency ordinance and no ordinance shall be declared invalid by reason of any defect in publication or title if the publication gives reasonable notice of its intent.

The Charter requires that an ordinance must be placed in a publication one week prior to a hearing on the ordinance.² The Charter also prohibits an ordinance from being adopted at the same meeting it is introduced unless there is an emergency.³

A municipal ordinance which is more strict than state law is permissible as long as it does not forbid what the state legislature has expressly or implicitly authorized.⁴

Although La. R.S. 42:19(A)(1)(b)(ii)(cc) allows the Parish Council to act upon an item not on the agenda when the requirements of the statute are met, the Charter prohibits the Parish Council from adopting an ordinance at the same meeting in which it was introduced. Accordingly, the Parish Council may not adopt an ordinance which is not an emergency at the same meeting it is introduced.

² This is also in accordance with the public notice requirements of La. R.S. 42:19.

³ This is consistent with the emergency requirements found in La. R.S. 42:19.

⁴ *Restivo v. City of Shreveport*, 566 So.2d 669, 671 (La. 2 Cir. 1990) and La. Atty. Gen. Op. No. 15-0122.⁴

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

JEFF LANDRY
ATTORNEY GENERAL

BY: 

Jeffrey M. Wale
Assistant Attorney General

JL: JMW