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PARISH PRESIDENT

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ST. CHARLES PARISH

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May 8, 2018



TO: PAUL J. HOGAN, PE, COUNCILMAN-AT-LARGE
ST. CHARLES PARISH COUNCIL

FROM: ROBERT L. RAYMOND, DIRECTOR
DEPARTMENT OF LEGAL SERVICES

RE: LO-2018-0003
EXECUTION OF DOCUMENTS BY THE PARISH PRESIDENT

I am in receipt of your request for a legal opinion as set forth in your Memorandum dated March 13, 2018, and identified as LO-2018-0003, Execution of Documents by the Parish President.

Your question is somewhat vague but appears to seek an "opinion with respect to an ordinance written with the wording 'An ordinance approving, authorizing, and requiring the execution of...' as to whether this would be proper and legal and would require the Parish President to execute any document(s) attached to such an ordinance having this wording, and that if the Parish President wishes not to execute such document(s), that a veto of the ordinance would be the proper means of not having to execute such document(s)."

St. Charles Parish is a home rule charter parish with a Parish President – Parish Council form of government. The Parish President serves as the chief executive officer of the parish. The Parish Council is the legislative branch of the government.

The Parish President has the executive power of the parish and is to carry out the policies adopted by the Council and is to administer, direct and supervise the parish departments, offices and agencies, the heads of which are appointed by him. He is to enforce and execute the laws, provisions of the Charter and acts of the Council.

The St. Charles Parish Council may enact any ordinances necessary, requisite or

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proper to promote, protect, and preserve the general welfare, safety, health, peace and good order of St. Charles Parish, not inconsistent with the state constitution or denied by general law or the St. Charles Parish Charter.

The Parish President has the right to veto ordinances and resolutions of the Council except as limited by the Home Rule Charter. The Council can override the veto of an ordinance by the Parish President.

To the extent you are asking whether an ordinance can require the Parish President to take a certain action, and to the extent such action does not violate the Constitution of Louisiana, the general laws of Louisiana or the Parish Charter, then, subject to the Parish President's right to veto same, and assuming it is in furtherance of the Parish President's faithful performance of his duties, such an action may be required of him. However, there are times when the Parish President cannot be required to take a certain action regardless of such action being the stated purpose of a given ordinance. An example would be compelling or requiring the Parish President to expend a sum of money on a bid item when the bid price is less than the amount budgeted for that item. Similarly, it would be improper for the Parish President to comply with an ordinance which directs the Parish President to spend more money on something than which is budgeted for that item without taking the necessary steps to amend the budget. Likewise, the execution of a particular ordinance may not be in furtherance of the faithful performance of his duties as Parish President. Such situation(s) are most likely fact-driven and as such, no "hard and fast" rule can reasonably be established to cover all situations. Importantly, each such situation must be analyzed separately, and for this reason and others, this Council and prior Councils have very wisely adopted ordinances which merely "authorize" the Parish President to take certain actions, thus, allowing the Parish President the opportunity to exercise discretion in enforcing ordinances.

Further, if you are asking whether it is "proper and legal" to "...require the Parish President to execute any document(s) attached to such an ordinance having this wording," then my opinion is that it may not be proper and it may not be legal to require the Parish President to execute certain documents. To categorically state that it is proper and legal to "**require**" the Parish President to execute "**any**" document would be wholly and totally inappropriate.

I trust this is fully responsive to your request.

RLR:sf

cc Larry Cochran, Parish President
Billy Raymond, CAO
Valarie Berthelot, Interim Council Secretary