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DEPARTMENT OF JUSTICE

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BATON ROUGE

70804-9005

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Opinion 15-0014

Tiffany K. Clark
Council Secretary
St. Charles Parish Council
P.O. Box 302
Hahnville, LA 70057

84 PARISHES

La.Const. art. VI, § 5

The St. Charles Parish Home Rule Charter does not require that an ordinance previously reviewed and approved by the Planning Commission but postponed indefinitely by the Parish Council come before the Planning Commission again prior to the ordinance being reconsidered by the Parish Council.

Dear Ms. Clark,

Your request for an Attorney General's Opinion submitted on behalf of the St. Charles Parish Council ("Parish Council") on the reconsideration of an ordinance has been assigned to me for research and reply. Specifically, you want to know if an ordinance which was previously reviewed and approved by the Planning Commission but postponed indefinitely by the Parish Council would need to be reviewed by the Planning Commission again prior to the ordinance being reconsidered by the Parish Council.

St. Charles Parish ("Parish") operates under a Home Rule Charter ("Charter") form of government, adopted pursuant to article VI, § 5 of the Louisiana Constitution.¹

Art. IV, § A (11) of the Charter provides that:

An act of the Parish Council which is to have the force of law shall only be enacted by ordinance. An act requiring an ordinance shall include but not be limited to one which adopts or modifies the official map, plat, subdivision ordinance, regulations, or zoning plan.

Additionally, art. III, § C (4)(c)(ii) of the Charter provides:

Under the supervision of the President and with the advice of the Planning Commission, the Planning and Zoning Director shall:

....

After review by the Planning Commission, prepare and recommend ordinances designed to effectuate the plans, including, but without limitation, zoning, subdivision and other regulations necessary to insure the application of such regulations to all situations in the Parish. The recommended ordinances, or changes and amendments thereto shall be presented by the President to the Council in accordance with the

¹ Charter, art. I.

provisions of general and special laws of the State applicable to St. Charles Parish.

The Charter therefore provides that proposed ordinances relating to planning and zoning must be reviewed by the Planning Commission and then submitted by the Planning and Zoning Director to the Parish Council through the Parish President.

The Parish Council operates under its own rules and regulations.² The Parish Council has promulgated a set of rules governing the procedure of its meetings. Council Rule 29 states, "[w]hen consideration of a motion or other proposition is postponed indefinitely, it shall not be again taken up at the same meeting. A motion to postpone indefinitely shall not open the main question to debate."

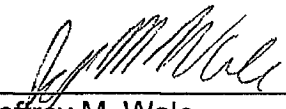
While this prohibition on reconsidering an indefinitely proposed motion applies to situations during the same meeting, the prohibition does not extend to future meetings. Therefore, a motion that has been postponed indefinitely at a previous meeting can be reconsidered at a future meeting.

In this case, you have indicated that the Parish Council has indefinitely postponed a planning and zoning related ordinance, and it now seeks to reconsider the same ordinance again. The Parish Council's decision to postpone the vote on the ordinance recommended by the Planning Commission does not rescind the recommendation of the Planning Commission to the Parish Council to pass such an ordinance. Thus, the Parish Council may reconsider the ordinance without additional action by the Planning Commission.

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,

James D. "Buddy" Caldwell
ATTORNEY GENERAL

BY: 
Jeffrey M. Wale
Assistant Attorney General

JDC: JMW

² Charter, art. IX, Sec. B (2) (providing that all acts of the prior governing authority and all administrative rules and regulations not in conflict with this Charter shall remain in full force and effect until changed or repealed).