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June 19, 2017

By Hand Delivery

Mr. Rodney L. Bedgood
Post Office Box 263
Goldonna, LA 71301

Re: June 13, 2017 Inquiry Concerning Salaries of Department Heads

Dear Mr. Bedgood

Please accept this letter in response to your June 13, 2017 inquiry concerning salaries of Department Heads, which was forwarded to me by Ms. Sheryl Fredrick, and which read as follows:

Councilman, Bedgood wants to know according to Article IV. Administration Section 4-01 General Provisions B. The president shall fix the salaries of the appointed department heads and administrative officers subject to the council's approval. Parish President gave Nick Verret an increase and they are wanting to know if that was legal or illegal to do without Council approval.

Section 4-01 of the Natchitoches Parish Charter provides:

A. The president shall appoint, direct, and supervise the heads of all departments, and administrative officers except as otherwise provided in the charter, to serve at the president's pleasure. The appointments shall be subject to council approval within thirty (30) days of their appointment.

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B. The president shall fix the salaries of the appointed department heads and administrative officers subject to the council's approval.

My interpretation of the Parish Charter is that the Parish President is authorized to "fix" or set the initial salaries of appointed department heads, which is "subject to Council approval." Further, it is my opinion that any increase or "re-fixing" is also subject to Council approval.

However, the Charter is silent with regard to the manner in which the Council must express its approval (or disapproval) of an initial salary or subsequent increase; or whether it must express an opinion at all. There is no Charter provision specifically requiring the Parish Council to adopt an Ordinance or Resolution approving or disapproving the salary of a department head, as fixed by the president.

Therefore, any manner in which the Council chooses to express its approval or disapproval would be legal under the charter, be it in an Ordinance, Resolution, vote after a motion from the floor, or tacit approval (e.g., approval by not acting within the requisite period from the date of the appointment or salary re-fixing).

The Charter is clear that appointments of department heads are "subject to Council approval within thirty (30) days" thereof. Although the Charter is not clear, it is my opinion that the 30-day rule should also apply to any fixing or re-fixing of a department head's salary. In order to allow the Council to act timely, the President should notify the Council either prior to, or immediately following the salary increase for any department head. Thus, any initial salary or subsequent increase should be approved or disapproved within thirty (30) days of the change.

Additionally, the Charter provides no specific requirements for the manner in which the President should notify the Council regarding appointments or salaries. Therefore, I would suggest that such notice could legally occur orally at an open meeting; as part of a budget proposal or adoption; or by memorandum or letter delivered to members of the Parish Council.

As to your question concerning the legality of a pay increase to a certain department head, more than three (3) years have passed without action by the Council, therefore it appears that increase was approved by the Council, albeit tacitly, because it failed to act within thirty (30) days of the change.

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This opinion is based on the facts described herein.

Should you have any questions or require any additional information, please do not hesitate to call me at the office, or on my cell at 985-688-6265. I can also be reached by e-mail at shantel@jrfllaw.com.

With kindest regards, I am

Yours very truly,

Shantel M. Wempren
Assistant District Attorney