

OFFICIAL PROCEEDINGS
ST. JOHN THE BAPTIST PARISH COUNCIL
TUESDAY, DECEMBER 22nd, 2009
CHAIR RONNIE SMITH
VICE CHAIR CHERYL MILLET

The Council of the Parish of St. John the Baptist, State of Louisiana, met in Regular Session in the Joel McTopy Chambers, LaPlace, Louisiana on Tuesday, December 22nd, 2009, at 6:30 PM.

CALL TO ORDER:

PRESENT AT ROLL CALL: Haston Lewis, Councilman District I, Darnel Usry, Councilwoman District V, Danny Millet, Councilman District II, Jaclyn Hotard, Councilwoman District IV, Steve Lee, Councilman-at-Large, Div. B, Cheryl Millet, Councilwoman District VII, Dale Wolfe, Councilman-at-Large, Div. A, Charles Julien, Councilman District III

ABSENT: Ronnie Smith

Councilman Lee led the Prayer. Councilwoman Usry led the Pledge.

Legal Counsels Kerry Brown, Barry Landry and Jeff Perilloux were present.

MOTION: Councilman Lee moved and Councilman Julien seconded the motion to recess and go back into the finance meeting. The motion passed with Councilman Smith absent.

MOTION: Councilwoman Usry moved and Councilwoman Hotard seconded the motion to go back into the regular session of the council meeting. The motion passed with Councilman Smith absent.

Consent Agenda

Items: Approval of Minutes December 8th, 2009, Regular Meeting; Parade Permit Approval - Martin Luther King Parade - 1/18/10 beginning at 9:00 AM; Councilwoman Usry - Re-appointment of George Haas to the Library Board of Control; Councilman Wolfe - Re-appointment of Lucien Gauff, III to the Fire Civil Service Board.

MOTION: Councilwoman Usry moved and Councilman Millet seconded the motion to approve the consent agenda items consisting of approval of Minutes December 8th, 2009, Regular Meeting; Parade Permit Approval - Martin Luther King Parade - 1/18/10 beginning at 9:00 AM; Councilwoman Usry - Re-appointment of George Haas to the Library Board of Control; Councilman Wolfe - Re-appointment of Lucien Gauff, III to the Fire Civil Service Board. The motion passed with Councilmen Smith and Julien absent.

PUBLIC HEARING ON ORDINANCES:

There were no ordinances.

INTRODUCTION OF ORDINANCES:

09-41 An ordinance to provide for certain fees to be assessed for certain transactions in accordance with Louisiana Revised Statute 33:2933, in order to allow payments by approved credit, debit cards and online payments. Each customer transaction paid for by credit card, debit card, online or similar device shall be subject to a transaction processing fee of \$2.00 per transaction, said fee to apply to the collection of any "local charges" as defined in La. R.S. 33:2933. (P. McTopy)

COMMITTEE REPORTS:

Councilman Lee stated, *"At 6:00 PM this evening the finance committee met. We had a very lengthy agenda and quite a few bid openings and proposals to be taken under advisement. I would ask that we get a motion by my fellow council members to endorse such actions taken."*

MOTION: Councilwoman Hotard moved and Councilwoman Usry seconded the motion to accept the recommendation of the finance committee. 1) The committee approved to table the entire item number one which is bid opening report/awards, bid awards, proposal awards and Mr. Dale Wolfe renewal of grass cutting and janitorial contracts, 2) approved to table the recommendation on health, dental and life insurance for career firefighters, 3) approved to grant administration authorization to enter into an agreement with Principal Engineering for the Country Club Bridge replacement project as part of the 2009 Bond Issue, 4) approved to grant administration authorization to enter into an agreement with Principal Engineering for the Greenwood Bridge replacement project as part of the 2009 Bond Issue, 5) approved to grant administration authorization to advertise for submersible pumps, 6) approved to grant administration authorization to sign an agreement with St. John School Board to relocate utility services at the Emily C. Watkins Elementary School on LA 628 to allow for an expanded turning lane to be installed by LA DOTD, 7) approved to grant administration authorization to enter into an agreement with the Louisiana Division of Administration for the Community Water Enrichment Fund grant in the amount of \$135,714 to refurbish the Ruddock #3 Storage Tank, 8) approved to grant administration authorization to advertise for granular and table chlorine, 9) approved to take the four bids for Water Storage Tank repair and rehabilitation, Priority 1 under advisement, 10) approved to take the bids for the Dupont Sewerage booster station under advisement, 11) approved to grant administration authorization to advertise for slag and limestone, 12) approved to request administration and our attorneys develop a plan and come back to give a short term solution to give these people in Homewood immediate relief from the problems at hand, 13) approved to award labor/service and materials for HVAC repairs in connection with ARRA weatherization assistance program to Ronald Parquet, 14) approved to award labor/service and materials for installation of insulation to residential insulation in conjunction with ARRA weatherization assistance program to Energy Insulation, Inc., 15) approved to award labor/service and materials for residential electrical repairs in conjunction with ARRA weatherization assistance program to A&K Bourgeois, 16) approved to award the bid for building materials & supplies for ARRA weatherization assistance program to Home Depot & Belmont Lumber were the two bidders, they will be awarded the items for which their bid was the lower of the two (split bid) The motion passed with Councilman Smith absent.

DEPARTMENT/ENGINEER REPORTS:

Dale Wolfe - Personnel Matters

Councilman Wolfe stated, "Our employees have been good employees and have worked very hard throughout the year. I would like to ask the council to go along with me in terms of giving our employees New Years Eve off. That would be my motion."

Councilman Lee stated, "I think it is admirable. I think we set precedence on this before but I would like to at least give administration the opportunity to make comments on this to make sure that it doesn't cause any problems for the service to our constituents."

Buddy Boe stated, "Mr. Wolfe on behalf of our employees we are in agreement."

Councilman Wolfe stated, "I figured you would say that."

MOTION: Councilman Wolfe moved and Councilman Julien seconded the motion to give the parish employees New Years Eve off. The motion passed with Councilman Smith absent.

Buddy Boe - FEMA \$50,000 grant award for Hazard Mitigation Plan Update

Buddy Boe stated, "This is just to notify the council and the public that our department of public safety received a \$50,000.00 grant from FEMA to update our Hazard Mitigation Plan. That will occur in the first nine months of 2010. It was just to let you guys know that our public safety department received that grant."

Buddy Boe - Community Water Enrichment Fund \$135,714 grant award

Buddy Boe stated, "This item was covered in finance. So we can pass over it."

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

Buddy Boe - Resolution R09-34 - A resolution authorizing the acting president to execute an agreement with the Louisiana Department of Transportation and Development (LA DOTD) for improvements at the St. John the Baptist Parish Airport

Buddy Boe stated, "The administration last year received funding from the FAA to do lighting upgrades to the St. John Airport. This resolution is an agreement with the state so that we can receive the funds and perform the project which is already in progress. There is no parish funding associated with the project. It is 95% federal and 5% state."

MOTION: Councilman Wolfe moved and Councilman Millet seconded the motion to approve Resolution R09-34. A Resolution authorizing the Acting President to execute an agreement with the Louisiana Department

of Transportation and Development (LA DOTD) for improvements at the St. John the Baptist Parish Airport. **WHEREAS**, Act 451 of the 1989 Regular Session of the Louisiana Legislature authorized the financing of certain airport improvements from funds appropriated from the Transportation Trust Fund; and **WHEREAS**, the St. John the Baptist Parish Council is requesting funding assistance from the LA DOTD to rehabilitate lighting system (Runway, PAPI's, REIL's, & New Electrical Vault); and **WHEREAS**, the LA DOTD is agreeable to the implementation of this project and desires to cooperate with the St. John the Baptist Parish Council according to the terms and conditions indentified in the attached agreement; and **NOW THEREFORE, BE IT RESOLVED** by the St. John the Baptist Parish Council that it does hereby authorize the Acting President to execute an agreement for improvements to the St. John the Baptist Parish Airport identified as State Project No. 948-01-0015, more fully identified in the agreement attached hereto. The motion passed with Councilman Smith absent.

Buddy Boe - Resolution R09-35 - A resolution for inclusion of the St. John East Bank Mississippi River Multi-Use Trail - Phase II in the DOTD Transportation Enhancement Program (TEP)

Buddy Boe stated, "Earlier this year the administration applied for Phase II of the Multi-Use trail to be included into the transportation enhancement program. Two weeks ago we were notified that our project was accepted into the program which means it will be funded. This resolution is part of the application."

MOTION: Councilwoman Usry moved and Councilman Millet seconded the motion to approve Resolution R09-35. A resolution for inclusion of the St. John East Bank Mississippi River Multi-Use Trail - Phase II in the DOTD Transportation Enhancement Program (TEP). **WHEREAS**, DOTD through the Transportation Enhancement Program, has agreed to fund up to \$946,000 for the construction of the St. John East Bank Mississippi River Multi-Use Trail - Phase II. **NOW, THEREFORE BE IT RESOLVED**, by the St. John the Baptist Parish Council of St. John the Baptist Parish, Louisiana, acting as governing authority of said Parish: **SECTION 1.** That St. John the Baptist Parish assumes full responsibility for the required local match. **SECTION 2.** That St. John the Baptist Parish assumes full responsibility for design engineering, construction administration, inspection and testing. **SECTION 3.** That St. John the Baptist Parish assumes full responsibility for managing and maintaining the project. **SECTION 4.** That St. John the Baptist Parish assumes full responsibility for any legal liability incurred as a result of the project. The motion passed with Councilman Smith absent.

Buddy Boe - Resolution R09-36 - A resolution for the LaPlace Gateway Sign Installation to be included in the Transportation Enhancement Program set forth by the Louisiana Department of Transportation and Development

Buddy Boe stated, "Earlier this year again the administration applied for the LaPlace Gateway Sign program to be included into the Transportation Enhancement Program for it to be funded. Two weeks ago we were notified that our project was accepted. This resolution is part of the application process."

MOTION: Councilwoman Usry moved and Councilwoman Hotard seconded the motion to approve Resolution R09-36. A resolution for the LaPlace

Gateway Sign Installation to be included in the Transportation Enhancement Program set forth by the Louisiana Department of Transportation and Development **WHEREAS**, St. John the Baptist Parish will assume full responsibility for the required local match; for design engineering, construction administration and testing; for managing and maintaining the project and for any legal liability incurred as a result of the project; and, **NOW, THEREFORE BE IT RESOLVED**, that St. John the Baptist Parish hereby adopts the LaPlace Gateway Sign Installation. **BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the Transportation Enhancement Program Manager, Road Design, Attn: Ms. Valerie Horton, P.O. Box 94245, Baton Rouge, LA 70804-9245. The motion passed with Councilman Smith absent.

Dale Wolfe/Melissa Nicholson - Permit Approval - Legacy Lounge

Councilman Wolfe stated, "This is an issue that has been ongoing for a long time. Hopefully we can settle it here tonight. I would ask Mrs. Nicholson to come to the podium and present her case."

Melissa Nicholson, 2801 Yorktowne Drive, stated, "I have submitted everything that you have asked for to get my business re-opened. My business was closed because of the fire marshal code on May 28th. I even brought copies of everything if you need to see it. I have my board of health permits. I have my fire marshal permits. I have everything. I have gone from the Sheriff's Office to be placed back here to try to get my business opened."

Councilwoman Millet stated, "Mrs. Nicholson I am a little concerned and confused here. What exactly are you asking of this council?"

Melissa Nicholson stated, "To approve my permit to open my business. I was told by the Sheriff that I had to be placed on the agenda to present it in front of you guys to get my permit approved."

Councilwoman Millet asked, "Counsel can you please explain to me why we are bringing this before the council rather than going through the regular procedures?"

Jeff Perilloux, Legal Counsel, stated, "I don't know all the details on this particular establishment. I think Mr. Henderson may have some more information regarding the permit situation. I think the council needs to understand the way occupational licenses are granted in St. John Parish under the state law. The Sheriff's Office is responsible for issuing the actual occupational license. The Planning and Zoning department is responsible for ensuring compliance with all zoning type issues to make sure that the property is properly zoned and there are proper parking spaces and that all the other health department permits and things of that nature are obtained. The fire marshal approval and then the Sheriff's Office are responsible for issuing that occupational license. It is my understanding that they denied the request. I am not exactly sure why except to say that the Sheriff denied it. That is where it stands now from what I understand."

Mike Henderson, Planning & Zoning, stated, "She has gone through the procedure in my opinion as far as we can go from a P & Z aspect from where my authority is and the authority of the administration. If I understand the state law correctly and I checked with legal counsel and they agree with me that it is outside of the authority of planning &

zoning and the administration to issue an occupational license. It can only be issued by the Sheriff's Department. The process is that we take the application. We ensure that the zoning is in compliance. We ensure that you have the fire marshal. We ensure you go to the department of health and all of those certificates are there. Once that application is completed I make a little statement from a zoning perspective that this person meets or complies with all the rules and laws then it goes to the Sheriff. The Sheriff at that time is charged with the responsibility of doing what he has to do to confirm whether or not you can receive an occupational license. Only the sheriff can issue an occupational license. Only the state of Louisiana through the sheriff issues your liquor license. We have to be very careful in dealing with liquor licenses and child care and those types of things because there are laws that mandate and control those things. What we have done on my end and I explained to Mrs. Nicholson that I have done everything that I could do on my end. It is outside of my authority. Now the other problem that you run into is that her property has been or was non-conforming use. Now she has probably at least very close to since she hasn't been in business she will lose that and she will no longer be zoned to be able to have a bar. That is the next problem you are going to run into but right now it is outside of my authority."

Councilman Julien asked, "Are you saying that she is in compliance as far as permits go and as far as the zoning goes? Is she in compliance?"

Mike Henderson stated, "She is in compliance as far as her health certificates, her fire marshal and she was in compliance with her zoning. I am not sure if she still will be today if we tried to issue it today but she was when she made application. She was in compliance."

Councilman Julien asked, "So as far as planning and zoning goes she has met all requirements? According to your paperwork do you see any reason that she should not be granted an occupational license at this point in your opinion?"

Mike Henderson stated, "I can't give you my opinion on that because only the sheriff can issue that license. Especially when you are dealing with alcohol because he has to do the background checks and all of that stuff assuming all that is in order. Yes from my department perspective yes but I can't speak for the sheriff's office. I have documentation from the sheriff's office saying it was denied if you are asking me that. It goes back to July 1st."

Councilman Julien stated, "Sometimes I think we find ourselves in some tough positions. I think on principal if she met all the guidelines I think it is unfair. So if she has met the requirements in principal I think it is our duty to grant her a license. What we shouldn't have in a democracy are individuals who can come and justify why we let timelines lapse. Why we will basically take into our own hands if we feel like an individual can go into business. If a community wants it I think if we meet the guidelines I think that an individual should be allowed to earn a living. That is the principal that I think we should stand on."

Jeff Perilloux stated, "I would just like to point out one thing that Mr. Henderson didn't mention. Planning & Zoning's job is to ensure that all planning and zoning areas that are regulated by that department are in fact met. They have nothing to do with law enforcement. They have

nothing to do with any background checks. They have nothing to do with any reports of any problems that the sheriff's office is privy too. Planning and Zoning has nothing to do with that and neither does this council for that matter. The law enforcement aspects are strictly reserved for the sheriff. So his perspective is from law enforcement and the parish's perspective is from the P & Z. I just wanted to clarify that for the council's benefit."

Councilman Lewis asked, "I would like to know if she met all her requirements?"

Councilman Julien stated, "She has met all her requirements."

Councilman Lewis stated, "What I am getting at is if the law says you are supposed to have this and that to open a bar room once she gets all of that I don't understand why she can't open it."

Jeff Perilloux stated, "Let me just clarify something. The occupational license is issued by the Sheriff, not the council. The occupational license itself is issued by the Sheriff, not by the administration, not by P & Z, not by the council. The Sheriff issues the license. The Sheriff has not issued this particular occupational license and has chosen not to. That is where we are at."

Councilman Lee stated, "That is the only point I wanted to make. I appreciate this gathering. I am glad Mrs. Nicholson got to be heard but what I heard Jeff say originally and I just heard him say it again twice. I have heard our P & Z director say that she has met the P & Z requirements. By no means has this person met the requirements for occupational license and that I believe is what she is asking us to do. My point is that it is outside of our authority. It is that simple. We cannot grant her something that we do not have the authority to do regardless of how we feel about it Mr. Julien. It is not a question of how I feel. It is a question of this is outside of my authority. I would like to borrow \$100,000.00 from first national bank tomorrow. Dale lend me that tomorrow would you? Make a motion that the council can do that, please. That is my point. We do not have that authority. It is basically no different. We do not have the authority. Legal counsel has told us that twice. That is the point that we seem to be missing here."

Councilman Julien asked, "If we voted on this could we override it from a legal stand point?"

Jeff Perilloux stated, "If you chose to vote I would simply say that it holds no more force than a regular resolution. If you chose to make a vote tonight and say Sheriff would you reconsider that would be a vote in the form of a resolution. It would not carry any legal weight what so ever other than a statement of opinion from the council."

Councilman Julien stated, "I may be lost here but is the Sheriff a dictator or the king? If an individual has met the guidelines then what gives whoever the right to do what they want just because they say I don't want you to have it. You said that she hadn't met the guidelines. My question to you Mr. Lee is what is she missing? I would be content to know."

Councilman Lee stated, "The guidelines for occupational license. What

she is asking for us to do is not to change her zoning, not to give her a zoning variance, not to do the things that we as a council have the authority over. What she is asking is for us to do something that we really don't have the authority to do. We do not have the authority to override the Sheriff on this because the occupational license, as told by our legal counsel on two separate occasions, we have no authority over that. She has met the criteria for P & Z. We have authority over that. We do not have authority over the occupational license. So that is the issue. It just is."

Councilman Wolfe stated, "I had a meeting set up with the Sheriff prior to that heavy rain that I got caught up in and got sick. In all due respect to the Sheriff, I think that Charles and I need to set up a meeting with the Sheriff and sit down and talk about it. Whatever happened in this situation she was not the owner at the time whatever problem they had. I would like an opportunity to sit down and talk to the Sheriff then come back to this council and give a report to this council and to Mrs. Nicholson. There are certain things that we are hearing that I feel is unfair but until we have a meeting with the man with the hammer."

CORRESPONDENCE/COUNCIL BRIEFS

Councilman Wolfe stated, "I would like to wish everyone a Merry Christmas and a Happy New Year."

Councilman Julien stated, "I would ask that the chair when he returns asks the school board to put up some caution light around 5th Ward School if he could. The other thing is I want everybody to have a Merry Christmas and a Happy New Year. We are coming into 2010. We need to make sure that we go out to vote. We need everyone to go out to vote."

Councilwoman Hotard stated, "I would like to wish everyone a Merry Christmas."

Councilwoman Usry stated, "I would like to wish everyone a Merry Christmas, Happy New Year and a prosperous new year also."

Councilman Lee stated, "Happy Holidays. I really want to thank the council for coming together on some issues tonight. We had twenty-five or thirty issues that we had to get done at the last meeting in December. What gave us the opportunity to even address a portion of those was that this council passed a balanced budget two weeks ago. Sometimes, Mr. Wolfe and Mr. Lewis will verify, we have gone down to 11:59 on New Years Eve and we still hadn't delivered a balanced budget. That speaks highly of the administration for delivering a good transparent, balanced budget and it speaks very highly of the council for being willing to work with the administration on that and it gave us the ability to conduct business tonight towards the end of the year and I want to thank the group the council and the administration for working together to get this meeting. It could have been a tough one."

Councilwoman Millet stated, "I just have one comment in light of the recent flooding that we have had. I want to remind all the residents that there are major causes of flooding of our drainage issues. One being trash thrown into our open ditches, another is people depositing grease. We all know that we love fried food in southern Louisiana but grease acts like glue when it is in our drainage system. Please use a

zip lock bag or a garbage bag. Do not deposit it. It will create more havoc than we need. We have a delicate drainage system now and we are working to alleviate that but we need the citizens to help us in this endeavor and with that I am going to wish everyone a Merry Christmas."

PRESIDENT'S REMARKS

Pat McTopy stated, "I was uncertain if I should say something tonight but there is an old saying that kind of made my decision and the saying goes 'perception is reality'. Unless the public thinks that we are not doing anything on some of these issues I want to state that we had 24 inches of rain, 2 feet of rain, in the first couple of weeks in December. That equals about 650,000 gallons on every acre. That is the reason why we are having sewer problems. I am not going to go into all of the details and all of the work that this administration and the council is doing on drainage but lets concentrate on the sewer problems. We take these problems very seriously. That is why I am speaking tonight. I want the public to know that we do. This council and this administration have been very pro-active in addressing the sewer infiltration problem. At the last meeting this council authorized the selling of bonds to finance work to be done on the sewer gravity lines to stop some of this infiltration. We are working on getting a million dollar low or no interest loan to work on that problem. We have included funds with the assistance of the council in the LRA funding to work on this sewer infiltration problem. Lastly we are working on a fourth item, another grant, to tackle sewerage. This is the first time that St. John Parish has in a systematic orderly large scale effort going to tackle this problem. I want to thank the council for working with us."

There was no executive session.

EXECUTIVE SESSION:

Dale Wolfe - Personnel Matters

Property/Casualty Insurance Agent - 1) Claims, any/all property, casualty, and Workman comp claims 2) Claims, procedures and disposition 3) Coverages, any/all material changes

Any and all pending legal matters

ADJOURNMENT:

At 7:32 PM, Councilman Lee moved and Councilwoman Usry seconded the motion to adjourn. The motion passed with Councilman Smith absent.

/s/Cheryl Millet
COUNCIL VICE-CHAIR

/s/Jackie Landeche
Council Secretary