



St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043

(504) 278-4228 Fax (504) 278-4209

www.sbpq.net

Guy McInnis

*Councilman
at Large*

George Cavnac

*Councilman
at Large*

Ray Lauga, Jr.

*Councilman
District A*

Nathan Gorbaty

*Councilman
District B*

Richard "Richie" Lewis

*Councilman
District C*

Casey W. Hunnicutt

*Councilman
District D*

**Manuel "Monty"
Montelongo III**

*Councilman
District E*

Roxanne Adams

Clerk of Council

#33

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, OCTOBER 21, 2014 AT THREE O'CLOCK P.M.

On motion of Mr. Cavnac, seconded by Mr. Lewis, it was moved to **adopt** the following ordinance:

ORDINANCE SBPC #1566-10-14

Summary No. 3155

Introduced by: Council on 10/7/14

Executive Finance Committee recommended **APPROVAL** on 10/16/14

Public hearing held on 10/21/14

AN ORDINANCE INSTITUTING A TEMPORARY MORATORIUM AND REVIEW ON ALL SALARY INCREASES FOR ST. BERNARD PARISH GOVERNMENT EMPLOYEES.

THE ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

WHEREAS, the Parish Council believes it to be in the best interest of the citizens of St. Bernard Parish and St. Bernard Parish Government to institute a temporary moratorium and review on all salary increases for St. Bernard Parish Government employees; and,

WHEREAS, the St. Bernard Parish Council oversees and develops the budget. Salary increases have a significant impact on the public fisc, which is directly regulated by the Council.

SECTION 1. The St. Bernard Parish Council hereby enacts a moratorium on all salary increases, until this moratorium expires six (6) months from the date of adoption.

SECTION 2. The St. Bernard Parish Council hereby orders administration to produce a record of all salary increases for the last six (6) months.

SECTION 3. The St. Bernard Parish Council shall affirm or deny all previous salary increases issued within the last six (6) months by a 2/3 vote of the entire membership of the council.



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George Cavnagnac
*Councilman
at Large*

SECTION 4. The Council shall affirm or deny all future salary increases by a 2/3 vote of the entire membership of the council.

Ray Lauga, Jr.
*Councilman
District A*

SECTION 5. Effective Date. This Ordinance shall become effective immediately upon authorizing signature by the Parish President. In the event of a presidential veto, this Ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

Nathan Gorbaty
*Councilman
District B*

Richard "Richie" Lewis
*Councilman
District C*

SECTION 6. Severability. If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion of this Ordinance with the invalid portions omitted.

Casey W. Hunnicutt
*Councilman
District D*

The above and foregoing having been submitted to a vote, the vote thereupon resulted as follows:

Manuel "Monty" Montelongo III
*Councilman
District E*

Roxanne Adams
Clerk of Council

YEAS: Lewis, Hunnicutt, Cavnagnac

NAYS: Gorbaty

ABSENT: Lauga, Montelongo

The Council Chair, Mr. McInnis, cast his vote as **YEA**.

And the motion was declared **adopted** on the 21st day of October, 2014.



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Councilman
District B

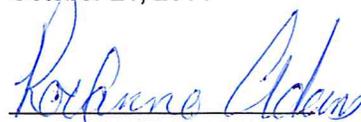
Richard "Richie" Lewis
Councilman
District C

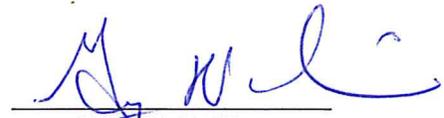
Casey W. Hunnicutt
Councilman
District D

Manuel "Monty" Montelongo III
Councilman
District E

Roxanne Adams
Clerk of Council

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ROXANNE ADAMS
CLERK OF COUNCIL


GUY MCINNIS
COUNCIL CHAIR

Delivered to the Parish President 10/24/2014 11:10AM
Date and Time

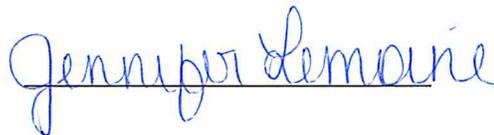
Approved _____ Vetoed _____

Parish President


David E. Peralta

Returned to Clerk of the Council 10/24/2014 1:40PM
Date and Time

Received by





St. Bernard Parish Government

8201 West Judge Perez Drive
Phone (504) 278-4200

Chalmette, Louisiana 70043
Fax (504) 278-4330

David E. Peralta
Parish President

October 24, 2014

Roxanne Adams
Clerk of Council
8201 W. Judge Perez Drive
Chalmette, Louisiana 70043
Re: VETO of Ordinance 1566-10-14

Dear Madam Clerk:

Please consider this letter formal notification of my veto of ordinance *1566-10-14* (hereinafter referred to as "the Ordinance"). In my opinion, the ordinance violates Louisiana Local Government Budget Act, Standing Louisiana Attorney General Opinions and section 5-04(e) of our Home Rule Charter.

The issue before us is whether the Council has the authority to directly administer and manage administration's employees? I answer that question in the negative.

The Louisiana Local Government Budget Act (hereinafter referred to as "the Act") is the framework political subdivisions use to enact their budgets for the fiscal year. Louisiana Revised Statute §39:1311(C) allows the chief executive officer to make any expenditure authorized by the budget. If there are funds available in a budget the chief executive may administer those funds as he sees fit. This statute gives the executive the right to reallocate funds within the budget. *Id.* The chief executive may not reappropriation the funds or incur liabilities that are beyond the amount of monies allocated to that program or function. La. R.S. § 39:1310. The ordinance flips this entire framework on its head. It would force the executive to ask for approval whenever there is a reappropriation for salaries. The state law does not differentiate between salary expenditures and all others. Therefore, the council does not have the authority to interfere with the administration of the budget; provided, I do not go beyond the constraints of the funds available for the particular department.

The Louisiana Attorney General has opined a governing authority cannot curtail executive authority with regards to the President's ability to give raises in an ordinance that violates the Charter. Specifically, in La. Atty. Gen Op. No. 09-0152 the Slidell City Council passed an ordinance which required all salaries to be delineated in separate line items in the

budget. Any salary increases required the approval of the Slidell City Council. The attorney general began its analysis with the Home Rule Charter for the City of Slidell. Section 5-05(D) provided, “[a]t any time during the fiscal year the mayor may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency. Upon written request by the mayor, the council may by ordinance transfer all or part of any unencumbered appropriation balance from one department, office or agency to another.” With the assumption that all monies for salary increases were derived from “unencumbered funds already in the department, office, or agency in which the employee is employed,” the Attorney General concluded the Slidell Council lacked the authority to usurp the executive branches’ prerogative.

In comparing our H.R.C. Sec. 5-04(e) to Slidell’s H.R.C. Sec 5-05(D), I have determined them to be so similar as to prompt the exact conclusion the Attorney General reached in the above opinion. Our H.R.C. 5-04(e) reads, “*Transfer of appropriation: At any time during the fiscal year the president may transfer part, or all of any unencumbered appropriation within programs or functions.* An unencumbered appropriation balance may be transferred from one (1) department, office, or agency to another or from one (1) program or function to another only upon council action by ordinance.” Thus, both sections only require approval by council when the monies come from the “unencumbered” funds of separate programs or functions.

The ordinance violates both state law and our Home Rule Charter. On October 22, 2014 the St. Bernard Parish Council knowingly violated an express prohibition of our Charter. As Parish President it is my job to uphold the St. Bernard Parish Home Rule Charter. A part of this responsibility is to strike down any law that unlawfully curtails the duties or authority of my office. I hereby veto ordinance 1566-10-14.

Sincerely,



David E. Peralta
Parish President
St. Bernard Parish Government