

**LAFOURCHE PARISH COUNCIL
JANUARY 27, 2009
UNANIMOUS AGENDA**

A. PROPOSED ORDINANCES:

1. PROPOSED ORDINANCE **rescinding Ordinance #4443 adopted at the January 13, 2009 Lafourche Parish Council meeting for Supplemental Appropriation 09-001 for LA 1 Highway Project.** (D. LORRAINE FOR ADMINISTRATION)

B. RESOLUTIONS:

2. RESOLUTION **authorizing the Parish President to transfer from the Leon Theriot Lock Project \$1,700,000 within the 2009 Capital Projects Budget and create the Louisiana Highway 1 Project at \$1,200,000 and an engineering study for the South Lafourche Levee DFIRM at \$500,000** and authorizing the Parish President to sign, execute, and administer said transactions as provided for by Article VI of the Lafourche Parish Home Rule Charter. (P. GOUAUX FOR ADMINISTRATION)

ITEM 1

The following ordinance was introduced by _____ in regular session convened on _____.

PROPOSED ORDINANCE

The following ordinance, having been previously introduced and published, was offered for final adoption by _____, seconded by _____.

ORDINANCE NO. _____

ORDINANCE RESCINDING ORDINANCE #4443 ADOPTED AT THE JANUARY 13, 2009 LAFOURCHE PARISH COUNCIL MEETING FOR SUPPLEMENTAL APPROPRIATION 09-001 FOR LA 1 HIGHWAY PROJECT

WHEREAS, the state has funded the Leon Theriot Flood Gates and the South Lafourche Levee District has indicated that those funds in the amount of 2 million dollars to share the cost of the lock installation are no longer needed for this project and are available for Lafourche Parish projects.

WHEREAS, in light of this, ordinance #4443 adopted by the Lafourche Parish Council on January 13, 2009 shall be rescinded; and,

WHEREAS, it is the recommendation of the Administration of the Lafourche Parish Government that Ordinance #4443 be rescinded;

WHEREAS, this ordinance is sponsored by Mr. Daniel Lorriane, Councilman District 9;



NOW, THEREFORE BE IT ORDAINED, by the Lafourche Parish Council, convened in Regular Session on _____, that;

SECTION 1. Lafourche Parish Council does hereby rescind Ordinance #4443 (SA 09-001)

ITEM 1

SECTION 2. If any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not effect other provisions, items or application of this ordinance which can be given affect without the invalid provisions, items or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All Ordinances by the Lafourche Parish Council conflicting with or inconsistent with the provisions of these regulations are hereby repealed.

SECTION 4. This Ordinance shall be published in the Official Journal of the Lafourche Parish Council in the manner provided by law.

SECTION 5. This Ordinance, having been submitted in writing, having been read and adopted by sections at a public meeting of said council, was then submitted to an official vote as a whole, the vote thereon being as follows:

YEAS:

NAYS:

ABSENT:

NOT VOTING:

SECTION 6. This Ordinance shall become effective on the tenth day after final publication.

**JERRY JONES, CHAIRMAN
LAFOURCHE PARISH COUNCIL**

**CARLEEN B. BABIN, COUCIL CLERK
LAFOURCHE PARISH COUNCIL**

ITEM 1

Delivered to the Parish President on

_____, 2009, at _____, __.m.

APPROVED: _____

VETOED: _____

Lafourche Parish President

Returned to the Council Clerk on

_____, 2009, at _____, __.m.

I, CARLEEN B. BABIN, Council Clerk for the Lafourche Parish Council, do hereby certify that the foregoing is a true and correct copy of Ordinance No._____, enacted by the Assembled Council in Regular Session on _____, at which meeting a quorum was present, and was finally adopted on _____.

GIVEN UNDER MY OFFICIAL SIGNATURE AND SEAL OF OFFICE THIS _____,
DAY OF _____, 2009.

CARLEEN B. BABIN, COUNCIL CLERK
LAFOURCHE PARISH COUNCIL

DATE PUBLISHED: _____

DATE EFFECTIVE: _____

ITEM 2

On motion by _____, seconded by _____, the following resolution was introduced and adopted;

RESOLUTION NO. ____

RESOLUTION AUTHORIZING THE PARISH PRESIDENT TO TRANSFER FROM THE LEON THERIOT LOCK PROJECT \$1,700,000 WITHIN THE 2009 CAPITAL PROJECTS BUDGET AND CREATE THE LOUISIANA HIGHWAY 1 PROJECT AT \$1,200,000 AND AN ENGINEERING STUDY FOR THE SOUTH LAFOURCHE LEVEE DFIRM AT \$500,000 AND AUTHORIZING THE PARISH PRESIDENT TO SIGN, EXECUTE, AND ADMINISTER SAID TRANSACTIONS AS PROVIDED FOR BY ARTICLE VI OF THE LAFOURCHE PARISH HOME RULE CHARTER.

WHEREAS, funding in the amount of \$2,000,000 is remaining in the 2009 Capital Projects Budget for the Leon Theriot Lock Project; and

WHEREAS, the South Lafourche Levee District has indicated this entire amount will not be needed from the Parish; and

WHEREAS, the State is seeking Federal Funding of Phase 3 of the Louisiana Highway 1 Project and upon funding the Parish will be reimbursed the costs expended in the design and engineering; and

WHEREAS, \$1,200,000 will be used to fund the engineering and design phase of the Louisiana Highway 1 Project; and

WHEREAS, \$500,000 is needed to fund an engineering study for the South Lafourche Levee Digital Flood Insurance Rate Maps (DFIRMs) to provide clarification of the soundness of the levee; and

WHEREAS, \$1,200,000 of Royalty Funds will be obligated to Louisiana Highway 1 Project for 2010; and

WHEREAS, \$1,100,000 of General Funds will be obligated to the Louisiana Highway 1 Project for 2011; and

WHEREAS, this resolution was sponsored for Administration by Mr. Phillip Gouaux, Councilman, District 7; and

WHEREAS, it is recommended by the Administration of the Lafourche Parish Government that the Council approves said transfer of appropriation and authorizes the Parish President to sign, execute, and administer all relevant/related documents.



ITEM 2

THEREFORE, BE IT RESOLVED, that the Lafourche Parish Council convened in regular session on _____, and does hereby authorize the Parish President to transfer \$1,700,000 from the Leon Theriot Lock Project to fund the Louisiana Highway 1 Project at \$1,200,000 and to fund the engineering study of the South Lafourche Levee DFIRMs at \$500,000.

BE IT FURTHER RESOLVED, that a certified copy of this resolution shall be forwarded to the Lafourche Parish Government Finance Department; the Department of Coastal Energy and Environment; and the Office of the Parish Administrator.

This resolution having been submitted to a vote, the vote thereon was as follows:

YEAS:

NAYS:

ABSENT:

And the resolution was declared adopted this _____ day of _____, 2009.

**JERRY JONES, CHAIRMAN
LAFOURCHE PARISH COUNCIL**

**CARLEEN B. BABIN, COUNCIL CLERK
LAFOURCHE PARISH COUNCIL**

* * * * *

I, CARLEEN B. BABIN, Council Clerk for the Lafourche Parish Council, do hereby certify that the foregoing is a true and correct copy of Resolution No. adopted by the Assembled Council in Regular Session on _____, at which meeting a quorum was present.

GIVEN UNDER MY OFFICIAL SIGNATURE AND SEAL OF OFFICE THIS _____, DAY OF _____, 2009.

**CARLEEN B. BABIN, COUNCIL CLERK
LAFOURCHE PARISH COUNCIL**

ITEM 2

Camille A. "Cam" Morvant, II
District Attorney

Main Office:
406 West Third Street • P.O. Box 431
Thibodaux, LA 70301
(985) 447-2003 • Fax: (985) 446-5810



17th Judicial District
Parish of Lafourche

Juvenile/Child Support Office:
204 Green Street
Thibodaux, LA 70301
(985) 448-3422 • Fax: (985) 448-3429

January 23, 2009

Mr. Jerry Jones, Chairman
Lafourche Parish Council
1132 Louise Street
Thibodaux, LA 70301

Re: Resolution No. 09-005

Opinion No. 09-006

Dear Mr. Jones:

The Council has requested, via resolution no. 09-005, an opinion on whether Road Sales Tax District No. 2 funds can be utilized to fund a portion of the La. 1 highway construction project from Golden Meadow to Leesville. Pursuant to this request, the District Attorney's office issues the following opinion.

It is my understanding, that the section of roadway at issue is the future elevated portion of state highway La. 1 which will run from Golden Meadow to Leesville. In order to contribute funds to the project, the Parish would enter into a cooperative endeavor agreement with the La. Department of Transportation and approximately \$1.2 million from RSTD2 would be used to pay for engineering and design phase services associated with the cost of the elevated state highway.

Louisiana Constitution Article 6, Section 32 provides that for the purpose of constructing, improving, maintaining or operating any work or public improvement, a political subdivision may levy special taxes when authorized by a majority of electors in the political subdivision who vote thereon. According to the provisions of La. R.S. 39:701, road districts are among the political subdivisions that may levy special taxes. Road Sales Tax District No. 2 was created and a special tax for the district was approved by the voters in 1997. The original one cent sales and use tax was dedicated to pay the cost of constructing, improving, maintaining and resurfacing public roads in the district, including incidental drainage through December 31, 2007. In March of 2007, RSTD2 electors approved a one-half cent sales and use tax rededication and continuation for constructing, improving and maintaining public roads, bridges and drainage works in Road Tax Sales District No. 2.

According to the information we have been provided, Road Sales Tax District No. 2 was created after attempts to enact a parish wide road sales tax district failed. Interviews with former parish president Aaron Caillouet and the bonding attorney that drafted the call language indicate that the original intent of a parish wide road sales tax district and subsequent individual councilmatic district road sales tax districts was to collect sales and use taxes to construct, improve and maintain parish streets.

ITEM 2

La. R.S. 39:704 mandates that the proceeds of a special tax shall constitute a trust fund to be used exclusively for the objects and purposes for which the tax was levied. The Louisiana Supreme Court has held that laws authorizing taxation are in derogation of a common right and should therefore be strictly construed. *Helmer v. Richland Parish School Board*, 76 So. 585. Although the tax call in both of the Road Sales Tax District No. 2 elections references “public roads”, it does not appear that the intent of either the creators or the voters was to expend these dedicated funds on any roads other than those accepted into the parish system. In fact, according to the bonding attorney, the term “public roads” was used based upon the statutory definition of public roads contained in the Louisiana revised statutes in the section dealing with proper expenditures of Parish Transportation Fund monies. La. R.S. 48:753(F) defines a public road as any road, or portion thereof dedicated as a public road and/or accepted for maintenance by a parish governing authority.

Therefore, based upon the information reviewed and the research conducted, it does not appear that funds from Road Sales Tax District No. 2 can be used to fund a state highway project. However, the parish is not prohibited from entering into a cooperative endeavor with La. DOTD and using general fund monies to participate in the project.

In a related matter, the Council voted on the ordinance associated with the expenditure of the RSTD No. 2 funds and passed a resolution at the same meeting asking for a district attorney’s opinion on the issue. I have requested on numerous occasions and will again request that if the Council needs an opinion on a matter to please defer the matter until an opinion can be obtained. My office makes every effort to answer opinion requests in a timely manner therefore voting on ordinances when the Council is not certain of the legality of said ordinances is not only unnecessary but is also not a sound business practice.

Should you have any questions, please do not hesitate to call. Thank you.

Sincerely,

Camille A. Morvant, II
District Attorney

cc: Parish Council Members
Parish President
Parish Council Clerk



ITEM 2

SOUTH LAFOURCHE LEVEE DISTRICT BOARD OF COMMISSIONERS



DEC 22 RECD
cl
Sean

P.O. Box 426 • Galliano, LA 70354
Telephone 985.632.7554 • Fax 985.632.7555
Email slld@slld.net • Web www.slld.net

Ronald Callais, *President*

Windell Curole, *General Manager*

December 17, 2008

PRESIDENT CHARLOTTE RANDOLPH
LAFOURCHE PARISH COUNCIL
PO DRAWER 5548
THIBODAUX LA 70302

Dear Mrs. Randolph,

This letter is to remind you of the agreement between the South Lafourche Levee District and the Lafourche Parish Government, which was signed on May 31, 2005, to share the cost of the lock installation not to exceed \$2M.

The State of Louisiana has provided \$18M for this project. However, the contracted price was for \$18,590,105. Therefore, I have divided the amount over \$18M three ways to be shared equally between the SLLD, the Greater Lafourche Port Commission and the Parish. At this time, the Parish's share is \$196,701.66.

While we do not anticipate any cost overruns, we will provide a final tally at the completion of the project this summer.

If you have any questions or concerns, please do not hesitate to contact me at (985) 632-7554.

Sincerely,


Windell A. Curole
General Manager

WAC/mcp

Ronald Callais	President	Lula Auenson	Vice President
Roy Gisclair	Commissioner	Robert Eymard, Sr.	Commissioner
Bob Faulk	Commissioner	E.J. Gremillion	Commissioner
Clarence Marts, Jr.	Commissioner	Mitch Danos	Commissioner
Monty Vegas	Commissioner	Windell Curole	Executive Secretary