

PLAQUEMINES PARISH GOVERNMENT



COMPLIANCE AUDIT
ISSUED JUNE 9, 2010

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

June 9, 2010

**MR. WILLIAM "BILLY" NUNGESSER, PRESIDENT,
AND MEMBERS OF PLAQUEMINES PARISH COUNCIL**
Belle Chasse, Louisiana

We have audited certain transactions of the Plaquemines Parish Government. Our audit was conducted in accordance with Title 24 of the Louisiana Revised Statutes to determine the propriety of certain financial transactions.

Our audit consisted primarily of inquiries and the examination of selected financial records and other documentation. The scope of our audit was significantly less than that required by *Government Auditing Standards*; therefore, we are not offering an opinion on the Parish Government's financial statements or system of internal control nor assurance as to compliance with laws and regulations.

The accompanying report presents our findings and recommendations as well as management's response. This correspondence is intended primarily for the information and use of management of the Parish Government. Copies of this report have been delivered to the District Attorney for the Twenty-Fifth Judicial District of Louisiana and others as required by law.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP:DD:dl

PLAQUEMINES PARISH 2010

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Summary

- The Parish may have violated the parish Charter and a local ordinance by entering into two contracts pertaining to recovery operations.
- The Parish Administration may have violated the Local Government Budget Act by not including Federal Emergency Management Agency (FEMA) grants within the Parish budget.
- The Parish's attorney may not be properly approved by the Council as required in the Parish Charter.
- The Parish President may have violated the Louisiana Code of Governmental Ethics through real estate transactions between his trust and the owners of two Parish vendors.

Recovery Operations Contracts

During the period August 2005 to July 2008, the Parish operated under a state of emergency because of hurricanes Katrina and Rita by issuing two declarations of emergency and 70 extensions pursuant to the Disaster Act.¹ The extensions stated, in part, "there is a very definite threat to life and property of the citizens of the parish." The Disaster Act requires all executive orders or proclamations to include (1) the nature of the emergency, (2) the area which may be affected, and (3) the conditions which brought it about.¹ Since the extensions of emergency are general in nature and do not provide the actual or threatened condition which will cause loss of life, injury, and property damage, the extensions may not meet the requirements of the Disaster Act.¹ In 2008, the Attorney General opined that Emergency Declarations must indicate an emergency situation to be valid.²

Pursuant to the Disaster Act, these emergency declarations were used to suspend local rules and regulations to enter into contracts for services.³ We reviewed two of these contracts that were signed in the first two months of 2007, approximately 16 months after Hurricane Katrina, for debris monitoring, project management, and managing and overseeing all FEMA reimbursements. Since the Parish Administration could not demonstrate how these contracts immediately mitigate a threat to life, public safety, or property damage, and the contracts covered multiple years, the Parish President may not have the authority to suspend local rules and regulations for procurement of these two contracts. If the declarations were not valid and/or if following the local rules and regulations did not hinder, or delay necessary action in coping

¹ R.S. 29:727(D) provides, in part, that a local disaster or emergency may be declared only by the parish president.... all executive orders or proclamations issued under this Subsection shall indicate the nature of the emergency, the area or areas which are or may be affected, and the conditions which brought it about.

R.S. 29:723(2) provides, in part, "Disaster" means the result of a natural or man-made event which causes loss of life, injury, and property damage, including but not limited to natural disasters such as hurricane, tornado, storm, flood, high winds, and other weather related events, forest and marsh fires, and man-made disasters, including but not limited to nuclear power plant incidents, hazardous materials incidents, oil spills, explosion, civil disturbances, public calamity, acts of terrorism, hostile military action, and other events related thereto.

R.S. 29:723(3) & (3)(a) provides that "Emergency" means the actual or threatened condition which has been or may be created by a disaster.

² AG Opinion 08-0057

³ R.S. 29:727(F)(1) provides that the Parish President may suspend the provisions of any regulatory ordinance prescribing the procedures for conduct of local business, or the orders, rules, or regulations of any local agency, if strict compliance with the provisions of any ordinance, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.

with the emergency, the Parish may have violated the parish charter⁴ and a local ordinance⁵ when issuing contracts pertaining to recovery operations.

Local Government Budget Act

The Parish's fiscal year ended December 31, 2008, budget did not contain FEMA revenues and expenditures although the Parish's financial statements indicate the Parish received approximately \$66 million and spent approximately \$84 million. The Parish funded the \$18 million deficit by using existing General Fund fund balance while waiting for the potential receipt of FEMA funding. Although the parish president has the authority to expend available funds during an emergency,⁶ the adopted budget must be amended to include these expenditures and obligations. Since the Parish did not include all FEMA funding as well as the use of General Fund fund balance in the original budget or subsequent amendments, the Parish may have violated the Local Government Budget Act.⁷ Budgeting revenue from disaster grants, such as FEMA Public Assistance, poses significant challenges, but doing so affords the Council the ability and information necessary to carry out its responsibilities and promotes a transparent fiscal environment.

Employment of the Parish Attorney

On December 20, 2008, the Parish President hired Mr. Stephen Braud as the Lead Parish Attorney. Section 5.02(A) of the Parish Charter states, "The Parish President, with the approval of the Parish Council, may employ a Parish Attorney. . . . All legal services for the Parish, Parish Council, President, and other political subdivisions and districts situated within the Parish . . . shall be performed by the Parish Attorney." On November 21, 2008, during a budget review meeting, the Parish Council discussed the creation of the Lead Parish Attorney position and the salary. During that discussion, four of the seven Council members present stated they knew the person who was to fill the position and that he will represent both the legislative and administration bodies of the Parish. Although Mr. Braud's name was never mentioned, only one

⁴Section 7.06(B) provides that nothing in this Charter shall be construed so as to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is authorized by Ordinance, except that contract for services not covered by the public bid law (R.S.38:2181, et seq., as amended) shall not be for a period in excess of two (2) years.

⁵Ordinance 01-16 provides, in part, that the Council hereby establishes the following policy regarding the employment of consultants, engineering firms, architects and attorneys, and counselors at law: (1) the Administration soliciting proposals shall submit to the Council Secretary in its entirety the proposal package for review. (2) the Administration shall solicit proposals from at least three consultants, engineering, architectural or attorney firms prior to employment or submission to this Council for authority to enter into a contract for said services and (3) the Administration shall furnish the Council with copies of said proposals immediately upon receipt.

⁶R.S. 39:1314 provides that nothing shall prohibit the expenditure of funds in cases of emergency. For purposes of this Section, "an emergency" means an unforeseen event bringing with it destruction or injury of life or property or the imminent threat of such destruction or injury.

⁷R.S. 39:1305(A) provides that each political subdivision shall cause to be prepared a comprehensive budget presenting a complete financial plan for each fiscal year for the general fund and each special revenue fund.

R.S. 39:1309(B) provides that the adopted budget shall be balanced with approved expenditures not exceeding the total of estimated funds available.

R.S. 39:1311 (A) provides that the adopted budget and any duly authorized adopted amendments shall form the framework from which the chief executive or administrative officers and members of the governing authority of the political subdivision shall monitor revenues and control expenditures. The chief executive or administrative officer for a political subdivision subject to public participation as provided in R.S. 39:1307 shall advise the governing authority or independently elected official in writing when: . . .

R.S. 39:1311(A)(2) provides, in part, that total actual expenditures and other uses plus projected expenditures and other uses for the remainder of the year, within a fund, are exceeding the total budgeted expenditures and other uses by five percent or more.

Council member indicated that he did not know who the person was. On December 11, 2008, the Council adopted the budget that included the Lead Parish Attorney position. Since Mr. Braud was not specifically mentioned in the meeting or in the adopted budget, the Parish Council may not have properly approved his employment as required by the Parish charter.

Payment for Nonpublic Service

In January 2008, the owners of two companies doing business with the Parish were also involved in a private real estate transaction with a trust whose beneficiary is Parish President William Nungesser. These transactions may constitute a violation of the Louisiana Code of Governmental Ethics⁸ and therefore will be referred to the Board of Ethics for its consideration.

We recommend that the Parish Government:

- (1) comply with the Disaster Act;
- (2) ensure existing nonemergency contracts are in compliance with local rules and regulations;
- (3) ensure emergency contracts are used only to address an immediate threat to life, public safety, or property;
- (4) amend the budget to include all FEMA revenues and expenditures; and
- (5) request an Attorney General opinion to determine if the Parish Council properly approved the employment of the Parish Attorney.

⁸ R.S. 42:1111 (C)(2)(d) states, in part, Payments for nonpublic service (2) No public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are: (d) Neither performed for nor compensated by any person from whom such public servant would be prohibited by R.S. 42:1115(A)(1) or (B) from receiving a gift.

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Plaquemines Parish Government operates under a Parish Charter. The Charter provides for the President-Council (9 members) form of government. The Parish's operations include fire protection, streets and drainage, parks and recreation, certain social services, and general administration services.

The procedures performed during this examination consisted of the following:

- (1) interviewing employees and officials of the Parish;
- (2) interviewing other persons as appropriate;
- (3) examining selected documents and records of the Parish;
- (4) performing observations; and
- (5) reviewing applicable state laws and regulations.

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Management's Response

Plaquemines Parish Government

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May 25, 2010

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Re: Plaquemines Parish Government
Compliance Audit

Dear Mr. Purpera:

We thank you for the opportunity to review the revised draft of the report proposed to be issued by your office. The proposed draft report addresses four matters which we will address in the order set forth in the revised draft report.

As you are aware, Plaquemines Parish Government is very proud of the fact that despite being severely damaged by Hurricane Katrina, Hurricane Rita, Hurricane Gustav and Hurricane Ike in the past four years, it has led Louisiana in its recovery efforts. At this time, we have approximately forty major construction projects underway. In each of these projects, essential and critical public facilities are being restored. This month, we were able to reopen another critical fire station.

Despite the significant recovery efforts which our parish is making, there are political operatives who, at every turn, for their own political aspirations, seek to inhibit our recovery efforts. As you are aware, these political operatives have met with your office to request that your office intercede with our recovery operations. While we find these attempts to block our recovery efforts very troublesome, we are happy and pleased to work with your office.

I think that it is important to note that our financial records have been audited every year. All of the audits during my administration are clean. In your report, you do not mention that the examination by your auditors found no improprieties in the financial matters of Plaquemines Parish Government.

The four areas which are addressed in the report are legal matters, not financial matters which auditors are tasked to address. We, and as you will see, many other local governments including the State of Louisiana have legal teams which regularly address these issues. The interpretations of your auditors in the compliance audit report have not been accepted by any local government, nor the State of Louisiana. Thus, we strongly disagree with the legal

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interpretations made by your auditors.

I am sure that you will agree that I have an obligation to protect the lives, safety and property of the citizens of Plaquemines Parish. I take this responsibility seriously. I did not need this job. I asked the people of Plaquemines Parish for an opportunity to serve them. They elected me to serve them. I will do so to the best of my ability.

As you are aware, we are currently addressing the BP/Transocean Deepwater Horizon Oil Spill Disaster and its many problems which are directly impacting the citizens of our parish. We have an upcoming hurricane season which is expected to be a bad one. Due to the fact that these interpretations by your office severely restrict my ability and the ability of other parish presidents to respond to emergencies such as the current oil spill disaster, Hurricane Katrina, Hurricane Rita, Hurricane Gustav and Hurricane Ike, we will seek appropriate administrative and legislative clarification of the interpretations that your auditors have imposed. While they may have forgotten what we went thru and what we are currently going through, the citizens of Plaquemines Parish and I have not.

We submit that these interpretations will have a severely detrimental effect on the recovery of the State of Louisiana, its parishes and municipalities therein. These interpretations are much more restrictive than those applied by the Legislature in the creation of the Homeland Security Act. These interpretations are not supported by any opinions of the Attorney General's Office nor any of the courts in the State of Louisiana. Most of the parishes in the region handled their declarations, extensions and budgeting in the same manner as Plaquemines Parish. These interpretations are contrary to the widespread interpretations by lawyers, outside auditors, municipalities, parish governments and state government, who have all interpreted these statutes in the same manner as the Plaquemines Parish Government. While we respectfully disagree with your auditors, we did enjoy the opportunity to work with you.

Our response as to the specific findings are as follows:

1. Emergency Declarations:

The Parish of Plaquemines remained under an emergency declaration from August of 2005 through July, 2008.

As you are aware, the Louisiana Homeland Security and Emergency Assistance and Disaster Act allows a parish president to declare a local disaster or emergency. The initial declaration of emergency was made by my predecessor, the prior parish president. The Louisiana legislature at R.S. 29:727 has provided the process. The only requirements of form are:

“All executive orders or proclamations issued under this Subsection shall indicate the nature of the emergency, the area or areas which are or may be affected, and the conditions which brought it about.”

While the declaration occurred 18 months before I took office, we support the validity of the declaration which was made August 27, 2005. It is attached hereto¹ and complies with the requirements which the Louisiana legislature has imposed. While those were difficult times, this declaration of emergency was proper.

The Legislature has also left the determination as to when the emergency ends solely to the parish president. The statute provides as follows:

“In that event, the state of emergency shall continue **until the parish president** finds that the **threat of danger** has been dealt with to the extent that emergency conditions no longer exist.”

There is no authority for your auditors to second guess my decision as to when the state of emergency is over. Your report focuses on the “emergency” as a singular event when in fact the focus, as per the statute, should focus on the “threat of danger” and when the “threat of danger has been dealt with”, which is a decision I need to make. As you are probably also aware, the State of Louisiana continues to extend to a limited extent its state of emergency through this very day.² Additionally, St. Tammany Parish also continues to extend its declaration of state of emergency through this date.³ I decided along with my Parish Council to terminate our state of emergency in Plaquemines Parish in July, 2008.

As you are aware, the emergency declarations enable the Parish Presidents and certain executive officials of local governments to have exceptional powers to address the emergency situations that they are facing. The declaration of a state of emergency in addition to activating provisions of the Louisiana Homeland and Emergency Preparedness and Disaster Act, also activates price gouging statutes, allows rights of entry without prior consent, allows rights to commandeer private property, allows local governments to utilize all available resources to address the emergency, allows local governments to transfer direction of personnel, allows local governments to suspend regulatory ordinances, allows local governments to control ingress and egress, allows local governments to direct or compel evacuations. The declaration of emergency also activates many immunity statutes which provide legal protection to emergency workers, public employees, health care providers, contractors, and good Samaritans.

Each parish should be entitled to extend the length of time it needs to address its emergency situation and the devastation wrought upon them. In fact, the parish president is charged with not only the responsibility, but a duty to protect the citizens of his parish. If the parish president feels that this declaration needs to be continued, then he should continue it until it is no longer necessary in his opinion.

¹ Please see exhibit 1.

² Please find enclosed herewith a copy of the Limited Extension of the State of Emergency Declaration by the State of Louisiana for Hurricane Katrina, which remains in effect today.

³ Please find enclosed herewith a copy of the State of Emergency Declaration by the Parish of St. Tammany, which has also remained in effect since Hurricane Katrina.

However, this authority is not without balance. The state of emergency or disaster may be terminated by the governor, a petition signed by a majority of the surviving members of either house of the legislature, or a majority of the surviving members of the parish governing authority. As you are aware, our Parish Council agreed with me to extend the emergency declaration until July, 2008. They had a right to terminate and prohibit me from extending it if they thought that it was being abused. For over 18 months of my administration, they did not do so. With all due respect, auditors are not given this authority nor this heavy responsibility.

We do not question the decision of the State of Louisiana to continue its declaration of a state of emergency nor do we question St. Tammany Parish's decision to continue their declaration of a state of emergency. We disagree with your auditors questioning our decision to continue the state of emergency until July, 2008.

We are happy to see that you have revised the report to correct the error in the report which stated that we made 72 declarations of emergency. The original declaration which was filed was very specific as to the nature of the emergency, the area which may be affected, and the conditions which brought it about. As your report now acknowledges, the subsequent "declarations" are not declarations, but merely an extension of the original declaration. This is necessary due to the fact that the statute provides:

"no state of emergency may continue for longer than thirty days unless extended by the parish president."

The Louisiana legislature has not imposed any form for an extension of the state of emergency other than the requirement that they be published. The statute provides:

"Any order or proclamation declaring, **continuing**, or terminating a local disaster or emergency shall be given prompt and general publicity and shall be filed promptly with the office of emergency preparedness and the office of the clerk of court."

The auditors suggest that the extensions may be invalid because they are general in nature and do not provide the actual or threatened lack documentation of a specific threat which will cause loss of life, injury and property damage. This interpretation is wrong for two reasons. First, the pertinent parts of the statute addressing the issue in question are in R.S. 29:727 (D) which require that the original declaration include: (1) The nature of the emergency; and (2) the conditions which brought it about. The language used is general in nature and does not require "specific documentation" as asserted by the draft report. In fact, nowhere in the statute does the term "specific threat" appear. In general terms, the nature of the emergency is a threat to the life, health, and property of the citizens of Plaquemines Parish. The condition that brought it about was a hurricane as opposed to forest fires, nuclear plant accidents, tornadoes, oil spills, etc.

Second, each extension refers to the original declaration which is being extended. This reference to the original declaration incorporates by reference the provisions of the original declaration. Thus, since all of the required provisions are in the original declaration, there is no

need to say them again. Certainly, the auditors cannot be suggesting that unless we restate the language which is in the original declaration in each extension the extension is invalid. If that is the interpretation of the auditors, that is not an interpretation which was followed by anyone else that we are aware of in Louisiana. Please see the attached extensions which are all similar to ours. Certainly, they cannot all be wrong. Perhaps, when the original report was revised, this language was left in the report in error.

While my predecessor, the prior parish president, used a simple format to continue the state of emergency, we submit that this is all that is needed. We continued to use the same format. This format for extensions is similar to but not as detailed as that which the State of Louisiana has used to continue its declaration of a state of emergency.⁴ It is a format which is similar to the manner in which the Parish of St. Tammany has continued its declaration of a state of emergency.⁵ It is also similar to the format used by Jefferson Parish.⁶

We do not question the ability of the State of Louisiana to continue its declaration of a state of emergency in this manner, nor do we question the ability of St. Tammany Parish nor Jefferson Parish to do so. The questioning of the method used by the Parish of Plaquemines would lead to the conclusion that the extensions made by the State of Louisiana, St. Tammany Parish and Jefferson Parish are all in error and do not meet the requirements of the Louisiana Homeland Security and Emergency Assistance and Disaster Act. There may be many more declarations and extensions that would be invalid if this requirement is imposed by your office.

This interpretation of the act, as suggested by the auditors, would invalidate the emergency declarations by the State of Louisiana, many parishes, and many local governments. There are widespread implications as to the ability of the Governor of the State of Louisiana, the Parish President of St. Tammany, the Parish President of Jefferson Parish, and the Parish President of Plaquemines to address the needs of their citizens. We submit that this narrow interpretation is not supported by law.

The Attorney General opinion referred to in your report states that the declaration was not issued by the Parish President. As set forth above, that is essential under the statute. There is no statement in that Attorney General opinion which is contrary to the declaration which was issued by Plaquemines Parish Government in August 2005 in the days immediately prior to Hurricane Katrina.

As set forth above, there is only one declaration of emergency. The others are extensions which refer to the language in the original declaration. The auditors have confused a declaration with an extension. This conclusion reached by the auditors exceeds the requirements established by the Louisiana legislature in the Louisiana Homeland Security and Emergency Assistance and Disaster Act and thus are unsupported by law.

4 Please see exhibit 4.
5 Please see exhibit 5.
6 Please see exhibit 6.

I am happy to see that in light of our discussions, you have revised the second paragraph of your original draft report. However, I am very disturbed that, despite changing the facts and the analysis, the draft report seeks to reach the same conclusion. As you are aware, auditor Kevin Kelly has during this audit examination breached confidentiality. He has been in frequent communication with and provided Councilman Beshel and Council attorney Amos Cormier, III copies of the confidential preliminary audit examination report. I cannot but conclude that Kevin Kelly has behaved inappropriately. In fact, the entire Parish Council has seen the "confidential" draft report. I am sure that Amos Cormier, III has provided it to his father, who has announced informally he intends to run against me in the upcoming October, 2010, election. I am told that the Council attorney told the council members that they were required to sign a letter to your office regarding this "confidential" draft report. Our records are open and totally transparent. That report has been changed due to our discussions. Please investigate this matter.

Now, the auditor has revised the report and stated a new rationale for the same conclusion. The draft report now improperly and without any basis states that the parish administration could not demonstrate how these contracts did not immediately mitigate a threat to life, public safety, or property damage, and the contracts cover multiple years. We spoke about this when we met and I explained to you how these contracts are very important to mitigate the threat to life, public safety and property damage. The report then goes on to conclude that **if** the declarations were not valid, they may have violated local ordinances.

These two contracts were essential to the mitigation of the threat to life, public safety, and property damage. The suggestion by the auditors that these contracts and my extension of the emergency declarations did not assist in the recovery shows me that they are not faced with the responsibility to bring back a parish from widespread destruction. The need for fire houses, fire trucks, drainage pump stations, unimpeded drainage canals and ditches, and community centers which act as shelters to protect the citizens of Plaquemines Parish from impending disasters are all part of the obligations and duties of the parish president to protect its citizens. The need for these public facilities is evident to anyone and everyone in Plaquemines Parish. These public facilities are essential to the health and welfare of my fellow citizens. These public facilities do protect lives. They do provide for the public safety of my fellow citizens. They do protect the improved property of the citizens of Plaquemines Parish. We cannot recover and rebuild without fire stations being reconstructed due to the fact that our citizens will not be able to obtain fire insurance, and without fire insurance, they cannot finance their homes, and without the ability to finance their homes, they cannot live in our parish. The lack of working drainage pumps, pump stations, and drainage canals which are free of hurricane debris are a necessity without which we could not rebuild and repopulate.

Furthermore, the auditors may not be aware that FEMA has determined that the use of Project Management and Direct Management services by severely impacted sub-grantees such as Plaquemines Parish is important to the recovery efforts. FEMA issued **Response and Recovery Directorate 9526.6** on this subject. Additionally, the State of Louisiana and FEMA signed an agreement entitled the **Project Management Pilot Program** which was established specifically to provide these services to Plaquemines Parish and its surrounding areas. Furthermore, **The Disaster Mitigation Act of 2000** mandates that we make efforts to implement appropriate

mitigation measures in our recovery. If we fail to do so, future reimbursements under the Stafford Act can be reduced to 25%.

As I am also sure that you are aware, the prior parish president failed to keep our public facilities insured as is required by the Stafford Act. As a result, as noted in your report, FEMA has reduced reimbursements to Plaquemines Parish by almost \$20,000,00.00! The use of experts to assist us with our recovery efforts is not only a prudent good business decision, it is essential to our recovery. Indeed, the failure of my predecessor to have a project manager on the recovery efforts has now created problems which I am addressing with the U. S. Department of Homeland security-Office of Inspector General. There are millions of Plaquemines Parish dollars that are now at risk due to the failure of the prior administration to have professional competent advice. We are happy to state that Plaquemines Parish was one of the first parishes to establish this service. As a result of our progress, we became an example for our surrounding parishes. As I am sure you are aware, these costs have been fully reimbursed by FEMA. As a result, we are moving forward with our recovery efforts.

Plaquemines Parish does not take the requirements of these statutes lightly; indeed, as part of this process we reviewed the language and format of the State of Louisiana and other parishes and municipalities. We see no significant difference between our language, procedure and actions and that of many other governing authorities, and believe that the consequences of declaring extensions of our disaster declaration invalid would have an ensuing domino effect on many local governing authorities, leading all the way up to the State of Louisiana thereby placing huge sums of federal funding and many immunities in jeopardy. With so much on the line, we submit that a cautious approach to the proper interpretation of the language in this statute should be taken by the Legislative Auditors Office.

We realize that this is a preliminary document and you are seeking our input on this. This is a lengthy response. But this is a very important issue to all of Louisiana. As was discussed in our recent meeting, perhaps input from many local governments or their representatives and associations should be obtained, or an Attorney General opinion or a declaratory judgment should be obtained prior to any suggestion that the language used in the initial declaration or any extensions is suggested to be improper as is suggested in the preliminary draft document. You have expressed to us that your office follows Attorney General Opinions. We look forward to continuing to work with you on this issue.

2. Local Government Budget Act:

We appreciate the acknowledgment of the fact that the parish's financial statements clearly reflect all of the money received and spent on the recovery efforts.

I am pleased to see that the statement in the initial draft report that Reimbursements under the Stafford Act must be included in the original budget has been changed. As we discussed at our meeting, we believe that including these expenditures and reimbursements in our amended budget is a good idea.

While we agree that this is a good idea, we must also direct your attention to the fact that this is not and cannot be required as is evidenced by the recent Louisiana Attorney General opinion on this matter. Amendments to a budget are only required when the local government has received notification pursuant to La. R.S. 39:1311 or when there has been a change in operations upon which the original adopted budget was developed. As I am sure that you are aware, there is a split between the Louisiana Courts of Appeal as to whether a budget can even be amended for any other reason. The First Circuit Court of Appeal has held that a budget **cannot** be amended for any other reason. See *Tardo v. Lafourche Parish Council*, 476 So. 2nd 997 (La. App. 1Cir. Oct 08, 1985). However, the Fourth Circuit Court of Appeal does allow a budget to be amended for other reasons. *Yenni v. Parish Council of Parish of Jefferson through Evans*, 625 So. 2nd 301 (La.App. 4th Cir 1993). Thus, while we agree that this is a good idea, it obviously cannot be required under the Local Government Budget Act as many parishes in Louisiana are prohibited by law from doing so.

Clearly, if the courts prohibit a local government from amending their budget, there cannot be a violation of any provision of the Local Government Budget Act for not amending the budget. As your report recognizes, all funds are properly accounted for. There are multiple audits and all funds are properly accounted for. Because of the multiple audits that review this public assistance program, all of this information is in the financial statements. In our opinion, there is confusion and seemingly contradictory rules and interpretations of the Louisiana Local Government Budget Act and associated statutes and federal regulations and how they relate to the specific program of FEMA Public Assistance funding.

While the statement that reimbursements under the Stafford Act are not required to be included in the original budget has been removed from the original confidential draft report, it is being circulated throughout Plaquemines Parish. Thus, unfortunately, I feel that I must address the fact that the expenditures and reimbursements under the Stafford Act are not required to be included in the Original Budget.

As you are aware, there is no authority which states that reimbursement funds received under the Public Assistance Program portion of the Stafford Act must be reported under the Local Government Budget Act. Indeed the Louisiana legislature specifically provided in the Local Government Act under L.R.S. 39:1314 that :

Nothing shall prohibit the expenditure of funds in cases of emergency. For purposes of this section, "an emergency" means as unforeseen event bringing with it destruction or injury of life or property or the imminent threat of such destruction or injury.

In discussing this matter with your auditors at our conference, they stated that the basis for their determination was 39:1305(A) which provides:

Each political subdivision shall cause to be prepared a comprehensive budget presenting a complete financial plan for each fiscal year for the general fund and each special revenue fund.

We agree that the Louisiana Local Government Act does apply to Plaquemines Parish Government.

However, there is no specific language that specifies that the public assistance reimbursements for expenditures incurred are required to be reported in the budget. Indeed, Plaquemines Parish initially sought to do this. However, due to the fact that the Public Assistance Program is a reimbursement program and not a grant program, and due to the fact that project worksheets are continually being revised, (in fact there are over 900 revisions of the project worksheets that were written for Plaquemines Parish), the need to constantly change figures in the budget became prohibitive and thereby restricted the ability of Plaquemines Parish Government to recover from this disaster.

In guidance documents (Chart of Accounts) provided by the Louisiana Legislative Auditor, a special revenue fund is defined as accounting for the proceeds of a specific **revenue** source other than those for major capital projects that are legally restricted for a specific purpose.

The Chart of Accounts defines “revenue” as: (a) an addition to assets which does not increase any liability; (b) does not represent the **recovery** of an expenditure; (c) does not represent the cancellation of liabilities or decrease assets; and (d) does not represent contributions of fund capital in enterprise and internal service funds.

The funds in question under FEMA’S Public Assistance grant program are provided for large projects under a cost reimbursement method. Section (b) in the definition of revenue may preclude these funds from being considered revenue. The reimbursements are forwarded frequently throughout the year; therefore, even if you were to somehow estimate the total amount expended prior to reimbursement for the entire fiscal year, there would be no directly corresponding revenue source to offset the total expended. This could cause a major fund deficit.

I believe this issue over Gustav and Ike is the root cause of the complaint made to your office. Reimbursements for Katrina and Rita were forthcoming readily following those disasters; however, such has not been the case with reimbursements for Gustav and Ike. However, as you may be aware these are now almost fully reimbursed.

As you are aware, it is expressly forbidden for local governments to deficit spend as a matter of routine budgeting. Budgeting for these funds can be a difficult process as the same funds may be spent multiple times during a fiscal year. The funds spent by a local governing body and then reimbursed by FEMA become a revolving amount which is depleted, reimbursed, depleted, reimbursed and continuing to cycle. It is almost impossible and definitely counterproductive to attempt to guess how many projects will have their scope approved and reimbursed during the entire fiscal year.

We also direct your attention to the Louisiana Legislative Auditor’s website wherein you have published a very good report on Frequently Asked Questions regarding the Local Government Budget Act. Therein, you specifically state that the term “special revenue fund” is

not defined. Therefore, it cannot be unequivocally stated that the reimbursements under the Public Assistance Program fall within that term.

Additionally, budgeting usually applies to reoccurring grants. As you are aware, FEMA reimbursements are not reoccurring grants. The purpose of budgeting is to measure the local government's performance. The inclusion of these projects will cause the budgeting process to be inaccurate. This disaster is different from others and a way must be found to recover and still comply with these provisions.

Under the Public Assistance Program of the Stafford Act, each individual reimbursement is a separate item. Therefore, in Plaquemines Parish's situation, we would need to have more than 500 classifications to the budget for each of these separate reimbursements. Additionally, each of these reimbursements begins with the approval of a scope of work to be performed and not a dollar amount. The amount obligated and indeed the cost of these projects fluctuate up and down as items are added or found to not be within scope. Creating a line item in the budget could require constant amendments (possibly several hundred) to the budget. This will be extremely onerous and overly burdensome.

FEMA has anticipated the types of budgeting nightmares created when dealing with a disaster the scale of which Louisiana has dealt with several times in recent history. FEMA, under OMB circular A-133 and the Single Audit Act, requires all local governing authorities that receive more than \$500,000.00 in federal reimbursements from a major program during a fiscal year to have a single audit prepared to account for the federal funds.

All reimbursements received under the Public Assistance grant program are accounted for in a separate system that is audited under the Federal Single Audit Act and also independent audits, and sworn financial statements are prepared yearly as required by R.S. 24:514 and forwarded to the Legislative Auditor. These audits ensure that the revolving reimbursements are accounted for in an annual report.

We submit that your office's interpretation is a restrictive and prohibitive requirement suggested by your auditors. Furthermore, it is not shared by other local governments. These reimbursements are not included in the budgets for St. Tammany, Jefferson or St. Bernard Parishes. In fact, we know of no local government which has included these reimbursements in their original budget.

We are happy to see that the auditor has changed his position from requiring that these reimbursements be included in the original budget to now just suggesting that they should be included in an amended budget. The original interpretation, if applied to all municipal and local governments, would be unduly restrictive. In fact, the interpretation suggested by the auditors would indicate that the Single Audit Act has been violated by Plaquemines Parish, St. Tammany Parish, St. Bernard Parish and Jefferson Parish for the past four years. These are serious implications if each of the audits was defective. Furthermore, this interpretation has not been accepted by any accounting firm in this region as indicated by the fact that they have provided clean audits to each local government despite the fact that they did not include this funding in

their budgets as suggested by your auditors.

In recent conversations with the Office of Legislative Auditor, several issues were considered and there seemed to be a reasonable route to address some of these issues. One suggestion was that the Legislative Auditor provide a guidance document detailing how local governments may handle budgeting for FEMA public assistance funds- in particular, how they relate to reimbursements for Hurricanes Katrina, Rita, Gustav, and Ike expenses. It seems that this may be the most desired result due to the fact that so many local governing authorities are handling FEMA reimbursements similar to Plaquemines Parish. The suggestion that which we discussed in our recent meeting for Plaquemines Parish, in addition to the two audits which oversee these funds, to do an end of the year budget adjustment which tracks actual FEMA reimbursements is acceptable to us.

A guidance document from the Legislative Auditor would go a long way to addressing the methods currently being used by many local governments similar to Plaquemines Parish.

3. Employment of Parish Attorney:

The Parish Attorney who was hired was widely known by and referred to by all individuals at the council meetings in question- both in 2008 when the original salary appropriation was made and in 2009 during public hearings on the budget. Furthermore, the person appointed to the position was present at the 2009 public hearings. While the specific name of the individual who is continuing to serve as lead parish attorney from prior years may or may not have been specifically mentioned at the meeting, there is no question that all of the members of the parish council knew who they were voting on. Otherwise, your office is accusing the Plaquemines Parish Council of mismanagement and/or of not knowing what they were doing for the past 16 months. While we have differences of opinion on many matters, I will not agree that they did not know what they were voting on. The predecessor Parish Attorney's annual salary was \$76,000.00; the current one's annual salary is \$125,000.00. It is unreasonable to believe that Council members did not question who was coming on board or why such an increase was necessary. Certainly, they are entitled to the interpretation that when they voted on the Parish Attorney's salary, they knew who they were voting on.

4. Contractors:

I do not see why this is a matter addressed by your office. If anyone has an ethics complaint to make, let them make it, and let them make it to the proper authority, the State Ethics Board. The power of your office should not be used to look into whether a matter outside of our financial matters should be reviewed by your office.

The fourth suggestion of filing a complaint to the State Ethics Board illustrates the difference between legal and financial issues. The report cites its authority in a footnote. It cites R.S. 42:1111 (C)(2)(d) which, as stated in your report, provides that:

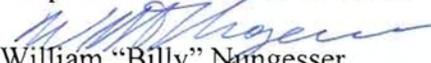
“They shall receive nothing of economic value for or in consideration of services rendered or to be rendered.”

The transaction referred to in your notation is a real estate sale. It is not a transaction for services. Thus, we submit that, on its face, the reference to that statute has no bearing whatsoever to the finding suggested in your report. Furthermore, the reference to 42:1115 has no merit either. The “person” involved in the transaction is not seeking and has never sought to obtain contractual, business or financial relationships with Parish Government or to influence the passage or defeat of legislation by the Parish Council.

We are proud of the fact that our records are open and totally transparent. We appreciate the opportunity to work with you. We look forward to discussing this matter with you further should you desire to do so.

Very truly yours,

Plaquemines Parish Government


William “Billy” Nungesser
Parish President



Plaquemines Parish Recording Page

Dorothy M Lundin
Clerk of Court
PO Box 40
Belle Chasse, LA 70037
(504) 297-5180

Received From :
PLAQUEMINES PARISH GOVERNMENT
POINTE-ALA-HACHE, LA 70082

First VENDOR

PLAQUEMINES PARISH GOVERNMENT

First VENDEE

PLAQUEMINES PARISH GOVERNMENT

Index Type : Conveyance
Type of Document : Declaration

File Number : 2005-00005055

Book : 1100 Page : 888

Recording Pages : 3

Recorded Information

I hereby certify that the attached document was filed for registry and recorded in the Clerk of Court's office for Plaquemines Parish, Louisiana

On (Recorded Date) : 10/04/2005

At (Recorded Time) : 4:01:45PM



Doc ID - 001575720003

Richard M. Wolf
Deputy Clerk



Additional Index Recordings			
Index Type	Book	Page	File #
MTG	434	188	2005-00005055

A true copy of the original as recorded in
the Parish of Plaquemines
C.O.B. No. 1100 Folio 888
under entry no. _____
on 10/4/05
Victoria Daniels
BY CLERK OF COURT

Return To :

Do not Detach this Recording Page from Original Document



Plaquemines Parish Government

BENNY ROUSSELLE
Parish President

106 Avenue "G"
Belle Chasse, LA 70037

PLAQUEMINES PARISH
OFFICE OF EMERGENCY PREPAREDNESS
7163 HIGHWAY 39, SUITE 202
BRAITHWAITE, LOUISIANA 70040
(504) 682-0081 EXT 2266
(504) 682-8632 FAX

(504) 394-4080
(504) 392-6690
1-888-784-5387
Fax (504) 394-9541

STATE OF EMERGENCY PLAQUEMINES PARISH

WHEREAS, the Parish of Plaquemines is presently faced with a pending emergency due to Hurricane Katrina.

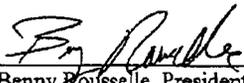
WHEREAS, there is a very definite threat to life and property of the citizens of this Parish; and

WHEREAS, such action must be taken now;

THEREFORE, I, Benny Rousselle, Parish President of the Plaquemines Parish Government by authority vested in me by the Parish Charter and Louisiana Disaster Act of 1993, do hereby proclaim;

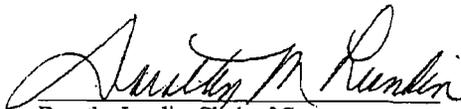
A STATE OF EMERGENCY to exist within the Parish and that all Emergency Preparedness plans and the Parish All Hazard Emergency Operations Plan be activated.

Issued on this 27th day of August, 2005 and effective as of 7:30 a.m.



Benny Rousselle, President
Plaquemines Parish Government

I, Dorothy Lundin, do hereby certify that I have filed this Declaration of Emergency into the Mortgage and Conveyance records of Plaquemines Parish on the 4th day of October, 2005.

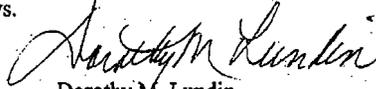


Dorothy Lundin, Clerk of Court
Plaquemines Parish

PUBLIC NOTICE

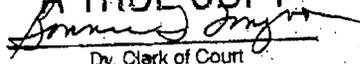
Public Notice is hereby given that by order of the 25th Judicial District Court, the Plaquemines Parish Clerk of Court's Office was closed from 8:30 a.m. on Monday, August 29, 2005, through 4:30 p.m. on Friday, September 30, 2005, as a result of the damage and recovery from Hurricanes Katrina and Rita.

Pursuant to R.S. 1:55 (E)(2), these were legal holidays.



Dorothy M. Lundin
Clerk of Court
Parish of Plaquemines

A TRUE COPY



Dy. Clerk of Court
Parish of Plaquemines, La.

STATE OF LOUISIANA
PARISH OF PLAQUEMINES

Before me, the undersigned authority, duly commissioned and qualified in and for the above Parish and State, personally came and appeared:

Norris J. Babin, Jr.

That as Legals Clerk of *The Plaquemines Gazette*, the official journal of the Parish of Plaquemines, and *The Plaquemines Watchman*, attests that the attached copy of **LEGAL NOTICE**

PUBLIC NOTICE
PLAQUEMINES PARISH GOVERNMENT
Declaration of State of Emergency
Due to Hurricane Katrina

Was published in the newspaper in the issues of:

Sept. 20, 2005

Sworn to and subscribed before me this

This 15th day of November 2006



NOTARY PUBLIC

BELINDA B. HAZEL
NOTARY PUBLIC LD. #43775
Parish of Plaquemines, State of Louisiana
My Commission is issued for Life.

7962 HIGHWAY 23 • P.O. BOX 700 • BELLE CHASSE, LA 70037-0700 • (504) 392-1619

NEWS • COMMUNITY EVENTS

LEGAL NOTICE

STATE OF EMERGENCY
PLAQUEMINES PARISH

WHEREAS, the Parish of Plaquemines is presently faced with a pending emergency due to Hurricane Katrina.

WHEREAS, there is a very definite threat to life and property of the citizens of this Parish; and

WHEREAS, such action must be taken now;

THEREFORE, I, Benny Rousselle, Parish President of the Plaquemines Parish Government by authority vested in me by the Parish Charter and Louisiana Disaster Act of 1993, do hereby proclaim:

A STATE OF EMERGENCY to exist within the Parish and that all Emergency Preparedness plans and the Parish All Hazard Emergency Operations Plan be activated.

Issued on this 27th day of August, 2005 and effective as of 7:30 a.m.


Benny Rousselle, President
Plaquemines Parish Government

PG: September 20, 2005

LEGAL NOTICE

To the citizens of Plaquemines Parish,

The Parish of Plaquemines and the Plaquemines Parish Sheriff's Office has suffered tremendous devastation from the effects of Hurricane Katrina. The Sheriff's office has sustained loss of property and equipment. Therefore, as Sheriff of Plaquemines Parish, I am certifying a State of Emergency in accordance with Louisiana R.S. 38:2212 D (1)(a), in order to issue contracts for repairs and equipment, which are immediately necessary. This will allow the Plaquemines Parish Sheriff's Office to immediately repair the damage that it sustained from Hurricane Katrina and to purchase the necessary equipment to respond to this catastrophic event.

Sincerely,



Sheriff L. F. "Jiff" Hingle

PG: September 20, 2005

The
COO
Realty & Appraisal, Inc.
Team Welcomes You
Home Belle Chasse!

















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STATE OF EMERGENCY JEFFERSON PARISH

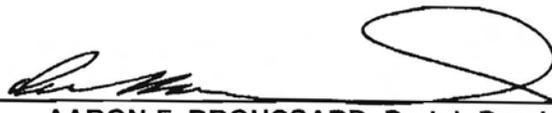
WHEREAS, Hurricane Katrina has the potential to cause extensive damage in the Parish of Jefferson; and

WHEREAS, immediate emergency actions are required to minimize the effects of the hurricane; and

WHEREAS, the area involved is in need of emergency actions and support to respond to the tropical hurricane.

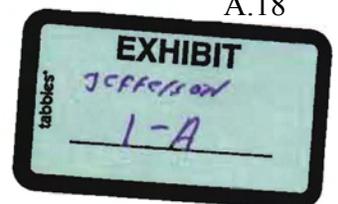
NOW, THEREFORE, I, Aaron F. Broussard, President of Jefferson Parish, by the authority vested in me by the ordinances of Jefferson Parish, the Louisiana Disaster Act of 1993, and any other acts which may prevail, do hereby proclaim a State of Emergency to exist in the Parish of Jefferson and that all Emergency Operation Plans be activated and that the Parish Office of Emergency Management Director, Walter S. Maestri, (504) 349-5360, be hereby designated as point of contact.

THIS PROCLAMATION ISSUED ON THIS 27th DAY OF
AUGUST, 2005, AND EFFECTIVE AT TIME OF ISSUANCE,
6:00 AM (hours).


AARON F. BROUSSARD, Parish President

09/28/2005 02:11:34 PM JEFF PAR 1263298 pat \$0.00
10550949 CONVEYANCE BOOK 3153 PAGE 130

A.18



State of Louisiana



EXECUTIVE DEPARTMENT

PROCLAMATION NO. 13 BJ 2010

LIMITED EXTENSION OF STATE OF EMERGENCY - HURRICANE KATRINA

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the State of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, on August 29, 2005, Hurricane Katrina struck Louisiana resulting in severe flooding, damage, and the interruption in the delivery of utility services to the southeastern part of the State of Louisiana, which has threatened the safety, health, and security of the citizens of the State of Louisiana, along with private property and public facilities;

WHEREAS, the extreme damage caused by Hurricane Katrina and its aftermath continues to cause disaster and emergency conditions, as indicated above, in the most affected areas, as evidenced for example by the continued remediation of the environmental impacts of the disaster, such as pursuant to Executive Order No. BJ 2008-109, and by the activities for the construction, operation, maintenance, repair, rehabilitation, replacement, survey, planning, engineering or design of any coastal protection, coastal restoration, coastal conservation, hurricane protection, infrastructure, storm damage reduction, or flood control project, including but not limited to projects consistent with the comprehensive master coastal protection plan and under the authority of R.S. 49:214.1 *et seq.*, such as pursuant to Executive Orders Nos. KBB 2006-06, KBB 2006-40, KBB 2007-05, KBB 2007-19, KBB 2007-20, and KBB 2007-21; and

WHEREAS, it is necessary to renew Proclamation No. 48 KBB 2005, as extended by subsequent proclamations, to further extend the state of emergency due to the continuation of emergency/disaster conditions as above indicated;

NOW THEREFORE I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to Title 29 of the Louisiana Revised Statutes of 1950 and the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency and disaster is declared to continue to exist in the State of Louisiana due to Hurricane Katrina and its aftermath, which resulted in severe storm damage and extreme flooding to private property and public facilities, and continues to threaten the safety, health, and security of the citizens of the State of Louisiana.

SECTION 2: This state of emergency and disaster shall only extend for the following situations:

- A. The continued remediation of the environmental impacts of the disaster constituting the need for dredging and debris removal, such as pursuant to Executive Order No. BJ 2008-109; and
- B. The activities necessary for the construction, operation, maintenance, repair, rehabilitation, replacement, survey, planning, engineering or design of any coastal protection, coastal restoration, coastal conservation, hurricane protection, infrastructure, storm damage reduction, or flood control project, including but not limited to projects consistent with the comprehensive master coastal protection plan and under the authority of R.S. 49:214.1 *et seq.*, such as pursuant to Executive Orders Nos. KBB 2006-06, KBB 2006-40, KBB 2007-05, KBB 2007-19, KBB 2007-20, and KBB 2007-21.



SECTION 3: The state of emergency is extended for an additional thirty (30) days through Saturday, April 3, 2010, unless terminated sooner.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 4th day of March, 2010.

/S/ Bobby Jindal
GOVERNOR OF LOUISIANA

ATTEST BY
THE GOVERNOR

/S/ Jay Dardenne
SECRETARY OF STATE



St. Tammany Parish Government EMERGENCY OPERATIONS CENTER

Executive Order

Emergency Operations Center Contact: 985-898-2323

ORDER TO CONTINUE PARISH-WIDE STATE OF EMERGENCY FOR THIRTY (30) DAYS AS PER LA. R.S. 29:721 ET SEQ. AS TO THE EFFECTS OF HURRICANES KATRINA AND RITA

WHEREAS, Governor Kathleen Blanco has issued an Executive Order on August 26, 2005, No. 48 KBB 2005, declaring a state of emergency that incorporated all of St. Tammany Parish as to Hurricane Katrina, and,

WHEREAS, the Parish President of St. Tammany issued an Executive Order on August 27, 2005 declaring a parish-wide state of emergency as to Hurricane Katrina; and

WHEREAS, Governor Kathleen Blanco issued an Executive Order on September 22, 2005, declaring a state of emergency that incorporated all of St. Tammany Parish as to Hurricane Rita; and,

WHEREAS, the Parish President of St. Tammany issued an Executive Order on September 22, 2005 declaring a parish-wide state of emergency as to Hurricane Rita; and

WHEREAS, as a result of the landfall of both storm events, Kevin C. Davis, as Parish President of St. Tammany Parish, had heretofore invoked all rights and duties afforded him under Louisiana Revised Statute 29:721 et seq. until further notice; and

WHEREAS the State of Emergency declared by the Parish on August 27, 2005 was continued by the Parish President on September 24, 2005 for thirty (30) additional days, as per law; and

WHEREAS St. Tammany Parish Government, through Kevin C. Davis, as Parish President, is still empowered to take all necessary measures to ensure the continued safety, health and welfare of the citizens of St. Tammany, as per law; and,

WHEREAS, the effect of Hurricanes Katrina and Rita upon all of St. Tammany's people and property requires continued action by St. Tammany Parish Government to offset the irreparable damages caused by wind and water; and

WHEREAS, the Parish President has initiated action, with the assistance of Parish Council members, to combat the devastating effects of the storm; and

WHEREAS, without immediate and thorough governmental intervention, the natural habitat and intrinsic character of St. Tammany will be forever detrimentally impacted; and

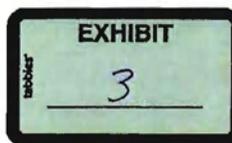
WHEREAS continued action by the Parish of St. Tammany is mandatory to fulfill the needs of the people of this Parish until such time as the emergency state of this Parish has subsided.

IT IS ORDERED that there be a continued Parish-wide state of emergency for the next thirty (30) days, as per law.

IT IS ORDERED that Kevin C. Davis, as Parish President, maintains the authority to assume total control of all private and public properties and utilities necessary to ensure the safety, health and welfare of the citizens and property of this Parish, and

IT IS ORDERED that the Office of the Parish President invokes all rights and remedies afforded it under all the laws and constitutions of the United States and State of Louisiana, and

St. Tammany Parish 2190
Instrument #: 1762927
Registry #: 1977431 NFL
03/31/2010 3:58:00 PM
MB X CB X MI X UCC





St. Tammany Parish Government
EMERGENCY OPERATIONS CENTER

Executive Order

Emergency Operations Center Contact: 985-898-2323

IT IS ORDERED that the Office of the Parish President invokes all rights and remedies afforded it under Louisiana Revised Statutes, and

IT IS ORDERED that the Office of the Parish President invokes all rights and remedies afforded it under the St. Tammany Parish Code of Ordinances, and

IT IS ORDERED that any person or entity who interrupts or interferes with the control of the Parish and/or Parish President shall be prosecuted to the fullest extent of the law.

At Mandeville, this 25th day of March, 2010 at 9:30 a.m.

A handwritten signature in black ink, appearing to read "Kevin C. Davis".

Kevin C. Davis
Parish President

NOTICE POSTED AT:
St. Tammany Parish web-page: stpgov.org
and
21490 Koop Drive, Mandeville, La.
and
510 E. Boston Street, Covington, La.

Sworn to and subscribed before me

Kelly M. Babelais
this 25th day of March
2010.

Kelly M. Babelais

State of Louisiana



EXECUTIVE DEPARTMENT

PROCLAMATION NO. 10 BJ 2010

LIMITED EXTENSION OF STATE OF EMERGENCY - HURRICANE KATRINA

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the State of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, on August 29, 2005, Hurricane Katrina struck Louisiana resulting in severe flooding, damage, and the interruption in the delivery of utility services to the southeastern part of the State of Louisiana, which has threatened the safety, health, and security of the citizens of the State of Louisiana, along with private property and public facilities;

WHEREAS, the extreme damage caused by Hurricane Katrina and its aftermath continues to cause disaster and emergency conditions, as indicated above, in the most affected areas, as evidenced for example by the continued remediation of the environmental impacts of the disaster, such as pursuant to Executive Order No. BJ 2008-109, and by the activities for the construction, operation, maintenance, repair, rehabilitation, replacement, survey, planning, engineering or design of any coastal protection, coastal restoration, coastal conservation, hurricane protection, infrastructure, storm damage reduction, or flood control project, including but not limited to projects consistent with the comprehensive master coastal protection plan and under the authority of R.S. 49:214.1 *et seq.*, such as pursuant to Executive Orders Nos. KBB 2006-06, KBB 2006-40, KBB 2007-05, KBB 2007-19, KBB 2007-20, and KBB 2007-21; and

WHEREAS, it is necessary to renew Proclamation No. 48 KBB 2005, as extended by subsequent proclamations, to further extend the state of emergency due to the continuation of emergency/disaster conditions as above indicated;

NOW THEREFORE I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to Title 29 of the Louisiana Revised Statutes of 1950 and the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency and disaster is declared to continue to exist in the State of Louisiana due to Hurricane Katrina and its aftermath, which resulted in severe storm damage and extreme flooding to private property and public facilities, and continues to threaten the safety, health, and security of the citizens of the State of Louisiana.

SECTION 2: This state of emergency and disaster shall only extend for the following situations:

- A. The continued remediation of the environmental impacts of the disaster constituting the need for dredging and debris removal, such as pursuant to Executive Order No. BJ 2008-109; and
- B. The activities necessary for the construction, operation, maintenance, repair, rehabilitation, replacement, survey, planning, engineering or design of any coastal protection, coastal restoration, coastal conservation, hurricane protection, infrastructure, storm damage reduction, or flood control project, including but not limited to projects consistent with the comprehensive master coastal protection plan and under the authority of R.S. 49:214.1 *et seq.*, such as pursuant to Executive Orders Nos. KBB 2006-06, KBB 2006-40, KBB 2007-05, KBB 2007-19, KBB 2007-20, and KBB 2007-21.



SECTION 3: The state of emergency is extended for an additional thirty (30) days through Thursday, March 4, 2010, unless terminated sooner.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 2nd day of February, 2010.

/S/ Bobby Jindal
GOVERNOR OF LOUISIANA

ATTEST BY
THE GOVERNOR

/S/ Jay Dardenne
SECRETARY OF STATE



St. Tammany Parish Government EMERGENCY OPERATIONS CENTER

Executive Order

Emergency Operations Center Contact: 985-898-2323

ORDER TO CONTINUE PARISH-WIDE STATE OF EMERGENCY FOR THIRTY (30) DAYS AS PER LA. R.S. 29:721 ET SEQ. AS TO THE EFFECTS OF HURRICANES KATRINA AND RITA

WHEREAS, Governor Kathleen Blanco has issued an Executive Order on August 26, 2005, No. 48 KBB 2005, declaring a state of emergency that incorporated all of St. Tammany Parish as to Hurricane Katrina, and,

WHEREAS, the Parish President of St. Tammany issued an Executive Order on August 27, 2005 declaring a parish-wide state of emergency as to Hurricane Katrina; and

WHEREAS, Governor Kathleen Blanco issued an Executive Order on September 22, 2005, declaring a state of emergency that incorporated all of St. Tammany Parish as to Hurricane Rita; and,

WHEREAS, the Parish President of St. Tammany issued an Executive Order on September 22, 2005 declaring a parish-wide state of emergency as to Hurricane Rita; and

WHEREAS, as a result of the landfall of both storm events, Kevin C. Davis, as Parish President of St. Tammany Parish, had heretofore invoked all rights and duties afforded him under Louisiana Revised Statute 29:721 et seq. until further notice; and

WHEREAS the State of Emergency declared by the Parish on August 27, 2005 was continued by the Parish President on September 24, 2005 for thirty (30) additional days, as per law; and

WHEREAS St. Tammany Parish Government, through Kevin C. Davis, as Parish President, is still empowered to take all necessary measures to ensure the continued safety, health and welfare of the citizens of St. Tammany, as per law; and,

WHEREAS, the effect of Hurricanes Katrina and Rita upon all of St. Tammany's people and property requires continued action by St. Tammany Parish Government to offset the irreparable damages caused by wind and water; and

WHEREAS, the Parish President has initiated action, with the assistance of Parish Council members, to combat the devastating effects of the storm; and

WHEREAS, without immediate and thorough governmental intervention, the natural habitat and intrinsic character of St. Tammany will be forever detrimentally impacted; and

WHEREAS continued action by the Parish of St. Tammany is mandatory to fulfill the needs of the people of this Parish until such time as the emergency state of this Parish has subsided.

IT IS ORDERED that there be a continued Parish-wide state of emergency for the next thirty (30) days, as per law.

IT IS ORDERED that Kevin C. Davis, as Parish President, maintains the authority to assume total control of all private and public properties and utilities necessary to ensure the safety, health and welfare of the citizens and property of this Parish, and

IT IS ORDERED that the Office of the Parish President invokes all rights and remedies afforded it under all the laws and constitutions of the United States and State of Louisiana, and

St. Tammany Parish 2190
Instrument #: 1762927
Registry #: 1977431 NFL
03/31/2010 3:58:00 PM
MB X CB X MI X UCC





St. Tammany Parish Government
EMERGENCY OPERATIONS CENTER

Executive Order

Emergency Operations Center Contact: 985-898-2323

IT IS ORDERED that the Office of the Parish President invokes all rights and remedies afforded it under Louisiana Revised Statutes, and

IT IS ORDERED that the Office of the Parish President invokes all rights and remedies afforded it under the St. Tammany Parish Code of Ordinances, and

IT IS ORDERED that any person or entity who interrupts or interferes with the control of the Parish and/or Parish President shall be prosecuted to the fullest extent of the law.

At Mandeville, this 25th day of March, 2010 at 9:30 a.m.

A handwritten signature in black ink, appearing to read "Kevin C. Davis".

Kevin C. Davis
Parish President

NOTICE POSTED AT:
St. Tammany Parish web-page: stpgov.org
and
21490 Koop Drive, Mandeville, La.
and
510 E. Boston Street, Covington, La.

Sworn to and subscribed before me

Thelma Babelois

this 25th day of March
2010.

Thelma Babelois

10555353



**JEFFERSON PARISH
OFFICE OF THE PARISH PRESIDENT
EXECUTIVE ORDER**

DECLARATION OF EXTENSION OF STATE OF EMERGENCY

- WHEREAS,** The Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the Parish President of the Parish of Jefferson emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake, hurricane or other natural or man-made causes;
- WHEREAS,** Hurricanes Katrina and Rita struck the state of Louisiana, respectively, on August 29, 2005 and September 24, 2005 resulting in severe flooding and damage to the southeastern part of the state, including Jefferson Parish, which has threatened the safety, health and security of the citizens of Jefferson Parish, along with private property and public facilities;
- WHEREAS,** The Governor of the State of Louisiana declared a state of emergency for the entire state pursuant to Proclamation No. 48 KBB 2005, issued on August 26, 2005 and has extended and renewed the declaration of the state of emergency pursuant to Proclamation No. 54KBB 2005, issued September 22, 2005, due to the continuing disaster and emergency conditions and has again extended and renewed the declaration of the state of emergency pursuant to Proclamation No. 61KBB 2005, issued October 24, 2005;
- WHEREAS,** La. R.S. 29:727 grants authority to the Parish President to declare a state of emergency which shall continue until the Parish President finds that the threat of danger has been dealt with to the extent that emergency conditions no longer exist;
- WHEREAS,** Pursuant to La. R.S. 29:727, the Parish President issued a proclamation declaring a state of emergency in Jefferson Parish, which proclamation was issued August 27, 2005 and extended such state of emergency until October 15, 2005, which proclamation was issued September 26, 2005; and again extended the state of emergency for both Hurricanes Katrina and Rita until October 26, 2005, which proclamations were issued October 14th, 2005 and October 18th, 2005;
- WHEREAS,** The threat of danger and emergency conditions continue to exist in the Parish of Jefferson as a result of Hurricanes Katrina and Rita and it is necessary to renew the Proclamations of Emergency for Jefferson Parish and extend the declaration of emergency;

NOW THEREFORE, I, AARON F. BROUSSARD, Parish President of the Parish of Jefferson, by virtue of the authority vested by the laws of the state of Louisiana, including but not limited to Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, do hereby find that the threat of danger and emergency conditions continue to exist in the Parish of Jefferson as a result of Hurricanes Katrina and Rita and that the declaration of a state of emergency heretofore issued by proclamations on the 27th day of August, 2005, and the 19th of September, 2005 respectively, and renewed until October 26th, 2005 by proclamation dated September 26, 2005, October 15th, 2005 and October 18th, 2005, respectively, is hereby further renewed and is extended and shall continue in full force and effect until November 16, 2005 unless or until terminated prior thereto in accordance with law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Seal of the Parish of Jefferson, State of Louisiana, at Gretna, Louisiana, on this 25th day of October, 2005 at 1:50 o'clock P.m.

11/03/2005 11:07:34 AM JEFF PAR 1279887 gle \$27.00
10555353 CONVEYANCE BOOK 3154 PAGE 281

Aaron F. Broussard
AARON F. BROUSSARD
PARISH PRESIDENT, JEFFERSON PARISH

A.27

EXHIBIT

tabbles

6

Plaquemines Parish Government

P.O. BOX 61
POINTE-A-LA-HACHE, LA 70082
504-297-5000

COUNCIL MEMBERS:

DON BESHSEL, DISTRICT 1
KEITH HINKLEY, DISTRICT 2
JERRY HODNETT, DISTRICT 3
DR. STUART J. GUEY, JR., DISTRICT 4
ANTHONY L. BURAS, JR., DISTRICT 5
BURGHART TURNER, DISTRICT 6
JOHN J. FRIEDMAN, DISTRICT 7
LYNDA G. BANTA, DISTRICT 8
MARLA COOPER, DISTRICT 9

MELISSA P. LEBLANC, SECRETARY

Parish President
BILLY NUNGESSER

FAX TRANSMITTAL

TO: Daryl G. Purpera, CPA
Louisiana Legislative Auditor

FAX NO.: 1 (225) 339-3987

FROM: Kim Toups
Plaquemines Parish Council Paralegal

DATE: 4-26-10

No. Pages including cover sheet: 7

Every available Councilmember has signed. Due to time constraints not all could be reached for signatures.

Plaquemines Parish Government

P.O. BOX 61
 POINTE-À-LA-HACHE, LA 70082
 504-297-5000

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 LYNDA G. BANTA, DISTRICT 8
 MARLA COOPER, DISTRICT 9

Parish President

BILLY NUNGESSER

MELISSA P. LEBLANC, SECRETARY

Daryl G. Purpera
 Louisiana Legislative Auditor
 1600 North Third Street
 Baton Rouge, La. 70804

April 26, 2010

Re: Plaquemines Parish Government

Dear Mr. Purpera,

As you may be aware, there exists an unfortunate divisive situation in Plaquemines Parish between the Office of the Parish President and the Parish Council.

For reasons explained below, we regret to surmise that litigation is inevitable between the two branches of government.

In response to the draft of your proposed compliance audit report, we offer the following responses to your six (6) recommendations.

First, we appreciate your concerns with compliance with the Louisiana Disaster Act, and more specifically the actions taken pursuant under R.S. 29:727 by the Office of the Parish President.

As you know, the Parish Council has virtually no powers under Title 29 when a state of emergency is declared by a Parish President. In our case and with the issues raised by your Office, please know that the Parish Council:

- (a) did not declare the state of emergency in 2005,
- (b) did not participate in the preparation of any Proclamations
- (c) did not participate in the preparation of any Executive Orders
- (d) did not have control over suspension of any rules & regulations
- (e) was not involved in the selection of contractors

- (f) was not involved in the scope determination of any third-party vendors
- (g) was not involved in the payment of funds to vendors/contractors

These were all actions undertaken by the Office of the Parish President. We respectfully refer your office to Mr. Nungesser for more succinct answers as to what was done and when it was done for all legal and fiscal or accounting matters.

Even though we were not involved in these actions, we ask that you keep us advised of any answers provided by Mr. Nungesser.

We are the local government and need to be in this communication loop. We demand fiscal transparency.

Second, your Office has sought assurance that all non-emergency contracts have been let, as per law.

May we again refer you to the Office of the Parish President.

For the past year, the Parish Council has sought an accurate accounting of all FEMA funds, sought information regarding all contracts signed by the Parish President's Office, and requested documentation to substantiate all fiscal matters that otherwise have not been made available to the Parish Council.

We would like to interject that there have been a number of written public record requests by the Parish Council of the Parish President, all of which have been summarily ignored resulting in a denial of access and financial accounting.

We would also like to advise you that, in at least one case, a Parish Councilman brought suit to obtain public records, but was denied access by the Court insofar as his claim was brought as a councilman, not as an individual, and as such without permission of the entire council through a Resolution, the case was recently dismissed.

We would also like to advise you that as late as last week, another request through the Parish Government's internal auditor was made of financial records. Nothing has yet been received.

Third, your third Recommendation seeks confirmation that no emergency contracts should be signed without adherence to the law. We agree and join in your concern.

The Parish Council seeks that same information from the Office of the Parish President.

The Parish's own Audit Committee has sought this information from Mr. Nungesser without success.

The Parish Council's efforts have been likewise thwarted.

Fourth, your Office expresses concern that the current budget lacks appropriate financial information concerning FEMA fund accounting.

Upon information and belief, the Parish President's Office has not provided that information to the Parish Council for consideration. We have reason to believe that there may be two sets of accounting records.

One set of books reflects non-FEMA accounting, all of which has been made available to the Parish Council. The second set of record-keeping is exclusively FEMA-related to which the Parish Council has not had full access.

The Parish Council seeks that same complete information from the Office of the Parish President.

The Parish Council's efforts have been thwarted again.

Fifth, your Office has suggested that an opinion be sought from the Attorney General as to whether the Parish President's legal counsel has not been properly hired, as per law. We appreciate your guidance and will address the matter before the entire Parish Council as per law.

Sixth, your recent revelation about a conflict of interest gives the Parish Council deep concern. The Parish Council had no knowledge of this conflict. Even though your Office will be referring the matter to the appropriate office for further investigation, it has become apparent that our own internal investigation may now be warranted.

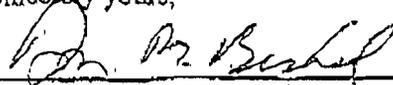
We hope that this letter provides to your Office additional consideration of our current situation.

We look forward to your advice and guidance in our joint attempt to achieve needed fiscal transparency in our local government.

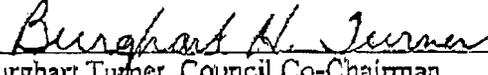
Please feel free to call upon us if you have any additional questions.

Thank you:

Sincerely yours,



Don M. Beshel, Council Chairman



Burghart Turner, Council Co-Chairman

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04/26/2010 10:30 5042975240

COUNCIL SEC
COUNCIL SEC

PAGE 05
PAGE 01

~~Keith Hindley, Council Member District 2~~

~~*Jerry Hodnett*
Jerry Hodnett, Council Member District 3~~

~~Stuart J. Guey, Jr., Council Member District 4~~

~~Anthony L. Buras, Jr., Council Member District 5~~

~~*John J. Friedman*
John J. Friedman, Council Member District 7~~

~~*Lynda G. Banta*
Lynda G. Banta, Council Member District 8~~

~~Marja Cooper, Council Member District 9~~