

March 29, 2006
OPINION NUMBER 05-0440

Wayne J. Breaux, Mayor
Town of Baldwin
P. O. Box 800
800 Main Street
Baldwin, LA 70514

77 – Officers
LSA – R.S. 33:405(A)

An ordinance enacted in contravention of the voting formalities required is invalid and unenforceable.

Dear Mr. Breaux:

Your request for an Attorney General opinion was forwarded to me for research and reply. As I understand your question, you want to know whether an amendment to an ordinance voted on by two of the five members of the Board of Alderman present at a regular meeting is valid.

As you pointed out the Town of Baldwin is a Lawrason Act municipality. As such the town has to follow the procedures governing the enactment of ordinances pursuant to the provisions set forth in *LSA-R.S. 33:405(A)* which provide in pertinent part:

A. (1) Any law enacted by the board of alderman shall be by ordinance...No ordinance shall be adopted except by the affirmative vote of a majority of the members of the board.”

Although five members of the board were present at its regular meeting, only two members voted in favor of the amendment. Three members of your board must vote in favor of an amendment in order to effectuate its passage. A two-to-five vote is not sufficient to amend a valid ordinance, and the amendment fails for lack of a majority vote. Thus, an ordinance enacted in contravention of the voting formalities required by *LSA-R.S. 33:405(A)* is invalid and unenforceable.

Therefore, it is the opinion of this office that the Board of Alderman should re-introduce the amendment in accordance with the above statutory requirement to make it valid and enforceable.

We hope this opinion has sufficiently addressed your concerns. If our office may be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By: _____
CHARLENE PATTERSON
Assistant Attorney General

/cp
Enclosure

SYLLABUS

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Date Received:

Date Released: March 29, 2006

Charlene Patterson
Assistant Attorney General