

August 4, 2006
Opinion No. 06-0083

71 - Municipalities
77 - Officers – Local & Municipal; Selection, Qualifications
& Tenure; Vacancies

La. R.S. 33:343
La. R.S. 33:405

Honorable Ronnie C. Harris, Mayor
City of Gretna
P. O. Box 404
Gretna, LA 70054-0404

As a general rule, city council ordinance may bind the mayor and limit his authority to place items on the agenda of city council meetings. However, the statutory law expressly provides that in the two circumstances where the mayor calls a special meetings of the city council, he must necessarily set the agenda of items to be considered at the special or emergency meeting and provide notice to the council members of what that agenda is, and city council ordinance is unenforceable and null and void to the extent it conflicts with statutory law.

Dear Mayor Harris:

You have asked our opinion concerning a municipal ordinance of the City of Gretna, Louisiana, that limits the placement of items and proposed resolutions and ordinances on the agenda of meetings of the Gretna city council.

You have informed us that the City of Gretna is a municipality governed by the Lawrason Act rather than by Home Rule Charter or Special-Act Legislative Charter. With a mayor and council form of government, the city appears to fall under Part 1 of Chapter 2 of Title 33 of the Revised Statutes. See, for example, La. R.S. 33:343.

You have also informed us that Ordinance No. 1890 only allows a council member to place items on the agenda of city council meetings. You tell us that the mayor cannot do so under this ordinance but express the opinion that there are some issues which, as mayor, you feel should at least be addressed by the city council and not avoided or ignored.

In our previous Opinion No. 94-277, we opined that the mayor cannot take control of the agenda of city council meetings, especially when the city council itself properly votes to

take control of, set and regulate its own agenda. In our previous Opinion 05-0145, we expressed our opinion that the mayor has the power to adopt procedures for placing items on or removing items from the meeting agenda as long as these actions are not in conflict with any procedures adopted by the board of aldermen [or city council]. Of course, here the city council, in its Ordinance No. 1890, has adopted procedures for placing items on the meeting agenda, and as a general rule, we think that this ordinance binds the mayor and limits his authority to place items on the agenda of meetings of the Gretna city council. However, in two special circumstances, this ordinance conflicts with the statutory law, and to the extent it conflicts with the statutory law, it is unenforceable and null and void.

La. R.S. 33:405(C) and (D)(1) read as follows:

“C. *Special meetings of the mayor and board of aldermen may be called by the mayor or a majority of the members of the board. The board shall establish by ordinance how notice of special meetings shall be provided to members of the board and the mayor. The notice for a special meeting shall specify the business to be considered at the special meeting.* Public notice shall be given as provided in R.S. 42:7. No business, except that specified in the notice of the special meeting, shall be considered at the meeting unless approved by two-thirds of the aldermen present at the meeting.

“D. (1) In cases of extraordinary emergency, as defined in R.S. 42:6.1(A)(5), *the mayor or any alderman may call an emergency meeting of the board of aldermen.* The members of the board and the mayor shall be notified of the meeting in the most practical manner available, and *the purpose of the meeting may be stated in general terms.* Notice of the meeting shall be given as provided in R.S. 42:7.”

(Emphases added).

Accordingly, the statutory law expressly provides that in the two circumstances where the mayor calls a special meeting of the city council or the mayor calls an emergency meeting of the city council, he must necessarily set the agenda of items to be considered at the special or emergency meeting and provide notice to the council members of what that agenda is. In these two circumstances, Gretna city council Ordinance No. 1890 cannot affect what the statutory law clearly provides, and the mayor must of necessity set the agenda for any special or emergency meetings that he calls.

Trusting that this opinion has provided adequate legal guidance, we remain

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Yours very truly,

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Attorney General

By: _____
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CCF,Jr/TSH/ad

encl:

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Syllabus

06-0083

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77 - OFFICERS - Local & Municipal; Selection, Qualifications & Tenure; Vacancies

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Assistant