



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

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OPINION 13-0156

Mr. Donald Bergeron
Secretary-Treasurer
Evangeline Parish Police Jury
1008 W. LaSalle Street
Ville Platte, Louisiana 70586

90 – B – 4 – PUBLIC MEETINGS – State & Local Government Bodies

Evangeline Parish, operating under Robert's Rules of Order, must appoint the Public Works Director by a majority vote. In the event of a tie vote on the decision to appoint the Public Works Director by the Evangeline Parish Police Jury, absent any procedural rules governing such a situation, the Police Jury should continue voting as many times as is necessary to obtain a majority vote.

Dear Mr. Bergeron:

Our office received the request submitted by your predecessor for an opinion on behalf of the Evangeline Parish Police Jury ("Police Jury") concerning the vote to appoint a Public Works Director. According to the request, the Police Jury held a meeting to vote on candidates for Public Works Director. There are nine members of the Police Jury and one member was absent. At the first vote, one candidate received four votes, a second received three votes, and a third received one vote. The request letter indicates the Police Jury attorney advised that a majority vote is required to appoint the Public Works Director. Since no candidate received a majority, the Police Jury voted again, removing the third candidate. The second vote resulted in a tie between the two candidates. The Police Jury recessed and allowed the two candidates to present their qualifications to the Police Jury. The resulting vote was another tie.

The request letter mentions that the Police Jury follows Roberts Rules of Order, and asks for an opinion from this office as to whether a plurality or majority vote is required to appoint the Public Works Director. Additionally, the letter seeks advice on the appropriate course of action when a measure being considered by the Police Jury results in multiple tie votes.

First, we will address whether a majority or plurality vote is required to appoint the Public Works Director. As stated by Robert's Rules of Order:

The basic principle of decision in a deliberative assembly is that, to become the act or choice of the body, a proposition must be adopted by a *majority vote*; that is, direct approval—implying assumption of responsibility for the act—must be registered by more than half of the members present and voting on a particular matter. . . .¹

* * *

¹ RONR (10th ed.), p. 4, I. 5-10.

. . . the basic requirement for approval of an action or choice by a deliberative assembly, except where a rule provides otherwise, is a *majority vote*. The word *majority* means "more than half". . .²

* * *

A *plurality vote* is the largest number of votes to be given any candidate or proposition when three or more choices are possible; the candidate or proposition receiving the largest number of votes has a plurality. A plurality that is not a majority never chooses a proposition or elects anyone to office except by virtue of a special rule previously adopted. If such a rule is to apply to the election of officers, it must be prescribed in the bylaws. A rule that a plurality shall elect is unlikely to be in the best interests of the average organization.³

As described above, a plurality that is not the majority does not elect anyone to office unless there is a previously adopted rule providing for such.⁴ The position of Public Works Director is an office within the parish government; therefore, unless prescribed otherwise within the bylaws, it would be appropriate to appoint the Public Works Director by a majority, rather than a plurality, vote.

Next, the request letter asks what to do as a result of the multiple tie votes. As shown in the minutes, the President of the Police Jury voted on the issue. Therefore, even though the vote of the chair's vote is referred to in Robert's Rules of Order as a method of resolving a tie vote, this may not be used when the President has already voted.⁵

Our office has previously advised in the event of a tie vote that the public body should continue voting as many times as is necessary to obtain a majority vote. See La. Atty. Gen. Op. Nos. 92-41 and 78-574.

In La. Atty. Gen. Op. No. 76-634, our office advised the Police Jury Association of Louisiana that since the law does not provide a procedure for the election of the president, it is necessary for a police jury to adopt procedural rules governing such election, including rules to be followed to break a tie vote. It is advisable for the police jury to adopt procedural rules which would govern future decisions that result in a tie vote.

² RONR (10th ed.), p. 387, I. 5-8.

³ RONR (10th ed.), p. 391, I. 35-36, p. 392, I. 1-7.

⁴ Your request does not contain any information indicating that the bylaws prescribe a plurality vote should be utilized when appointing a director within the parish government.

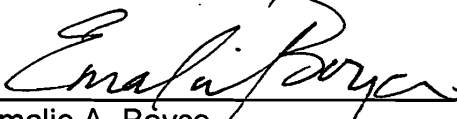
⁵ See generally RONR (10th ed.), p. 392-93. "The chair cannot vote twice, once as a member, then again in his capacity as a presiding officer." RONR (10th ed.), p. 393, I. 15-16. See also La. Atty. Gen. Op. Nos. 91-613, 87-473, 78-469 and 78-230.

In conclusion, it is the opinion of this office that the Public Works Director must be appointed by a majority vote. In the event of a tie vote on the decision to appoint the Public Works Director by the Evangeline Parish Police Jury, absent any procedural rules governing such a situation, the Police Jury should continue voting as many times as is necessary to obtain a majority vote.

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY: 
Emalie A. Boyce
Assistant Attorney General

JDC: EAB