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DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
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OPINION 23-0099

Mr. John C. Walsh
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Baton Rouge, LA 70804-9004

71-1 MUNICIPALITIES – Special Charters

La. R.S. 33:1181

The amendment to the City of St. Martinville's Legislative Charter is consistent with the constitutions and laws of the United States and Louisiana

Dear Mr. Walsh,

We received your request for review of an amendment to the Legislative Charter to the City of St. Martinville in accordance with La. R.S. 33:1181. In order to amend its Legislative Charter, the City of St. Martinville must meet the requirements set forth in La. R.S. 33:1181, which provides, in pertinent part:

When a municipality existing prior to July 29, 1898, and having a population of two hundred thousand or less, which has not come under the provisions of Part I of Chapter 2 of this Title, desires to amend its charter, the same may be done in this way: The municipal governing body may prepare, in writing, the desired amendments, have the same published for three weeks in a newspaper published in the municipality ... the proposed amendments shall then be submitted to the governor, who shall submit them to the Attorney General for his opinion. If the Attorney General is of the opinion that the proposed amendments are consistent with the constitution and laws of the United States and of this state, including Part I of Chapter 2 of this Title, the Governor shall approve the proposed amendments. If, within thirty days after publication, one-tenth of the electors of the municipality protest against any proposed amendment, the Governor shall not approve the amendment protested against until it is submitted to and ratified by a majority of the electors of the municipality at an election held within sixty days after the protest has been made.

The City of St. Martinville seeks to reorganize the structure of the office of Secretary Treasurer of the city and to divide the previous functions of that office between the office of the City Clerk and the office of the Chief Financial Officer. According to the City Attorney, this amendment would bring the structure of the city government in line with the way it has actually operated for the past several decades.

Specifically, the city seeks to amend Article III(2) of the City Charter to read as follows:

[2.1] [CLERK OF THE COUNCIL.] the office of Clerk of the City Council of the City of St. Martinville is hereby created. It shall be the duty of the Clerk of the City Council to attend every meeting of the City Council and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose, and to copy and enroll in a well bounded book all ordinances and resolutions of the City Council; to take charge of and keep in order all books, papers, documents and archives of said Council; as well as any other duties which shall be assigned to the Clerk by the Mayor or by resolution of the Council.

[2.2] [CHIEF FINANCIAL OFFICER.] The office of Chief Financial Officer of the City of St. Martinville is hereby created. It shall be the duty of the Chief Financial Officer to keep an account of all claims for or against the corporation; the Chief Financial Officer shall issue warrants or checks upon the funds in the treasury, the same to be countersigned by the Mayor under the seal of the corporation for the payment of all claims. All warrants and checks shall be numbered respectively and shall specify the amount, purpose and fund upon which they are drawn; provided, that in no case shall a warrant or check be drawn except against actual cash in the treasury. The Chief Financial Officer shall at least once a month or oftener if ordered by the Council, make a report to the Council of all claims and accounts against the town, and a full and correct statement of all his/her receipts and payments, showing the exact condition of the town treasury since date of last report. The Chief Financial Officer shall also execute and perform such other duties as may be assigned by the Mayor or by resolution of the City Council.

In addition, the city seeks to amend Article III(3) to assign tax collection duties to the Chief Financial Officer, by changing the title of the section to read as follows:

[3.] [CHIEF FINANCIAL OFFICER – EX OFFICIO TAX COLLECTOR]

The City Council reviewed and adopted the proposed amendment on July 1, 2022. In correspondence to the Governor, the City Attorney stated that the proposed amendments to the City of St. Martinville's Legislative Charter were published in the Official Journal for a period of three weeks as required by La. R.S. 33:1181.¹ No written opposition was filed with the City of St. Martinville with regard to the proposed amendments to the City Charter within thirty days of the last publication of the amendment in the Official Journal.²

¹ The city attorney also furnished this office with documentation showing the proposed amendment was published in the Teche News, the Official Journal of St. Martin Parish and the City of St. Martinville for the weeks: June 28, 2023, July 5, 2023, and July 12, 2023.

² The affidavit of Lorrie Poirier, the City Clerk for the City of St. Martinville, was provided to this office and attests to the lack of written opposition.

Our office has reviewed this amendment and finds that the amendment is consistent with the constitution and laws of the United States and Louisiana.

We trust 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,

JEFF LANDRY
ATTORNEY GENERAL

BY: 
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ASSISTANT ATTORNEY GENERAL

JL:CS