

Minutes of a meeting of the Plaquemines Parish Borrow Pit Advisory Committee held in the Belle Chasse Council Building, Council Chambers, 333 F. Edward Hebert Blvd., Bldg. 203, Belle Chasse, Louisiana on Friday, March 12, 2021, at 9:04 a.m. pursuant to notice to all members with a quorum present as follows:

PRESENT: Council Member Mark Cognevich
Council Member Carlton M. LaFrance, Sr.
Council Member Benedict Rousselle
Mr. Jacque Touzet
Mr. Will Wilcox
Mr. Donald Vallee

ABSENT: Council Member John L. Barthelemy, Jr.

Kim M. Toups, Secretary

The meeting was called to order, roll call was taken and the pledge was recited.

Temporary Chairman LaFrance moved to Agenda Item 2, "Election of Committee Chairman and Vice-Chairman". Without objection, so ordered.

RESOLUTION NO. 21-1

On motion of Council Member Rousselle, seconded by Council Member Cognevich, and on roll call all members present and voting "YES", except Council Member Barthelemy who was "ABSENT", the following Resolution was adopted:

A Resolution appointing Council Member Carlton M. LaFrance, Sr. as the Borrow Pit Advisory Committee Chairman; and otherwise to provide with respect thereto.

NOW, THEREFORE:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT it appoints Council Member Carlton M. LaFrance, Sr. as the Borrow Pit Advisory Committee Chairman to serve until March 12, 2022, or until a successor has been appointed.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the Secretary of this Committee is hereby authorized and directed to immediately certify and release this Resolution and that Parish officials and employees are authorized to carry out the purposes of this Resolution, both without further reading and approval by the Plaquemines Parish Council Borrow Pit Advisory Committee.

RESOLUTION NO. 21-2

On motion of Council Member Cognevich, seconded by Council Member LaFrance and on roll call all members present and voting "YES", except Council Member Barthelemy who was "ABSENT", the following Resolution was adopted:

A Resolution appointing Council Member Benedict Rousselle as the Borrow Pit Advisory Committee Vice-Chairman; and otherwise to provide with respect thereto.

NOW, THEREFORE:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT it appoints Council Member Benedict Rousselle as the Borrow Pit Advisory Committee Vice-Chairman to serve until March 12, 2022, or until a successor has been appointed.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the Secretary of this Committee is hereby authorized and directed to immediately certify and release this Resolution and that Parish officials and

employees are authorized to carry out the purposes of this Resolution, both without further reading and approval by the Plaquemines Parish Council Borrow Pit Advisory Committee.

Chairman LaFrance moved to Agenda Item 3, "Update on all borrow pits located within the Parish". Without objection, so ordered. The floor was given to Mr. Touzet.

Jacque Touzet stated he sent an email containing documents relative to various aspects of borrow pits, such as user fees, legislation and consent judgments. Donald Vallee inquired as to if there is a map indicating all borrow pits sites which are in existence and if there is a document listing all pits, owners' names, dates relative to each pit's permitting and stating if each pit is in compliance. Mr. Touzet said there was no such documents that he is aware of and he does not know who is in charge of that kind of information. He went on to say that the information provided to the Committee is what was put together by his secretary. Touzet said Res No. 14-123 and Ord No. 14-177 which designated Myers Engineering, Ericksen & Kernel and Dwyer, Cambre to handle the monitoring and auditing and to appoint the project management was adopted. Between 2014 and 2017 there was a litany of legislation being adopted. In review of the documents submitted Mr. Touzet did not see any information from those entities. Mr. Will Wilcox stated in 2015 Ord No. 15-66 authorized the Parish President to appoint a member from Legal Department to replace the law firm of Dwyer, Cambre as Project Manager and he asked if this was ever done. Touzet said he does not have any information to prove this happened however, it does not mean it does not exist.

Council Member Rousselle said that it seems the first order of business is an organizational one. The Committee needs to review the ordinances and make amendments at the table to fill in the loop holes. In regard to Ord No. 15-66 he knows that a Legal Department representative was never appointed. He would like the Committee to request the current Administration comply with Ord No. 15-66. Rousselle also believes that we have so many ordinances relative to borrow pits that we need to clean them all up and make amendments in order to have one ruling ordinance. Council Member Rousselle also stated that currently it does not give us anything to work with until we make those amendments. He sees that from documents submitted to the Committee, it appears that the list of borrow pits is not complete because there were no pits on the East Bank listed. Rousselle also explained that most of the borrow pits listed were not regulated by legislation but, by settlement agreements and Touzet agreed. Mr. Vallee said that before we go making any amendments we need to know what is in the regulations. He also said that it looks as if each pit is case specific as to how it is regulated-either by legislation, litigation or settlement agreements which superseded the current policy. Mr. Wilcox said that, at this point, we can assume if there is no settlement then the known ordinance rules. He then handed out a list of known borrow pits in the area which significantly exceeded the number on the list provided to the Committee; however, he does not know if all are active. Council Member Rousselle explained that he recommended making amendments because at this point there is no compliance with Ords. No. 14-177 and 15-66. This is what he was referring to in regard to making amendments. He said this is one of the preliminary decisions which needs to be made so we can have an attorney on board to comply with 15-66. Will Wilcox asked if the Gary Lambert Co. can do the audits on the borrow pits. Council Member Rousselle said that Lambert is paid by money he recoups and although he is an external auditor, his name is not listed in Ord No. 14-177. Mr. Wilcox went on to say he sees audit charges over the years for the borrow pits, but all he could get from a Public Records Request was a partial report for one audit even though the Parish was billed for numerous audits. He suggested that a good starting point would be to get copies of the audits of borrow pits.

Items for a to-do list were suggested by Rousselle:

- 1) Amend Ord No. 15-66 for legal counsel appointed by President.
- 2) Request documents from Meyer Engineering and Ericksen, Krentel & LaPorte auditing firm in their reflecting the work done pursuant to Ord No. 14-177.

Discussions were held regarding Ord No. 15-66 and Mr. Touzet's current role on this Committee. He stated he was not here as an attorney. He is here as a resident of the east bank and he is happy to be here. Council Member Rousselle said we need to make sure we head in a direction to comply with what is on the books. He also said that questions have been raised by the Administration as to if the Internal Audit Department should look at the borrow pit issue so it is important to what Ericksen & Krentel has done relative to auditing borrow pits.

A Motion was made to request that President Lepine comply with the Council's previously adopted Ordinance from 2015 to appoint a someone from the Legal Department as Borrow Pit Project Manager.

RESOLUTION NO. 21-3

On motion of Council Member Rousselle, seconded by Council Member Cognevich , and on roll call all members present and voting "YES", except Jacque Touzet Jacque who "ABSTAINED" and Council Member Barthelemy who was "ABSENT", the following Resolution was adopted.

A Resolution requesting the Parish President, or his designee comply with Ordinance No. 15-66 relative to a borrow pit Project Manager; and otherwise to provide with respect thereto.

WHEREAS, Ordinance No. 15-66 authorized the Parish President to terminate the October 15, 2014, agreement between PPG and Dwyer, Cambre & Suffern, LLP, to provide project management services to the Parish relative to borrow pits; and

WHEREAS, Ordinance No. 15-66 further directed the Parish President to designate a member of the Legal Department to fill the role of Project Manager previously assigned to Dwyer, Cambre & Suffern, LLP; and

WHEREAS, it is the desire of this Committee that the current Parish President comply with Section 2 of Ordinance No. 15-66 and make said appointment of a Project Manager;

NOW, THEREFORE:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the Parish President, or his designee comply with Ordinance No. 15-66 by designating a member of the Legal Department to fill the role of borrow pit Project Manager.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the Secretary of this Committee is hereby authorized and directed to immediately certify and release this Resolution and that Parish officials and employees are authorized to carry out the purposes of this Resolution, both without further reading and approval by the Plaquemines Parish Council Borrow Pit Advisory Committee.

Mr. Wilcox said the Sheriff's Office occupational licenses are another source of information.

The following legislation was offered to obtain documents from various parties relative to their particular role in Plaquemines Parish Borrow Pits.

RESOLUTION NO. 21-3A

On motion of Council Member Rousselle, seconded by Council Member Cognevich , and on roll call all members present and voting "YES", except Jacque Touzet Jacque who "ABSTAINED" and Council Member Barthelemy who was "ABSENT", the following Resolution was adopted:

A Resolution requesting Meyer Engineers, Ltd., in their role as monitor and inspector of Plaquemines Parish borrow pits, and Ericksen, Krentel & LaPorte, LLP, in their role as auditing firm to audit borrow pit operations within Plaquemines Parish, to provide any and all documents, audits, reports, etc., relative to their engagement by the Plaquemines Parish Government; requesting the documents be sent to the Plaquemines Parish Council Secretary within five working days of receipt of this resolution; and otherwise to provide with respect thereto.

NOW, THEREFORE:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT it requests that Meyer Engineers, Ltd., in their role as monitor and inspector of Plaquemines Parish borrow pits, provide any and all documents, reports, etc., relative to their engagement by the Plaquemines Parish Government.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT it requests Ericksen, Krentel & LaPorte, LLP, in their role of auditing borrow pit operations within Plaquemines provide any and all documents, audits, reports, etc., relative to their engagement by the Plaquemines Parish Government.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the documents be sent to the Council Secretary's Office within 5 days of receipt of this resolution.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the Secretary of this Committee is hereby authorized and directed to immediately certify and release this Resolution and that Parish officials and employees are authorized to carry out the purposes of this Resolution, both without further reading and approval by the Plaquemines Parish Council Borrow Pit Advisory Committee.

RESOLUTION NO. 21-4

On motion of Will Wilcox, seconded by Council Member Cognevich , and on roll call all members present and voting "YES", except Council Member Barthelemy who was "ABSENT", the following Resolution was adopted.

A Resolution requesting the Plaquemines Parish Sheriff's Office provide the Plaquemines Parish Borrow Pit Committee with any and all documentation relative to the occupational licenses of all borrow pits located within the Parish; requesting the documents be sent to the Council Secretary within five working days of receipt of this resolution; and otherwise to provide with respect thereto.

NOW, THEREFORE:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT requests that the Plaquemines Parish Sheriff's Office provide the Plaquemines Parish Borrow Pit Committee with any and all documentation relative to the occupational licenses of all borrow pits located within the Parish.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the documents be sent to the Council Secretary's Office within 5 days of receipt of this resolution.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the Secretary of this Committee is hereby authorized and directed to immediately certify and release this Resolution and that Parish officials and employees are authorized to carry out the purposes of this Resolution, both without further reading and approval by the Plaquemines Parish Council Borrow Pit Advisory Committee.

Mr. Vallee asked Mr. Wilcox how his list of borrow pits were created. Wilcox responded that the list was gotten from the Borrow Pit Committee of 2017 and various Public Records Requests. Wilcox explained that the list is not a definitive list; however, he thought it would be a good start. Vallee said it is critical to identify all pits which are active, as well as which ordinances they fall under. He feels we then need to see if any case settlements or settlement agreements come into play. Mr. Wilcox agreed and said that regardless of what rules the pits are under, they all need to abide by rules regarding licensing, permitting and paying taxes.

A discussion was held as to whether all agencies operating in the Parish, such as FEMA and/or the CORPS should be included in a request for permits. Council Member Rousselle said we do not have a lot of time to do this and if we started dealing with the CORP and FOIA requests, it will take years. We need to begin with our permit office.

David Clark addressed the Committee relative identifying the borrow pits stating he travels the highway every day and he sees the dump trucks and where some borrow pits were located. He expressed his concern over the authority of this Committee, the role of the Council and the possibility of the Committees recommendations not going anywhere. He then stressed his desire for action to be take on the borrow pit issue. Clark questioned Mr. Touzet as to whether or not he was being paid to attend the meeting. A small discussion was held between Clark, Touzet and

Rousselle concerning this matter and that all members are here on their own time. Council Member Rousselle then moved back to Mr. Clark's concern over the authority of the Committee and said that the success of this Committee is directly related to the cooperation we receive from the Administration. Without their cooperation, this Committee will not be very successful. Mr. Vallee asked why wouldn't the Administration want to cooperate and move forward on this issue. He further stated that it is a function of the Administration to permit the borrow pits. Rousselle said it has been through four or five Presidents and there was never a Project Manager appointed after Dwyer, Cambre was removed.

Chairman LaFrance reviewed the list of information that we are trying to gather in order to move forward and the following resolution was adopted:

RESOLUTION NO. 21-5

On motion of Donald Vallee, seconded by Council Member Cognevich, and on roll call all members present and voting "YES", except Jacque Touzet Jacque who "ABSTAINED" and Council Member Barthelemy who was "ABSENT", the following Resolution was adopted.

A Resolution requesting the Plaquemines Parish Permit Office provide the Plaquemines Parish Borrow Pit Committee with a updated list of any and all permitted borrow pits located within the Parish, whether active or closed, and any of the permitting documents relative to said borrow pits; requesting the documents be sent to the Council Secretary within five working days of receipt of this resolution; and otherwise to provide with respect thereto.

NOW, THEREFORE:

BE IT RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT requests that the Plaquemines Parish Permit Office provide the Plaquemines Parish Borrow Pit Committee with a updated list of any and all permitted borrow pits located within the Parish, whether active or closed, and any of the permitting documents relative to said borrow pits.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the documents be sent to the Council Secretary's Office within 5 days of receipt of this resolution.

BE IT FURTHER RESOLVED BY THE PLAQUEMINES PARISH COUNCIL BORROW PIT ADVISORY COMMITTEE THAT the Secretary of this Committee is hereby authorized and directed to immediately certify and release this Resolution and that Parish officials and employees are authorized to carry out the purposes of this Resolution, both without further reading and approval by the Plaquemines Parish Council Borrow Pit Advisory Committee.

Chairman LaFrance moved to Agenda Item 4, "Discussion of ordinances regulating borrow pits". Without objection, so ordered.

Chairman LaFrance pointed out that this item has been discussed throughout the meeting. However, he stated out that he currently has legislation on the Council's agenda for a one year borrow pit moratorium. He has decided that he will defer the adoption of the ordinance until after the next Committee meeting. LaFrance informed the Committee that he also has a Woodland Borrow Pit has a permit renewal that has been deferred. So as soon as the Committee can get the information, a recommendation can be made to the Council.

Chairman LaFrance moved to Agenda Item 5, "Status of Borrow Pit legislation and the regulations or ordinances under which each pit is operating under at this time". Without objection, so ordered.

Council Member Rousselle encouraged everyone to fully read Ord No. 12-238, which is the current legislation regulating borrow pits, and said that this is what any borrow pit which comes to us must abide by unless there is a specific lawsuit or settlement agreement stating otherwise. Mr. Vallee then questioned Mr. Paul Hogan, who was at the meeting representing Woodland Borrow Pits, about the Woodland Borrow Pits governance. Mr. Hogan explained what settlement agreements their pits operate under. Rousselle said that the point is, we are not in a

very cooperative relationship; some pits have their own settlement agreements, some are under court case decisions and some cases are pending now. This is what prompted us to see what is wrong with our ordinance. Questions were then raised regarding the 2014 Woodland Borrow Pit permit, the extension and length of the renewal. Also discussed was the amount of dirt excavated from the pit and if the renewal permit was subject to the previous agreement. Mr. Hogan explained that it was not subject to the previous settlement agreement because it is a new permit. The Idlewild, Woodland North, Nairn pits were discussed and that the Committee is trying to achieve consistency between all the pits. Mr. Vallee asked Jacque Touzet if any of the borrow pits were in default or if they had any pending legislation. Mr. Touzet said only the Fanny Farms was currently in litigation. He believes there was never really any enforcement of the regulations or settlements. Chairman LaFrance pointed out that the Council is permitting borrow pits; however, they turn around and sue the Parish. Council Member Rousselle thanked Mr. Hogan for coming forward and providing information. He explained that today's meeting was an organizational meeting and to educate the committee members of what is currently going on with the borrow pits.

There being no further business to come before the Committee, on motion of Council Member Cognevich, seconded by Donald Vallee, and on roll call all members present voting "YES", except Council Member Barthelemy who was "ABSENT", the meeting was adjourned at 10:23 a.m. with a vote of 6-0.

CHAIRMAN

SECRETARY

This meeting can be viewed on the Parish website: www.plaqueminesparish.com Select "Agenda and Minutes" on the main page and then click the "Borrow Pit Advisory Committee" link. Then click the media link for the March 12, 2021 meeting.