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Superintendent's Office

August 14, 2017

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Ladies and Gentlemen:

To say that there is turmoil in the Vermilion Parish School Board, and the citizens they represent, with the collateral effect on the Vermilion Parish School District, is an understatement. One need only look to local newspapers and social media for a glimpse of the discord among the eight member board and staff. I have had the occasion to speak personally with many of you

over the past year about many issues, a great deal of which I found to be both policy disagreements and personal animosity. I have considered several requests and submissions from some of you requesting action to be taken by the District Attorney's office against members of the board, the board itself, and others. In all of those reviews, I did not find sufficient evidence to warrant the filing of criminal charges (the successful conclusion of which requires proof beyond a reasonable doubt of criminal intent of a specific criminal statute).

In each of these prior reviews, I advised that the real issues raised were civil issues of school board policy, procedure, and interpretation of school board law. I recommended that these issues be referred to and answered by legal counsel for the Board, and/or ultimately to the Louisiana Attorney General (for an advisory opinion). I also recommended that ultimately, if these issues continue, they should be addressed in civil court after advise, consultation, and guidance from legal counsel. Long ago, the Vermilion Parish School Board elected to retain legal counsel independent of the District Attorney, in civil matters. As such, the District Attorney is not the legal counsel to the Vermilion Parish School Board, R.S. 42:261.1. However, I have come to understand that these issues have not been addressed as I recommended. Instead, the turmoil appears to have reached a point which now seriously jeopardizes the continuing duties of the Vermilion Parish School Board to meet its statutory mandates to the Vermilion Parish School District and the citizens of the Parish of Vermilion.

I am clearly led to the conclusion that the ultimate "blame" for the turmoil is the fact that the Vermilion Parish School Board is a public body of **eight voting members** (wherein a majority vote may never occur on any issue if all members are in full attendance at a meeting). This is unworkable in the reality that now exists and has resulted in the present turmoil. At this time, it appears to be the stated intention of certain of you to refuse to attend any further school board meetings, thereby resulting in the failure to conduct meetings for lack of a quorum (in this case five members). This stated intention has resulted in the cancelling of several meetings, now causing a complete standstill in the conducting of necessary and mandated duties of not only the Vermilion Parish School Board but also of school board members.

R. S. 17:81 mandates, in no uncertain terms that:

> "…**The regular meetings of each…parish school board SHALL be held at least once each month on such days as each board shall select**. Additional regular meetings may be held as each board designates. Special meetings may be held as boards determine or as occasion may require…"

The necessity and mandate to the holding of public meetings, and the rights of the citizens, is clearly evident in the Louisiana "Open Meetings Law":

1. It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy, R.S. 42:12; this can only be accomplished by the conduct of regular public meetings;
2. School Boards shall allow public comment at any meeting of the school board prior to taking any vote, R.S. 42:15; this right of the public can only be given by the conduct of regular public meetings;
3. The school board shall give written notice of its regular meetings, to include the dates, times, places, and agenda of such meetings, R.S. 42:19; the right of the public

to notice can only be given by the conduct of regular public meetings;

4. Every meeting shall be open to the public, unless a clearly stated exception and procedure is announced; all votes by members shall be by voice and not by any manner of proxy or secret vote, R.S. 42:14; the rights of the public can only be protected by the conduct of regular public meetings;
5. A meeting in order to deliberate or act on a matter over which the school board has supervision, control, jurisdiction, or advisory power must be convened by a quorum of the school board, a simple majority of the total membership of the school board (five members of the Vermilion Parish School Board), R.S. 42:13; the right of the public to the public deliberation of matters before the school board can only be protected by the conduct of regular public meetings of a quorum of its membership.

Though the conduct of regular meetings of a public body is necessary and mandated, there does not appear to be clear statutory provision requiring a member of a public body to attend its public meetings. R.S. 17:81 clearly sets forth the legal procedure to "require" its members to attend school board meetings:

1. If the board fails to hold a public meeting at least once during a calendar month, registered voters of the district may petition the board to hold a public meeting;
2. Within five calendar days of receipt of such a petition by the president (or any other board member in his absence) containing at least 100 registered voters of the district, "the board shall hold a public meeting…
3. "…The members of a…parish school board that fails to meet…shall not be entitled to compensation or per diem for that month…"

It is unfortunate that some have not attended recent meetings of the Vermilion Parish School Board, resulting in the failure of a quorum and the failure of the public meeting to be conducted, all to the prejudice of the public. It is more troubling that non-attendance may have been intentional and designed. I must caution you that it has been opined by the Louisiana Attorney General that:

1. To the question whether if a town board member missed meetings of the board of alderman, the member is required to resign, there is no state law requiring members to attend meetings. State law does require the board to hold meetings at which a quorum is present. "However, failure to hold at least one regular meeting each month with quorum could be considered malfeasance in office. Malfeasance in office is a criminal matter under La.R.S. 14:134, and whether to pursue such charges is in the broad discretion of the local district attorney," La. Atty. Gen. Op. No. 15-0198.
2. To the question whether absence by a member of a board and the failure thereby of the board to reach a quorum, the member could be removed, again there is no statute requiring a member to attend any number of regular meetings. However, a continued absence over a considerable period of time may be "malfeasance in office as the intentional refusal or failure to perform any duty lawfully required…whether failure to attend special meetings is malfeasance is a factual question within the discretion of the district attorney…" La. Atty. Gen. Op. No. 02-63.

For the same reasons expressed, I strongly recommend that you do NOT intentionally absent yourself from the next scheduled Vermilion Parish School Board meeting, absent any medical issue preventing attendance, for the sole specific and designed purpose to cause the failure of a quorum but rather perform your duty established by law

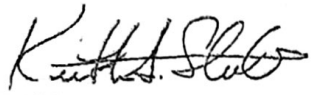
to attend and deliberate publicly at the mandated meeting of the business of the school board.

Since the underlying cause for the discord may be the impediment posed by an even number of eight members, I further strongly recommend that, guided by the advice of your legal counsel, you consider legally changing the number of the Board to provide for an odd number of members. Until formally changed, I would strongly recommend that, in accordance with your authority to make such rules and regulations (R.S. 17:81[C] and your by-laws regarding abstention), you consider adopting a specific policy whereby a member of the Board (on a random basis) abstain from voting on a request for action (in order to achieve an odd number voting).

I would respectfully request copies of notice of your next meeting, the agenda of that meeting, and the minutes of your next meeting once prepared and completed.

Thanking you for your involvement and with professional courtesies, I remain,

Yours truly



Keith A. Stutes

KAS/tm