

AGENDA  
FOR REGULAR MEETING OF THE  
EAST BATON ROUGE PARISH LIBRARY BOARD OF CONTROL  
**BREC ADMINISTRATION BUILDING**  
**BOARD ROOM**  
**6201 FLORIDA BOULEVARD**  
**BATON ROUGE, LA 70806**  
DECEMBER 15, 2011  
**4:00 P.M.**

- I. ROLL CALL
- II. APPROVAL OF AGENDA
- III. APPROVAL OF THE MINUTES OF THE REGULAR MEETING OF NOVEMBER 17, 2011 AND THE SPECIAL MEETING OF NOVEMBER 29, 2011
- IV. REPORTS BY THE DIRECTOR
  - A. FINANCIAL REPORT
  - B. SYSTEM REPORTS
  - C. OTHER REPORTS
- V. PARISH ATTORNEY OPINION ON LA. R.S. 25:215 – CELIA CANGELOSI
- VI. CONTINUATION OF ANNUAL PERFORMANCE EVALUATION OF LIBRARY DIRECTOR – KIZZY PAYTON AND TANYA FREEMAN

THE BOARD MAY GO INTO EXECUTIVE SESSION TO DISCUSS THE CHARACTER, PROFESSIONAL COMPETENCY OR PHYSICAL OR MENTAL HEALTH OF MR. DAVID FARRAR IN ACCORDANCE WITH LA. R.S. 42:17(A)(1). MR. FARRAR MAY REQUIRE THAT SUCH DISCUSSION BE HELD IN OPEN SESSION.
- VII. EXECUTIVE SESSION FOR PROSPECTIVE LITIGATION AFTER FORMAL WRITTEN DEMAND, PURSUANT TO LA. R.S. 42:17(A)(2) (NOTICE REQUIRED BY LA. R.S. 42:19(A)(1)(b)(iii)(bb) IS ATTACHED.)
- VIII. COMMENTS BY THE LIBRARY BOARD OF CONTROL

ALL MEETINGS ARE OPEN TO THE PUBLIC

THE PUBLIC IS ALLOWED TO MAKE COMMENTS RELATIVE TO AN AGENDA ITEM AT THE DISCRETION OF THE LIBRARY BOARD PRESIDENT. ANY COMMENTS NOT RELATED TO AN AGENDA ITEM MAY BE RECEIVED AND DISCUSSED OR DEFERRED TO A FUTURE MEETING UNDER PROCEDURES DIRECTED BY THE LIBRARY BOARD PRESIDENT. IN ACCORDANCE WITH LA. R.S. 42:14, PUBLIC COMMENT SHALL BE ALLOWED PRIOR TO ACTION ON AN AGENDA ITEM UPON WHICH A VOTE IS TO BE TAKEN.

ATTACHMENT  
TO  
AGENDA  
FOR REGULAR MEETING OF THE  
EAST BATON ROUGE PARISH LIBRARY BOARD OF CONTROL  
DECEMBER 15, 2011

NOTICE REQUIRED BY La. R.S. 42:19(A)(1)(b)(iii)(bb)

PARTIES INVOLVED: DAVID FARRAR V. EAST BATON ROUGE LIBRARY BOARD OF CONTROL

SUBJECT MATTER OF PROSPECTIVE LITIGATION: ALLEGED ILLEGAL TERMINATION OF  
EMPLOYMENT

## Minutes of the Meeting of the

### East Baton Rouge Parish Library Board of Control

December 15, 2011

The regular meeting of the East Baton Rouge Parish Library Board of Control was held in the Board Room of the BREC Administration Building at 6201 Florida Boulevard on December 15, 2011. Ms. Kizzy Payton, President of the Board, called the meeting to order at 4:07 p.m. Members of the Board present were Mr. Stanford O. Bardwell, Jr., Mr. Donald Browning; Mr. Derek Gordon; Ms. Tanya Freeman; and Ms. Beth Tomlinson. Absent from the meeting was Board member, Mr. Laurence Lambert. Also in the audience were newly appointed Library Board members Mr. Jason Jacob and Mr. David "Chip" Mills whose terms begin on January 1, 2012. Also in attendance were Ms. Mary Stein, Assistant Library Director of Administration; Ms. Patricia Husband, Assistant Library Director of Branch Services; Ms. Rhonda Pinsonat, Library Business Manager; Mr. Ronnie Pierce, Assistant Library Business Manager; Ms. Liz Zozulin, Executive Assistant to the Library Director; and Ms. Tuesdai Miller, Sr. Administrative Specialist to the Deputy Director. Ms. Celia Cangelosi, outside counsel to the Library Board; Captain Blair Nicholson, and Sgt. Patricia Carr, of the East Baton Rouge Parish Sheriff's Office were also present. Mr. Derron Daguano, videographer and Ms. Tyana Williams, reporter both with WAFB-TV; Mr. Clayton Rougelot, videographer and Ms. Ashley Rodrigue reporter, both with WBRZ-TV; and Mr. Jason Newton, reporter with WVLA-TV were also in attendance. Mr. Greg Garland, reporter, and Mr. Patrick Dennis, photographer both with *The Advocate*; and Mr. Frank Hillyard, videographer with Metro 21 along with several people from the community were also at the meeting.

Ms. Payton opened the meeting by asking Ms. Zozulin to take a roll call of Board members present. Ms. Payton, Mr. Bardwell, Mr. Browning, Mr. Gordon and Ms. Tomlinson were present. With five members in attendance a quorum was present and so the meeting proceeded. Ms. Payton then asked for a motion to approve the agenda of the meeting. Mr. Gordon made the motion to approve the agenda which was seconded by Mr. Browning and approved unanimously.

Ms. Payton asked for the approval of the minutes of the regular meeting of the Library Board on November 17, 2011 and the special meeting on November 29, 2011. The minutes of both meetings were unanimously approved on a motion by Mr. Gordon, seconded by Ms. Tomlinson with no corrections.

Ms. Payton said that in light of Mr. Farrar's announcement today she would ask other staff members to make the Director's reports. She asked Ms. Pinsonat to present the financial and system reports.

Mr. John Berry, a member of the public, asked if he could address the Library Board to which Ms. Payton replied affirmatively. Mr. Berry said he did not understand what Ms. Payton was referring to in regard to Mr. Farrar's announcement. Ms. Payton replied that today Mr. Farrar resigned his position as Library Director. Mr. Berry asked at what time and Ms. Payton said

effective immediately. She added that the announcement was given at approximately 1:30 or 2:00 p.m. today.

## **Reports by the Director**

### **A. Financial Reports**

Ms. Pinsonat gave her reports noting that the Statement of Revenues, Expenditures, and Encumbrances as of November 30, 2011 shows operating expenditures of \$24,270,544.94 or 70.29% of the operating budget. Through the end of November, the Library should have spent no more than 91.67% of the operating budget. Cash collections from property taxes for 2011 have remained steady as we are at \$336,000 and 0.95% ahead of 2010. This amount will increase slightly once fourth quarter interest earnings are posted.

### **B. System Reports**

Ms. Payton asked Ms. Stein to present the system reports. Ms. Stein noted that the new computers that have been installed throughout the branches work faster. Patrons are commenting about the speed and capabilities of the new computers. Circulation is fairly strong also and database usage is high. *OverDrive* use is increasing especially since September when the Kindle became compatible with *OverDrive*. E-book use has doubled.

Ms. Stein added that there will not be a PowerPoint presentation, *Around the Parish in 90 Seconds* this month. She said that she has scheduled the first Geek Week for January that coincides with the strategic planning process which will take place the last week of January starting at the Main Library. Ms. Stein said they have some other programs planned such as working with Swine Palace to shed some light on *Pride and Prejudice*. She concluded her remarks by saying that they are completing the visits by Mrs. Claus to the various branches. The Library staff was present at the *Festival of Lights* program downtown and many children stopped by to visit the bookmobile.

### **C. Other Reports**

Ms. Payton thanked Ms. Stein for her report and asked Ms. Husband to give an update on the construction projects. In regard to the Goodwood Main Library Ms. Husband said that construction is proceeding according to schedule. Fences have been installed and the construction area is being cleared. She and Ms. Pinsonat met with the City-Parish Sales Tax Division yesterday to begin the process of allowing the contractor and subcontractors to purchase items with the sales tax exemption. Ms. Pinsonat met with Mr. Jim Frey and Mr. Wayne Manuel of the City-Parish Department of Public Works, Architectural Services, Mr. Steve Jackson with the Library Design Collaborative, Mr. Vic Todd and Mr. Dale Phillips of MJ Womack Construction, and Mr. Ted Jack with BREC to discuss the process of issuing certification for tax exempt status for this project along with the recordkeeping required.

Ms. Tanya Freeman arrived at the meeting at 4:25 p.m.

Ms. Husband then reported on the Fairwood Branch Library stating that the locations for the electrical floor boxes have all been laid out. These will be leveled when the slab is poured in early January 2012. The gravel bed for the building slab has been laid and most of the underslab conduits and piping has been laid and stubbed up. Chiller lines are being installed, and brick mock-ups have been erected.

Ms. Husband then reported on maintenance projects in the branches. At the Jones Creek Regional Branch Library a lighting upgrade has begun, and new front door has been ordered. Some minor paint touch-up has been done at the Pride-Chaneyville Branch. Boiler maintenance is continuing at the Jones Creek and Bluebonnet Regional Branches. Chiller maintenance contracts are being renewed at the Baker, Bluebonnet, Central, Delmont Gardens, Greenwell Springs Regional, Jones Creek, Pride-Chaneyville and Scotlandville Branches. For the last two weeks Mr. Tim Bankston, Library Facilities Manager and Mr. Claude Lindsey, Library Operations Manager have been installing shelving at the new Recycled Reads facility on Little John Street. Ms. Husband added that the installation of the partition walls in the meeting rooms at Jones Creek and Bluebonnet are complete. The energy management controls at the Scotlandville Branch have been updated and they are beginning to work on the energy management system for the Central Branch Library.

#### **Parish Attorney Opinion on La. R.S. 25:215 – Celia Cangelosi**

Ms. Payton read the next item on the agenda as the Parish Attorney Opinion on La. R.S. 25:215 by Ms. Celia Cangelosi. Ms. Payton asked Ms. Cangelosi to read this opinion to the Board. Then Ms. Payton said they would open it up to public comment. Ms. Cangelosi said that at the last Board meeting the Board asked for an opinion from the East Baton Rouge Parish Attorney's Office on the effect of La. R.S. 25:215. The Parish Attorney felt they had a conflict and therefore, they hired Ms. Cangelosi to represent the Board at the last meeting. They said that same conflict exists now and precludes them from writing an opinion. Therefore, Ms. Cangelosi was authorized by the Parish Attorney to write the opinion on La. R.S. 25:215. Ms. Cangelosi gave the Board members a copy of the opinion that she wrote and a second document which is a copy of an opinion written on June 4, 1990 by the Office of the Attorney General of the State of Louisiana She said this opinion is right on point as well. These documents are appended to the minutes.

Ms. Cangelosi then read from portions of her opinion.

- A. ...The board of control shall have authority to establish rules and regulations for its own government and that of the library not inconsistent with law; to elect and employ a librarian, and upon the recommendation and approval of the latter, to employ assistant librarians and other employees and fix their salaries and compensation; provided that no contract of employment shall be made for a longer period than four years nor with any person as head librarian who has not been certified by the State Board of Library Examiners as provided in R.S.

25:222. The head librarian may be appointed or elected secretary of the board of control.

Ms. Cangelosi added that the question under this statute is whether this Board of Control can appoint someone as their director who is not certified by the State Board of Library Examiners. There was a difference in the terminology between head librarian in the statute and the East Baton Rouge Parish Library job title of library director. Ms. Cangelosi said she read the Library Board of Control by-laws and the by-laws state what the director is and what the director does. She said the by-laws regarding the director are in fact the same as the head librarian in the statute. Therefore, what the Library Board calls the director is actually the same as the head librarian.

Ms. Cangelosi noted that this same issue arose in Jefferson Parish in 1990. They did not have a head librarian, but they had a director. They wrote to the Attorney General for an opinion and the Attorney General said in that opinion that because the duties of the director are the same as the head librarian, the statute applies to the director. Ms. Cangelosi said that relying on the Attorney General's opinion as well, her opinion is that the person the East Baton Rouge Parish Library Board of Control calls director has to have the same requirements as a head librarian stated in the statute. This means that the director has to be certified by the State Board of Library Examiners.

Ms. Cangelosi added that anyone that the Library Board hires to be the director must be certified. She said this is good information for the Board to use as they begin the hiring process for a new director. Being certified would be one of the requirements in the job description used to consider candidates.

Ms. Payton thanked Ms. Cangelosi and said that this information will be kept in mind as they move forward with our national search for the next director or head librarian for the Library system. Ms. Payton then asked if there were any public comments on this item. There being none, Ms. Payton asked if the Board members had any questions for Ms. Cangelosi. There were none. Ms. Payton thanked Ms. Cangelosi for the opinion.

### **Continuation of Annual Performance Evaluation of Library Director – Kizzy Payton and Tanya Freeman**

**The Board May Go into Executive Session to Discuss the Character, Professional Competency or Physical or Mental Health of Mr. David Farrar in Accordance with La. R.S. 42:17(A)(1). Mr. Farrar May Require That Such Discussion Be Held in Open Session.**

Ms. Payton then said that the continuation of the annual performance evaluation of the director is a moot point and so they would move on to the next agenda item.

**Executive Session for Prospective Litigation after Formal Written Demand, Pursuant to La. R.S. 42:17(A)(2) (Notice Required by La. R.S. 42:19(A)(1)(B)(Iii)(Bb) is Attached.)**

Ms. Payton then read the next agenda item, Executive Session for Prospective Litigation after Formal Written Demand, Pursuant to La. R.S. 42:17(A)(2) (Notice Required by La. R.S. 42:19(A)(1)(B)(Iii)(Bb) is Attached.) Ms. Payton asked if there were any public comments before the Board goes into Executive Session.

Mr. John Berry, a member of the public, said the performance evaluation of Mr. Farrar is moot because he has resigned. But the performance evaluation would have included what Mr. Farrar has and has not done as Library Director. He added that they have all been made aware of Mr. Farrar's personal and professional past and it is not one to be proud of. It shows a high disregard for the execution of his responsibilities.

Mr. Berry added that this Library has an ethical statement for trustees posted on its website from the American Library Trustee Association and the Public Library Association. Among the points in this ethical statement are the following:

“Trustees in the capacity of trust upon them shall observe ethical standards with absolute truth, integrity, and honor.

Trustees must avoid situations in which personal interests might be served or financial benefits gained at the expense of library users, colleagues or the situation.

It is incumbent upon any trustee to disqualify himself/herself immediately whenever the appearance of a conflict of interest exists.”

Mr. Berry said that this includes the Library Director but also the members of the Library Board. He said that in today's *Advocate* it was reported that Ms. Tanya Freeman and Mr. Stanford Bardwell were allegedly caught in inappropriate relationships with Mr. Farrar. If these alleged relationships are proven true, then these Board members should resign from the Library Board as having violated the ethical standards that they are supposed to uphold. Mr. Berry said he believed that either the Parish Attorney or the District Attorney should investigate these allegations and all the activities of this Board at least back to the time that Mr. Farrar was hired. He added that certain projects were initiated that are still unpopular with many members of the tax paying public, and the possibility of behind the scenes manipulation of public resources should be investigated.

Ms. Payton thanked Mr. Berry for his comments. She asked if there were any other comments by the public. There being no further comments, Ms. Payton asked for a motion that the Board move into Executive Session. A motion was made by Ms. Freeman that the Board go into Executive Session for Prospective Litigation after Formal Written Demand, Pursuant to La. R.S. 42:17(A)(2). The motion was seconded by Mr. Bardwell. Ms. Payton asked Ms. Zozulin to take a roll call. All Board members were present except Mr. Lambert. Ms. Payton then said that the

Board would move into Executive Session along with Ms. Cangelosi. They entered Executive Session at 4:26 p.m.

Mr. Browning left the Executive Session at 4:50 p.m. and did not return to the meeting. The Library Board returned from Executive Session at 5:11 p.m.

Ms. Payton asked for a motion to return to regular session. Mr. Gordon made the motion which was seconded by Ms. Tomlinson. Ms. Payton asked Ms. Zozulin to take a roll call. All Board members were present except Mr. Browning and Mr. Lambert.

Ms. Payton said as a follow-up to the item that was discussed by the Board in Executive Session, to their knowledge, no litigation has been filed at this time. However, certain allegations have been made and in the best interest of this Board, and for the Board to do its due diligence for full disclosure, Ms. Payton asked Ms. Cangelosi to refer this item to the District Attorney's Office for review as well as sending this to the Board of Ethics for its review.

Mr. Gordon asked if he could make a motion. He said he would like to add to the agenda a motion to accept the resignation of the Library Director. Ms. Payton said the motion has been made and seconded to add this item to the agenda. The motion passed unanimously.

Ms. Payton then said the item has been added to the agenda. She asked if there was a motion to accept the resignation of the Library Director. Ms. Tomlinson made the motion to accept the resignation which was seconded by Ms. Freeman and passed unanimously. Ms. Payton said they have officially accepted the Director's resignation. She asked if there were any further comments.

Ms. Payton said that since they have officially accepted the resignation, she would like to entertain a motion from the Board to form a committee to establish certain procedures to be used when the Board forms a search committee to hire a new director. Mr. Gordon made the motion which was seconded by Mr. Bardwell. Ms. Tomlinson asked if they wanted to name a committee at this time to report back to the Board at the next meeting. Ms. Payton answered affirmatively and asked that Mr. Bardwell and Mr. Gordon serve on the committee and to report back to the Board at the next meeting. Mr. Gordon said he wanted to suggest that at least one member of the committee not be connected with the allegations. He said he would defer his position to Ms. Tomlinson. Ms. Payton thanked Mr. Gordon and asked Ms. Tomlinson to serve on the committee which she accepted. Ms. Payton asked the Board to vote on this item and it passed unanimously.

Mr. Gordon said that in light of the resignation of the director it is prudent and necessary to appoint some interim staff for managing the day to day affairs of the Library until such time as the Board can appoint a new director. Mr. Gordon said he would suggest a motion that the Board asks the two Assistant Library Directors, (Ms. Patricia Husband and Ms. Mary Stein) to assume those duties until it would be appropriate to name either one of them as Director or to move forward more rapidly with the process of hiring a director. Ms. Freeman seconded the motion. Ms. Payton said the motion has been made and seconded to name two individuals to manage the day to day operations of the Library system until the Board can determine whether



they will name an interim director or how the Board will proceed in the process of hiring of a director. Ms. Payton asked if there was any discussion or questions about this item. There being none, the motion passed unanimously.

### **Comments by the Library Board of Control**

Ms. Payton then said they have completed the items on the agenda. She asked if there were any further comments by the members of the Board. Ms. Tomlinson wished everyone a Merry Christmas. Ms. Payton added that Mr. Browning had to leave earlier. They wanted to recognize him as this was his last meeting as a Board member. She said they will recognize him at the January Board meeting. Ms. Freeman said that this was also Mr. Lambert's last meeting as a Board member.

Ms. Payton noted that the two newly appointed Library Board members are present tonight. Their terms begin on January 1, 2012. She introduced Mr. Jason Jacob and Mr. David "Chip" Mills and welcomed them to the Board.

Ms. Payton said she wanted to mention Mr. Lambert who has been on the Board for a year and has done an outstanding job on the Library construction projects. He will be recognized at next month's meeting also.

Mr. Gordon asked about giving the public the opportunity to make comments about any of the items that were added to the agenda and the actions taken. Ms. Payton agreed that they do not want to leave the public out of making comments in light of the resignation of the Director.

Ms. Kathy Wascom, a member of the public, said she wanted to commend the Board for trying to get through this tough transition time in a very orderly manner. She added that this should not jeopardize the wonderful things that the Library has been doing and is still being done by the Library staff from 8:00 a.m. to 10:00 p.m. Ms. Wascom added that the Library is a wonderful place and this is an unfortunate day, but that we need to carry on as was done when she was a Library employee. She thanked the Board for all they do. Ms. Payton thanked Ms. Wascom and she said that they will indeed get through this this situation. She added that the Board has not taken this situation lightly. She said they look forward to addressing and correcting and again winning the public's trust and confidence in the Library system as they move forward.

There were no further comments, and so with no further business, the meeting was adjourned on a motion by Mr. Gordon, seconded by Ms. Freeman at 5:23 p.m.

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Kizzy Payton, President

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Patricia Husband, Co-Director

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Mary Stein, Co-Director

# MEMORANDUM

**DATE:** December 15, 2011  
**TO:** Library Board of Control  
**FROM:** David Farrar  
Library Director  
**SUBJECT:** Construction Report

## Goodwood Main Library

Steve Jackson, architect with Cockfield Jackson Architects reported the following on December 6, 2011 for The Library Design Collaborative on the Goodwood Main Library.



### CONSTRUCTION REPORT

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DATE: December 6, 2011

PROJECT: Independence Park Main Library  
REPORTED BY: Stephen P. Jackson, The Library Design Collaborative

OBSERVATIONS:

- 1) The construction and silt fences have been installed.
- 2) The site has been cleared.
- 3) Fill material is being brought in to raise the building pad to proper elevation.
- 4) Test pilings have been driven to confirm the bearing capacity of the soils.

UPCOMING WORK:

- 1) Driven pile work will begin toward the end of December.
- 2) Continue to add fill material until the proper elevation is met.
- 3) Foundation formwork will begin soon.


ATTACHMENTS:

- 1) One (1) page of photographs from the site.



## Fairwood Branch Library

Mr. Richard Brown, architect with Bani, Carville & Brown reported the following from the job site:






**BANI  
CARVILLE & BROWN**  
AIA ARCHITECTS, INC.

3718 Government St.  
Baton Rouge, LA 70806  
Phone: 225-343-2267  
Della/Fax: 225-343-8929  
Email: info@bcbakz.com

### Construction Report for week #14

<b>Job Name:</b> Fairwood Branch Library	<b>Inspector:</b> n/a
<b>Date:</b> November 16, 2011	<b>Time:</b> 10:30am
<b>Weather Condition:</b> overcast - 75°	<b>Contractor:</b> Stuart & Company
<b>Job Superintendent:</b> Darren Thibodeaux	<b>Report prepared by:</b> James ("Jes") Sanders - Bani, Carville & Brown Architects

1. Perimeter grade beams have been approximately 90% installed.
2. The front entry grade beams have not been installed. This portion of the foundation will be tied in with the grade for the columns at the front canopy. This portion has been head-walled for future installation. Similarly, the rear exit/entry is head-walled off for future tie-in to exterior grade beams.
3. The interior column footings have been installed and formwork is being stripped.
4. Excavation of the site is proceeding. Currently grading for the parking and drives is under way.
5. In the upcoming weeks, electrical and data floor boxes are to be installed, as well as all utility stub-up locations.



Fairwood Construction Report #15 - No Report for this week-Thanksgiving Holiday

## Construction Report for week #16

<b>Job Name:</b> Fairwood Branch Library	<b>Inspector:</b> n/a
<b>Date:</b> December 1, 2011	<b>Time:</b> 10:30am
<b>Weather Condition:</b> Clear-65°	<b>Contractor:</b> Stuart & Company
<b>Job Superintendent:</b> Darren Thibodeaux	<b>Report prepared by:</b> James ("Jes") Sanders - Bani, Carville & Brown Architects

1. The site was observed to be slightly muddy from rain last week.  
     This week appears to be clear, but more rain is anticipated in the early part of next week.
2. Piping from the future chiller is currently being laid and routed in to the building pad area.
3. All of the electrical floor boxes have been laid out with string lines. They will be installed presently.
4. Currently, the under-slab conduit for the 3M book security gates is being installed.
5. The formwork for the brick ledge is being formed currently.
6. The formwork and re-steel is being installed for the pour of the 8" portion of parking slab. This area is to be poured Saturday.
7. Earthwork excavation, relocation, processing and re-compaction continues throughout the site.



December						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
27	28	29	30	Today	1	2
OBSERVED	OBSERVED	OBSERVED	OBSERVED	☀️	☀️	☀️
Hi 62°F Lo 43°F	Hi 60°F Lo 36°F	Hi 60°F Lo 33°F	Hi 60°F Lo 35°F	Hi 69°F Lo 37°F Precip 20.4%	Hi 69°F Lo 48°F Precip 0.4%	Hi 73°F Lo 58°F Precip 1.0%
Precip (in) 0.04ins.	Precip (in) 0ins.	Precip (in) 0ins.	Precip (in) 0ins.			

## Construction Report for week #17

<b>Job Name:</b> Fairwood Branch Library	<b>Inspector:</b> n/a
<b>Date:</b> December 6, 2011	<b>Time:</b> 10:30am
<b>Weather Condition:</b> Misty-55°	<b>Contractor:</b> Stuart & Company
<b>Job Superintendent:</b> Darren Thibodeaux	<b>Report prepared by:</b> James ("Jes") Sanders - Bani, Carville & Brown Architects

1. The site was observed to be quite muddy from rain the previous day. Work was still in full progress.
2. Piping from the future chiller has been stubbed up into building pad. The long run of pipe to the planned chiller yard has been laid and covered.
3. Much of the conduit for the floor boxes has been laid out. The majority of the home-runs to the planned Electrical Room 135 have been turned up into this room.
4. The 8" portion of the parking lot has been installed and the control joints cut in. This will be used for staging and relocation of the work trailer, in order to free up the occupied portion of the site for grading.
5. Site-grading of drives and planting areas continues.
6. The formwork for the grade beams in the front has been constructed. These will tie in to the columns at the entry.



December						
OBSERVED	OBSERVED					
Hi 47°F Lo 37°F	Hi 48°F Lo 40°F	Hi 51°F Lo 37°F Precip 30%	Hi 53°F Lo 30°F Precip 30%	Hi 57°F Lo 32°F Precip 10%	Hi 60°F Lo 31°F Precip 10%	Hi 58°F Lo 34°F Precip 10%
Precip (in) 0.02in.	Precip (in) 0.02in.					

## Rouzan Branch Library

Mr. Mike Sullivan, architect with Looney Ricks Kiss/LRK LLC reported the following:

Looney Ricks Kiss/LRK L.L.C.

5615 Corporate Blvd, Suite 100B  
Baton Rouge, Louisiana 70808  
Telephone 225 928 4905

December 5, 2011

Mr. David Farrar  
Director  
East Baton Rouge Parish Library

Re: December 2011 Construction Report update  
Rouzan Branch



Mr. Farrar and Staff:

Please note the following information to be posted for this month's status on the Rouzan Branch Library Documents:

1. Final coordination of drawings with staff and city are underway.

Please do not hesitate to call with any additional questions or requests.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mike Sullivan', is written over a light blue horizontal line.

Mike Sullivan, AIA

ATTACHMENT  
TO  
AGENDA  
FOR MEETING OF THE  
EAST BATON ROUGE PARISH LIBRARY BOARD OF CONTROL  
December 15, 2011

NOTICE REQUIRED BY La. R.S. 42:19(A)(1)(b)(iii)(bb)

Parties Involved: David Farrar v. East Baton Rouge Library Board of Control

Subject Matter of Prospective Litigation: Alleged illegal termination of  
employment



GELA R. GANGELOSI  
ATTORNEY AT LAW

908 GOVERNMENT STREET, SUITE 101  
BATON ROUGE, LA 70801

POST OFFICE BOX 2028  
BATON ROUGE, LOUISIANA 70801-0000

December 12, 2011

Kizzy Payton  
Chair  
East Baton Rouge Parish Library Board of Control  
East Baton Rouge Parish Library  
7711 Goodwood Blvd.  
Baton Rouge, LA 70806

Dear Ms. Payton:

The East Baton Rouge Parish Library Board of Control has requested an opinion from the office of the East Baton Rouge Parish Attorney as to whether the individual employed by the Library Board of Control as director must satisfy the requirements of La. R.S. 25:215 and be certified by the State Board of Library Examiners.

I have been retained to represent the Library Board of Control concerning several matters which include the employment of the Director. The Parish Attorney's office retained my services for the Board because the Office may have a conflict of interest in advising the Board on said issues. Therefore the Parish Attorney has requested that I respond to your request for an opinion pursuant to that representation.

Pursuant to La. R.S. 25:214(B), the governing authority of a parish (except Orleans) "shall, in the ordinance creating a public library, name and appoint at its option, not less than five citizens nor more than seven citizens of the parish as a board of control for such parish library . . .". Section 11.03 of the Plan of Government of the Parish of East Baton Rouge and City of Baton Rouge so provides, and specifically states:

"The Board of Control shall have all powers and duties conferred or imposed by the General Laws of the State of Board of Control of Parish Public Libraries . . .".

One such state law provides in pertinent part at La R.S. 25:215:

§215. Duties and powers of the board; employment of

librarians, assistants and other employees.

A. . . . The board of control shall have authority to establish rules and regulations for its own government and that of the library not inconsistent with law; to elect and employ a librarian, and, upon the recommendation and approval of the latter, to employ assistant librarians and other employees and fix their salaries and compensation; provided that no contract of employment shall be made for a longer period than four years nor with any person as head librarian who has not been certified by the State Board of Library Examiners, as provided in R.S. 25:222. The head librarian may be appointed or elected secretary of the board of control.

\* \* \*

I am advised that the East Baton Rouge Parish Library Board of Control does not employ a "head librarian" but does employ a "director." The duties of the director are set forth in the By Laws of the East Baton Rouge Parish Board of Control, mentioning the Library Director in the following particulars:

Article 4. Board Officers

\* \* \*

Section 3. The **Library Director** shall act as Secretary of the Board; shall keep true and accurate records of all Board meetings and proceedings; shall issue notices of all meetings; shall have custody of the minutes and other records of the Board; shall, when needed, request the Assistant Parish Library Director to attend Board meetings to take and prepare Board minutes; shall notify the Metropolitan Council Administrator of Board vacancies; and in consultation with the Board members, prepare the agenda for all meetings.

\* \* \*

Article 5. **Library Director** and Employees

Section 1. The Board shall appoint the **Director** and he/she shall serve at the pleasure of the Board.

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Section 2. The **Library Director** shall be considered the executive officer of the library system and shall have the responsibility for the administration of the library and for implementing the policies adopted by the Board.

Section 3. The **Library Director** shall be held responsible for employment and direction of staff; for the provision of materials and service to the library's public; for the preservation and care of library property; for reporting library receipts and expenditures at monthly Board meetings; and for the business-like operation of the library system.

Section 4. The **Library Director** shall attend all Board meetings except in the case of the discussion of the compensation, character, professional competence, or physical or mental health of the Director. The Director may, but is not required to, attend such discussions. In such instances, a Board member shall be appointed to serve as secretary.

The initial inquiry is whether the individual employed as Director of the East Baton Rouge Parish Library is bound by the state law restriction on qualifications of the head librarian set forth in La. R.S. 25:215. A similar question was considered by the Louisiana Attorney General in La. A.G. Opinion No. 90-226. The Jefferson Parish Code, similar to the Plan of Government, created a position of "Library Director." The Attorney General found in the Jefferson Parish matter that: "Upon an evaluation of duties, it is evident that the position of head librarian and director of library are equivalent and will be treated as one and the same." A like result is compelled here.

The remaining inquiry is then whether La. R.S. 25:215A applies to require the Director hired by the East Baton Rouge Parish Library Board of Control to be certified by the State Board of Library Examiners as provided in R.S. 25:222. The Attorney General considered this question as well in La. A.G. Op. No. 220 and stated, "An individual who has not been certified by the State Board of Library Examiners as provided in R.S. 25:222 may not be employed as head librarian, R.S. 25:215A."

It is the opinion of this office that the East Baton Rouge Parish Library Board of

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Page 4  
Kizzy Payton  
December 12, 2011

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Control may not employ as its director an individual who has not been certified by the State Board of Library Examiners as provided in R.S. 25:222.

I trust this answers your inquiry. Please contact me if you have any further questions on this matter.

Sincerely,



Celia R. Cangelosi  
Special Assistant Parish Attorney  
Parish of East Baton Rouge

cc: Mary Roper, Parish Attorney

Westlaw:

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Office of the Attorney General  
State of Louisiana

Opinion No. 90-220

June 4, 1990

64-1 LIBRARIES

R.S. 25:215A

R.S. 25:222

A nominee for the position of "Director of Library" must be certified by the State Board of Library Examiners under R.S. 25:215A.

Ms. Jane Chatelain  
Chairman  
Jefferson Parish Library Board  
19 Cranberry Drive  
Gretna, Louisiana 70056

Dear Ms. Chatelain:

You have requested an opinion of this office on whether Louisiana Revised Statutes 25:215 and 25:222 take precedence over the Jefferson Parish Code, Division 19, Sec. 2-392 in regard to qualifications for a Library Director in Jefferson Parish.

An individual who has not been certified by the State Board of Library Examiners as provided in R.S. 25:222 may not be employed as head librarian, R.S. 25:215A.

The Jeff. Par. Code, Div. 19, Sec. 2-392 requires that the position "Director of Library", "be qualified by education, training and prior administrative and/or management experience." Upon an evaluation of duties, it is evident that the positions of head librarian and director of library are equivalent and will be treated as one and the same.

The rule-making power of a public administrative body is a delegated legislative power, the agency possessing only such power as is delegated to it. An agency may not use its delegated power to abridge authority given it or to enlarge its powers beyond that intended by the legislature.

When there is a conflict between statutory provisions and a parish code the statutory provisions should preempt any reading of the latter. Any selection of a library director made con-

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Office of the Attorney General  
State of Louisiana

Opinion No. 90-220

June 4, 1990

64-1 LIBRARIES

R.S. 25:215A

R.S. 25:222

A nominee for the position of "Director of Library" must be certified by the State Board of Library Examiners under R.S. 25:215A.

Ms. Jane Chatelein  
Chairman  
Jefferson Parish Library Board  
19 Canterbury Drive  
Gretna, Louisiana 70056

Dear Ms. Chatelein:

You have requested an opinion of this office on whether Louisiana Revised Statutes 25:215 and 25:222 take precedence over the Jefferson Parish Code, Division 19, Sec. 2-392 in regard to qualifications for a Library Director in Jefferson Parish.

An individual who has not been certified by the State Board of Library Examiners as provided in R.S. 25:222 may not be employed as head librarian, R.S. 25:215A.

The Jeff. Par. Code, Div. 19, Sec. 2-392 requires that the position "Director of Library", "be qualified by education, training and prior administrative and/or management experience." Upon an evaluation of duties, it is evident that the positions of head librarian and director of library are equivalent and will be treated as one and the same.

The rule-making power of a public administrative body is a delegated legislative power, the agency possessing only such power as is delegated to it. An agency may not use its delegated power to abridge authority given it or to enlarge its powers beyond that intended by the legislature.

When there is a conflict between statutory provisions and a parish code the statutory provisions should preempt any reading of the latter. Any selection of a library director made con-

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trary to R.S. 25:215 would constitute a violation of state law. Therefore, a reading of Jeff. Par. Code, Div. 19, Sec. 2-392 in light of R.S. 25:215A, would require the employment of an individual certified by the State Board of Library Examiners and a contract of no longer than four years.

I trust this answers your inquiry. Please contact me if you have any further questions on this matter.

Sincerely,  
William J. Guste, Jr.  
Attorney General

By: Glenn R. Ducule  
Assistant Attorney General

La. Atty. Gen. Op. No. 90-220, 1990 WL 544821 (La.A.G.)

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Office of the Attorney General  
State of Louisiana

Opinion No. 08-0119

July 21, 2008

64-I LIBRARIES

R.S.14:5; R.S. 25:215

An unclassified library employee, as an "at will" employee, may be discharged from employment at any time without cause, whether or not the Board adopts an employment policy allowing termination for a library employee's refusal to cooperate with a law enforcement investigation of an incident in the library which the library employee witnessed.

Ms. Amanda Taylor  
Director  
Concordia Parish Library Board  
1609 Ford Street  
Terrebonne LA 71334

Dear Ms. Taylor:

The Concordia Parish Library Board (the Board) is considering a new employment policy, prompted by the following incident, which we restate from your correspondence. Recently, library staff caught a male youth (age thirteen) printing pornographic material from the library's internet resources. The material printed at the library central desk, and library staff denied the youth the documents. He became angry at the refusal, and began to verbally abuse the staff, at which point library personnel called the police. Library staff gave statements to the police concerning the incident; however, the same library personnel refused the police officer's request to sign the police report.

In your letter you state "the police will not document anything unless the police report is signed." Your specific question is: May the Board create a policy that requires library personnel to sign a police report if they witnessed an incident in the library?

In other words, you ask if the Board may adopt a policy which states that, as a condition of their employment or continued employment, library employees are required to cooperate with law enforcement officials in any investigation related to incidents occurring on library property. This policy would further provide that an employee's refusal to fully cooperate with the

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police officer's reasonable requests (which would include the scenario considered here) may result in disciplinary action, including possible termination.

The Board is empowered to adopt employment policies concerning library staff, including the proposed policy. Pursuant to R.S. 25:215, the Board is given the exclusive authority to hire its employees, and to establish rules and regulations governing such employment. R.S. 25:215(A) states "the board of control shall have authority to establish rules and regulations for its own government and that of the library not inconsistent with law; to elect and employ a librarian, and upon the recommendation and approval of the latter, to employ assistant librarians and other employees and fix their salaries and compensation..."

However, *with or without such an employment policy*, unclassified library personnel who are hired for an indefinite period are considered "at will" employees and *may be discharged without cause*. Where an employee's job is for an indefinite term, the employment is terminable at will of either the employer or the employee. Absent a specific contract or agreement establishing a fixed term of employment, an employer is at liberty to dismiss an employee at any time for any reason without incurring liability for the discharge. Williams vs. Delta Haven, Inc., 416 So.2d 637 (La. App. 2d Cir. 1982). See also C.C. Article 2747 states:

2 Art. 2747. Contract of servant terminable at will of parties  
 A man is at liberty to dismiss a hired servant attached to his person or family, without assigning any reason for so doing. The servant is also free to depart without assigning any cause.

Note further Louisiana jurisprudence which reflects that a governmental employer may discharge an unclassified employee without cause. Jackson v. East Baton Rouge Parish Indigent Defender's Board, 353 So.2d 344 (La. App. 1<sup>st</sup> Cir. 1977). Police jury employees are "unclassified" civil servants who may be discharged without cause. La. Const. Art. X § 2(B)(10); Lague v. St. Charles Parish Police Jury, 363 So.2d 1240, 1241 (La. App. 4<sup>th</sup> Cir. 1978) (unclassified employees terminable at will); Cherry v. Office of Original Sheriff, 454 So.2d 293, 295 (La. App. 4<sup>th</sup> Cir. 1984) (unclassified employees work "at the discretion" of the police jury).

Thus, while the Board may adopt the employment policy proposed, an unclassified library employee, as an "at will" employee, may be discharged from employment at any time *without cause*, whether or not the Board actually adopts such policy in the future.

Of course, as a matter of public policy, it is the goal of state and federal law to encourage voluntary witness cooperation with law enforcement in the investigation and prevention of criminal activity. To that end, the United States Supreme Court has concluded that all witnesses, including police officers and lay witnesses, are absolutely immune from civil liability based on their testimony in judicial proceedings. See Biscan v. LaHue, 460 U.S. 525, 103 S.Ct. 1108, 75 L.Ed.2d 96 (1983) (quoting Calkins v. Searner, 13 Wis. 193, 197 (1860), the Court in Biscan explained the policy behind witness immunity as follows:

The claims of the individual must yield to the dictates of public policy, which requires that the paths which lead to the ascertainment of truth should be left as free and unobstructed as possible.

Without such immunity, witnesses might be reluctant to come forth to testify and, additionally, their testimony might be distorted by fear of subsequent liability.

The same general rule is followed in Louisiana concerning witness immunity. The Louisiana Supreme Court has held "there is absolute immunity from civil liability for testimony given by a non-party witness in a judicial proceeding, so long as that testimony is pertinent and essential to the issue." See Marrogi v. Howard, 802 So.2d 1118 (La. 2002).

Note further that R.S. 14:50 is entitled "absolute privilege" and states that there shall be no prosecution for defamation "when a statement is made by a witness in a judicial proceeding, or in any other legal proceeding where testimony may be required by law, and such statement is reasonably believed by the witness to be relevant to the matter in controversy." See R.S. 14:50(2).

\*3 While the Board may adopt the proposed policy, as discussed, it is suggested a better result may be achieved by informing library personnel of their immunity from civil liability for testimony given in a judicial proceeding.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,  
James D. Buddy Caldwell  
Attorney General

By: Kerry L. Kilpatrick  
Assistant Attorney General

La. Atty. Gen. Op. No. 08-0119, 2008 WL 3889514 (La.A.G.)

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