

April 22, 2005

Honorable Ward Plant, Mayor
City of New Johnsonville
323 Long Street
New Johnsonville, Tennessee 37134

Dear Mayor Plant

You have asked the following questions:

1. What is the procedure for accepting the resignation of a council member and for the appointment of a new council member?
2. What happens if the council does not vote to accept a council member's resignation?

I have reviewed these questions with MTAS legal counsel.

The city council must either by motion or resolution vote to accept the resignation of a council member. This requirement is different than regular employment law requirements for accepting resignations.

According to your city charter, the council must appoint a qualified person to the council within 15 days. If the council fails to appoint within the 15 day time period, the mayor makes the appointment.

If the council refuses to accept a resignation of a council member, the position remains filled until the council declares a vacancy or accepts the resignation, or until the next election. If a council member fails to attend meetings, without sufficient reasons, the council may by resolution declare the office vacant and appoint a new member. If the council does not make the appointment within 15 days after declaring it vacant, the mayor shall make the appointment.

The city should follow the normal procedures for calling a special meeting. Your charter requires 12 hours notice. The mayor or three council members may call a special meeting. You should call the newspaper and post the notice in as many public places within the city as possible. While the charter requires only 12 hours notice, you all may want to consider giving as much notice as possible for the benefit of the public in this important decision.

Please call me if I may be of further assistance.

Respectfully Yours

Ron Darden
Municipal Management Consultant

CC. MTAS Legal Consultant Melissa Ashburn
MTAS Senior Legal Consultant Sid Hemsley
MTAS Management Consultant Margaret Norris