



Email Communication

From: Elisha D. Hodge, MTAS Legal Consultant

To: Chris Sparks, CMFO, City of Petersburg

Date: September 5, 2018

Re: Can appointed alderman vote?

It was nice speaking with you yesterday. I am following up our conversation with an email. When we spoke, you asked:

Are the aldermen who were appointed to the BOMA to fill unexpired terms allowed to vote to fill the positions of mayor and vice-mayor since the language in the charter provides, "the duly elected and qualified Alderman of the town of Petersburg shall elect..." these positions?

In my opinion, yes, those aldermen who were appointed by the BOMA to fill unexpired terms are also allowed to vote to fill the positions of mayor and vice mayor.

The relevant language in Section 7 of the Town's charter reads:

At the next regularly scheduled meeting of the Board following the certification of the election results, the duly elected and qualified Aldermen of the town of Petersburg shall elect by ballot one (1) of their members as Mayor.

Similar language appears in Section 8 of the Town's charter and it reads:

At the next regularly scheduled meeting of the Board following the certification of the election results, the duly elected and qualified Aldermen of the town of Petersburg shall elect by ballot one (1) of their members as Vice Mayor.

The language in both sections refers to aldermen who were "duly elected and qualified." While the word "elected" is used, the language does not say the aldermen have to be elected by the qualified voters. In fact, Section 9 of the Town's charter related to vacancies speaks of individuals being elected by members of the BOMA to fill unexpired terms. Based upon the language in Section 9 of the Town's charter, I am of the opinion that those aldermen who were appointed by the BOMA to fill unexpired terms were elected by the BOMA and as such, they may also vote to fill the positions of mayor and vice mayor.

We also discussed the use of ballots to vote on filling the abovementioned positions. As I mentioned yesterday, the language in Tenn. Code Ann. Section 8-44-104 provides that all votes must be "public" and "no secret ballots" are allowed. As such, whenever the BOMA uses ballots to vote, each alderman needs to include his/her name on the ballot. Additionally, when the vote on each ballot is read aloud during the adequately noticed public meeting, the name of the alderman whose ballot is being read also needs to be announced. Using this process ensures that each ballot is public.

Please let me know if you have other questions or if you want to discuss these issues further.