

MEMORANDUM

TO: City Council of Villa Rica

FROM: David Mecklin, City Attorney

RE: Operation of City with Vacancies in Office of Mayor and Council

DATE: June 1, 2016

Over the past several weeks a number of questions have arisen with regard to the governance of the City of Villa Rica during the existence of a vacancy in the office of Mayor or in the office of Councilmember. The State Law of Georgia and the Charter of Villa Rica provide guidance on how the City is to be governed during any periods of vacancy in office.

First, the State Election Law is clear that any such vacancies in office have to be filled by special election. Based on my review of State Election Law and after consultation with the City's municipal election superintendent, the next available date for a special election will be in conjunction with the Georgia general election to be held on November 8. Accordingly, the Council should issue a call for a special election to fill any vacancies during the November 8 election. There is no other mechanism to fill a vacancy in office other than by a potential appointment by the Governor. While gubernatorial appointment is an option, the Council may determine that the City will be best served by filling the vacancies through actions of the voters.

The Villa Rica City Charter does provide for the appointment of a mayor pro tem. The duties of the mayor pro tem are not well defined in the Charter, however. Section 1.16 of the Charter does state, however, that if the Charter makes no provisions for specific powers then the powers can be established by ordinance of the governing authority. Consequently, it has been proposed that the Council adopt an ordinance which will define the powers of the mayor pro tem so that the mayor pro tem may serve as the interim mayor until the vacancy in the mayor's office is filled. This interim mayor shall not have the power of the mayor's veto but shall retain the Councilmember's right to vote on all issues before the Council. A new mayor pro tem would be selected by the Council to preside in the absence of the interim mayor.

With this system, the City of Villa Rica should be able to continue normal operation until the special election to be held in November, 2016. The Council should be especially sensitive to making any controversial decisions during the time when the Council is operating at less than full capacity. If any ward is unrepresented due to a vacancy, special efforts should be made to solicit input from members of that ward prior to taking any action.

While any vacancy in office will create some uncertainty and concern, governance in Villa Rica was designed to withstand temporary vacancies in office. With the patience and understanding of the public officials and the public, the business of the City of Villa Rica should proceed in a fair and efficient manner during the next several months.