



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

JUN 28 2013
OPINION 13-0047

77—OFFICERS—Local & Municipal; Selection, Qualifications & Tenure;
Vacancies

R.S. 18:602; R.S. 33:382(B); R.S. 33:385(B)

Pursuant to La. R.S. 18:602, the governing authority of a village, and not the mayor, shall appoint an individual to fill a vacancy on the Board of Aldermen. The governing authority shall have twenty (20) days to fill the vacancy, the failure of which shall authorize the governor to make such an appointment.

Honorable Scott Walker
Mayor, Village of Reeves
18370 Highway 190
Reeves, Louisiana 70658

Dear Mayor Walker:

You submitted an opinion request about the appointment process for the Board of Aldermen when a vacancy arises. In particular, you ask whether the Mayor or the Board of Aldermen of the Village of Reeves is responsible for appointing an individual to serve on the Board of Aldermen in the event of a vacancy due to resignation.

Pursuant to La. R.S. 33:382(B), villages are statutorily required to have three members serving on the Board of Aldermen who must be elected at large. La. R.S. 33:385(B) sets forth the specific process that must be followed when there is a vacancy on the Board of Aldermen:

A vacancy in the office of alderman shall be filled pursuant to R.S. 18:602. In the event of a tie vote in filling a vacancy, the mayor as the presiding officer shall vote to break the tie. If the mayor fails or refuses to do so, the members of the board of aldermen shall notify the governor of the existence of the vacancy, and within ten days after he receives the notice, the governor shall make an appointment to fill the vacancy.

(West 2013).

La. R.S. 18:602(A), referenced in the foregoing statutory provision, provides as follows:

When a vacancy occurs in the office of a member of a parish or municipal governing authority or a combination thereof, a mayor, or any other local or municipal office, except an office covered by Subsections B and C of

this Section and except the office of judge, state legislator, or marshal of a city or municipal court, and the office is filled by election wholly within the boundaries of a local governmental subdivision, **the governing authority of the local governmental subdivision where the vacancy occurs shall within twenty days appoint a person to fill the vacancy who meets the qualifications of the office.** However, if the deadline for making the appointment falls on a Saturday, Sunday, or other legal holiday, then the next day which is not a Saturday, Sunday, or legal holiday shall be deemed to be the final day for making such appointment. **The presiding officer of the governing authority shall not be required to vote on such an appointment to be made by the governing authority of a local governmental subdivision unless a tie vote occurs thereon, in which case he shall vote to break the tie; however, in no case shall the presiding officer vote more than once on the appointment.**

(West 2013)(emphasis added).

Based on the aforementioned statutes, it is this office's opinion that when there is a vacancy on the Board of Aldermen in a village, then it is the governing authority's responsibility, and not the mayor's responsibility, to appoint a qualified person to fill the vacancy within twenty (20) days. In this case, the remaining two members of the Board of Aldermen of the Village of Reeves would be responsible for filling this vacancy. Only in the event of a tie may the Mayor, as presiding officer, vote. However, if the Mayor refuses to vote and a tie persists, then the Board of Alderman must notify the Governor, who will then have ten (10) days to appoint a replacement to Board.

We hope that this information sufficiently answers your inquiries. If we can be of further assistance, please do not hesitate to contact us.

Very truly yours,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By: 
KATHERINE K. GREEN
Assistant Attorney General

JDC:KG:jv