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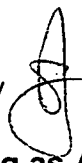
November 10, 1999

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MEMORANDUM

TO: Robert Thomas, City Manager

FROM: Samuel L. Jackson, City Attorney 

RE: **Authority of Vice-Mayor Serving as Acting Mayor**

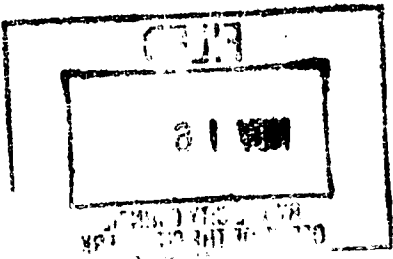
ISSUE PRESENTED

You have asked for our opinion as to the duties, responsibilities and authority of the Vice-Mayor, when he/she is serving as Acting Mayor.

BACKGROUND

Mayor Joe Serna, Jr. passed away on November 7, 1999. Prior to that time Councilmember Jimmy Yee served (and currently continues¹ to serve) as Vice-Mayor, having been elected to that position by the City Council in January, 1999 pursuant to City Charter

¹Vice-Mayor Yee will serve until a successor is elected; under Charter Section 45, the Council is required to elect a successor Vice-Mayor at the first meeting in January of each year.



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Section 45.² Upon the death of Mayor Serna, Vice-Mayor Yee became Acting Mayor.³ The question at hand relates to the duties, responsibilities and authority of the Acting Mayor as specified in the City Charter.

ANALYSIS

The last paragraph of Section 45 reads as follows:

"An acting mayor shall possess all powers of the office of mayor and shall be subject to all prescribed duties for such office."

Section 40 specifies the functions of the Mayor. Included are presiding over Council meetings; performance of all duties "lawfully delegated" to the Mayor by the City Charter, Council action, or by other laws; community leadership with nonexclusive responsibility to interpret the "policies, programs and needs" of the City to the people; the nonexclusive right to make policy and program recommendations to the Council; perform as a member of the City Council, but without the right of veto; the nonexclusive right to propose ordinances and resolutions; appoint and remove members of City boards, commissions and advisory agencies, subject to the concurrence of a majority of the Council;⁴ receive the compensation and expense allowances specified for the Office of the Mayor;⁵ and appointment of a Mayoral staff.⁶

In addition to the duties and responsibilities set forth above, the Vice-Mayor may be referred to as Acting Mayor or simply Mayor. His service as Mayor does not impact his ability to continue holding office as Council member for District 4. Thus, he is entitled to run both his Council office and the Office of Mayor with the accompanying staff. Finally, he is entitled to the compensation and benefits afforded to the Mayor while in that position. However, he may

²Hereafter, references to a "Section" refers to the Sacramento City Charter, unless otherwise stated.

³See Section 45, second paragraph, last sentence, which states that in case of a vacancy in the office of the Mayor, ". . . the vice-mayor shall become the acting mayor."

⁴See Section 230.

⁵These items are specified in Section 44. However, the Acting Mayor cannot receive both the Mayoral salary and the Council seat salary.

⁶See Section 74.



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not claim the compensations and benefits afforded Council members while he is receiving those afforded for the Office of Mayor.

I trust that this information is sufficient for your purposes. If further information is required, please feel free to contact me.

SLJ/gcm

cc:: Acting Mayor
City Council Members
City Clerk

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