

File No. 86981

January 29, 1951

Honorable Maxwell Alpert
City Councilman
333 Munsey Building
Baltimore - 2, Maryland

Dear Mr. Alpert:

With reference to your inquiry of January 24, 1951, as to what majority is necessary to elect a new member to the City Council, please be advised as follows:

Section 19 of the City Charter provides:

"19. CITY COUNCIL - Electors. The qualifications of electors of members of the City Council shall be the same as those of electors of the Mayor. All vacancies in the City Council shall be filled without delay by the City Council from the Councilmanic District in which the vacancy occurs by the election of a person possessing the qualifications prescribed in Section 15 to fill the unexpired term of the former incumbent."

It appears from this language that no rules are stated in the Charter governing the election of members by the Council and in such a situation we must be guided by the common law as set out in the decisions of the Court of Appeals. An examination of these decisions leads me to the conclusion that for purposes of electing a member to your council when a vacancy is to be filled, a majority of the membership of your body constitutes a quorum, and, further, a majority of those voting when such a quorum is assembled is sufficient to elect a new member.

The question here under consideration has been covered in an extended opinion of June 3, 1929, by A. Walter Kraus, City Solicitor, (Volume 30, Opinions of City Solicitor, p. 9012) and my opinion is in agreement with his. SEE ALSO -

Heiskell v. Baltimore, 65 Md. 125;
Zeiler v. Central Railway Company, 84, Md. 304;
Walker v. Oswald, 68 Md. 146;
Murdoch v. Strange, 99 Md. 89.

Very truly yours,

/s/ THOMAS H. BIDDISON

City Solicitor

TMB/rre
Copy to: Honorable C. Markland Kelly,
President, City Council of Baltimore