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JUSTICE BUILDING, LITTLE ROCK 72201

July 31, 1985

(501) 371-2007

OPINION NO. 85-174

Honorable John W. Parkerson
State Representative
520 Ouachita Avenue
Hot Springs, Arkansas 71901

Dear Representative:

You have requested an opinion from our office on the following questions:

1. Does the Mayor of a city of the first class have the right to vote in a City Council meeting on passage of an emergency clause to an ordinance?
2. Does a Mayor of a city of the first class have the right to vote in a City Council meeting under any circumstances?

In response to your first question Ark. Const., Amend. 7 provides, inter alia, that "if upon a ye and nay vote two-thirds of all the members elected to each house, or two-thirds of all the members elected to city or town councils, shall vote upon separate roll call in favor of the measure going into immediate operation, such emergency measures shall become effective without delay." (Emphasis added)

The Hot Springs City Attorney has correctly pointed out that in construing similar language contained in Amendment 7 the Arkansas Supreme Court ruled that an ordinance repealing an initiated ordinance could not be passed by the mayor's vote, because he is not an elected member of the city council. Thompson v. Younts, 282 Ark. 524, 669 S.W. 2d 471 (1984). Given the clear and unequivocal language of Amendment 7 in reference to emergency measures, we find the Thompson decision controlling and thus, the answer to your first question is "no".

In response to your second question, Ark. Stat. Ann. §19-1010 (Supp. 1983) provides, inter alia, that the mayor "shall have a vote when the mayor's vote is needed to pass any ordinance, by-law, resolution, order or motion." This is a provision of general applicability to mayors of cities of the first class as ex-officio members of the city council. However, it is well settled that in statutory construction, where specific expressions conflict with general expressions, the greater effect is given to the more specific expression. E.g. Thomas v. Easley, 277 Ark. 222, 640 S.W. 2d 797 (1982). Thus, notwithstanding §19-1010, the references to a "majority of the Alderman" in Ark. Stat. Ann. §19-2402 (1980) for municipal appropriations, and to a "majority . . . of members elected to the Council" in Ark. Stat. Ann. §19-2403 (1980) for entering into contracts precludes the mayor from voting to pass these measures.

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Accordingly, although §19-1010 gives the mayor a vote when needed to pass any ordinance, etc., this statute does not apply where a more specific provision, such as the aforementioned statutes, has been enacted by the Legislature. Of course, in the absence of a more specific provision, the mayor retains the power.

The foregoing opinion, which I hereby approve, was prepared by Chief Deputy Attorney General Rodney Parham.

Yours truly,


STEVE CLARK
Attorney General

SC:RP:lm