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MEMORANDUM

To: Hon. Mayor and Ypsilanti City Council
From: John M. Barr, Ypsilanti City Attorney
Date: August 14, 2020
Re: Council Agenda – Term Expiration of Mayor Richardson



This is an information memo for City Council regarding the discussion of the term expiration of Mayor Richardson for the August 18th, 2020 City Council meeting agenda.

History, Facts.

- 1) Mayor Beth Bashert resigned her position as Mayor of Ypsilanti on June 23, 2020.
- 2) Her term of office would normally end in 2022. The resignation created a vacancy in the office of Mayor.
- 3) The City Charter, Section 2.05(d)(1) provides: "Vacancies occurring in the office of Mayor shall be filled by the Mayor Pro Tem until the next general election and vacancies occurring in the office of Mayor Pro Tem shall be filled for the balance of the unexpired term of the Mayor Pro Tem by appointment of a Member of the Council. Such appointment shall create a vacancy in the office of Council Member until the next general election."
- 4) The "next general election" is November 3 of 2020.
- 5) Ypsilanti City Charter section 3.01 sets out election procedure:

3.01. City elections. (a) General and City Elections. A partisan regular City election shall be held on the Tuesday after the first Monday in November every two years in even numbered years.



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(b) Primary Elections. Nomination of candidates for elective City offices shall be by a partisan primary election.

- 6) As set out in the Michigan Secretary of State *2020 Michigan Election Dates*:
- the partisan primary election for the November 3 general election is August 4, 2020.
 - Candidates must file nominating petitions for the November 3 primary election by April 21, 2020.
 - Nonpartisan (independent) candidates may file nominating petitions for the November 3 general election by July 16, 2020.
- 7) The Michigan Bureau of Elections and Washtenaw County clerk agree that because of the timing of the resignation of the Mayor that there was not time for partisan candidates to file for the August 4 primary election and that non-partisan (independent) candidates could not file because there was not enough time for partisan political Parties (Democrat, Republican, etc.) could not select a candidate for the primary election.
- 8) Mayor Pro-Tem Lois Richardson became the Ypsilanti Mayor upon the resignation of Beth Bashert and was sworn into office.

Question Presented: When does the term of Mayor Richardson end? Is it at the general election November 3, 2020, or is it at the general election in 2022?

Opinion: The term of Mayor Richardson extends to the general election of 2022.

Rationale:

- A) It is not legally possible for a candidate for Mayor to be on the ballot of the November 3, 2020 general election, because of State time limits and



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the opinion of the Michigan Bureau of Elections and the Washtenaw County Clerk.

- ~~B) The Ypsilanti City Charter (2.05) does not give City Council the power to select or elect a mayor, but provides that a vacancy in the office of Mayor is filled by election. The Charter makes a clear difference in the office of Mayor and Council Member and provides that Council may fill a vacancy in the office of Council Member or Mayor Pro-Tem, but makes no such provision for filling a vacancy in the office of Mayor.~~
- C) The City Charter does not determine the office of Mayor vacant in the circumstance at hand.
- D) Michigan law provides that an office is not "vacant" if it is occupied by a legal office holder.

Therefore, it is my opinion that the term of office of Mayor Richardson extends to the general election of 2022.