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March 19, 2020

Muriel Robedeaux
Executive Director
President Whiteshirt
Pawnee Business Council
Pawnee Nation of Oklahoma
881 Little D Street
Pawnee, OK 74058

Re: What are the responsibilities of the Pawnee Business Council and Election Commission after PBC Officers are recalled. Opinion 2020-06

Dear Ms. Robedeaux,

On March 19, 2020, you requested my legal opinion regarding, “What are the responsibilities of the Pawnee Business Council (“PBC”) and Election Commission (“Commission”) after PBC Officers are recalled?” I understand that on March 14, 2020, Vice-President Darryl Wildcat and Treasurer Angelia Thompson were recalled by vote of the Pawnee Nation voters in accordance with Constitution Article VII. Sec 2.

I. QUESTION

What are the responsibilities of the PBC and Commission after the PBC Vice-President (Wildcat) and Treasurer (Thompson) are recalled?

II. ANSWER

Upon the Commission certifying the recall election, the PBC should call a special council meeting to elect a Temporary Vice-President and Temporary Treasurer from its members.

(Const. Art.VI). Vice-President Wildcat and Treasurer Thompson continue in their offices until their successors are elected by the PBC and installed. (Const. Art. IV, Sec. 4 (iv) (b)).

The Commission must call and conducted a Special Election for Vice-President and Treasurer based on when the next regular general election is scheduled. (Const. Art. VI, Secs.7, 9).

III. DISCUSSION

A. Vice-President Darryl Wildcat and Treasurer Angelia Thompson

The Vice-President and Treasurer’s Offices are deemed vacant¹ upon the Election Commission certifying² the recall election results. The Vice-President and Treasurer as PBC members “shall serve until their successors shall be duly installed in office”³ Upon recall, “a successor will be appointed pursuant to Article VI of this Constitution.”⁴

Constitution Article VI does not specifically address the appointment of the Vice-President and Treasurer in the event of a vacancy of their Offices; in the event the Office of the President is vacant, it provides for succession with several scenarios.

However, the method of temporarily filling the Office of President, Vice-President, and Secretary⁵ indicates that at a Special Council Meeting,⁶ the PBC should elect a Temporary Vice-President and Temporary Treasurer from PBC members other than existing officers. The PBC

¹ Article VI-Section 4. Section 10. A position is vacant when:
(iv) Recall

² Election Act, Section 11. (F) Certification of Election Results: The Election Commission will certify the election results and report all necessary tabulations. This will include, but not limited to, total amount of ballots printed, mailed absentee ballots, absentee ballots received and counted, number of spoiled/challenged ballots, total ballots issued, and total ballots counted. The certification will be presented to the office of the Pawnee Business Council President.

³ Article IV- Section 4. (iv) (b) . . . Thereafter, all members of the Pawnee Business Council shall be elected to a four-year term of office and shall serve until their successors shall be duly installed in office. In cases when a vacancy is being filled to complete an unexpired term due to death, resignation, forfeiture, or recall of a Pawnee Business Council member, a successor will be appointed pursuant to Article VI of this Constitution.

⁴ See footnote 3.

⁵ Article VI, Sections 1-4 basically provide for filling vacancies of officers, President, Vice-President, Secretary and Treasurer by the vacancy being filled by the next officer in line until a specially called election of the voters.

⁶ Article IV, Section 6 (i) & (ii)(b).

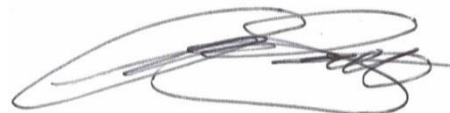
election of a Temporary Vice-President and Temporary Treasurer would serve as appointments and the installation of successors as provided by Const. Art. IV- Section 4 (iv) (b).

Recall is defined as vacancy of the Office (Const. Art. VI, Sec. 10 (iv)) and is not an “absence” that the Secretary may fill temporarily for the Treasurer. (Const. Art. V, Sec. 3 (vii)). Vacancies that occur in the last six months of a term it shall be filled by a majority of voters in a specially called election; vacancies occurring in the six months prior to the general election must be voted on in a specially called election held with the general election.⁷

Therefore, Vice-President Wildcat and Treasurer Thompson continue to serve in their positions until the PBC at a Special Council meeting elects from its membership a Temporary Vice-President and Temporary Treasurer. Since the next general election is not scheduled until summer 2021, the Commission has the responsibility to call a special election for the Vice-President and Treasurer within 60 days, but not less than 30 days after those positions became vacant.⁸

If you have any questions, please advise me.

Yours,

A handwritten signature in black ink, appearing to be a cursive name, possibly "John Thompson", written over a light blue horizontal line.

⁷ Const. Art. VI.

Section 7. If a vacancy occurs in any Business Council position in the six months prior to a general election, the specially called election shall be held with the general election.

Section 9. Unless section 6 & 7 apply, the election Board shall set and conduct a special election within 60 days but not before 30 days after a position is vacant.

⁸ See footnote 7.