

June 29, 1965

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The Council shortly thereafter recessed until next September 20.

Your questions are as follows:

1. In the light of the City Council's action on the three nominations, did the Council refuse to confirm the nominations, or did it merely fail to act upon them?
2. If the Council did reject the nominations, must I submit other names for the three offices? May I, also, pursuant to Article IV, Section 6, of the Baltimore City Charter (1964 revision), make temporary appointments to these offices during the recess of the City Council?
3. If the Council did not reject the nominations, but only failed to act upon them, are the nominations still before the Council? If this is so, am I then precluded from making recess appointments to these positions, or may I withdraw the nominations and appoint the same individuals or others to serve during the recess of the City Council?

Rule 58 of the Rules of the City Council (1955 Edition) provides that questions on all motions shall be determined by a majority vote of the members present (with exceptions not relevant here). The City Charter provides that executive appointments of municipal officers are subject to confirmation by the Council "by a majority vote of its members". Article IV, Sec. 6. Thus the motions to confirm failed of passage and the nominations were rejected.

The above-quoted Charter provision also provides that when the Council "shall refuse to confirm" such nominations, the Mayor shall send to it other names and the same procedure is followed as to confirmation; and further that when a vacancy occurs during the Council's recess the Mayor may make a "temporary appointment until the next regular meeting of the City Council" when the Mayor shall present this appointee for confirmation, followed by the same procedure described above.

It follows from the above provisions that, for vacancies which occurred prior to the recess date of June 14, you must submit to the Council "other names for such offices", either this summer or when the Council reconvenes in September. But for vacancies which occurred after June 14, you may make a temporary appointment now in