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# OFFICE OF THE STARR COUNTY ATTORNEY

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April 25, 2024

## RQ-0536-KP

Attorney General of Texas  
Hon. Ken Paxton  
PO Box 12548  
Austin, Texas 78711-2548  
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Re: Request for Opinion

Dear General Paxton:

The City of La Grulla, TX has requested that I submit, on their behalf, this request for your opinion regarding the following circumstances.

An Attorney General Opinion is requested regarding a matter of procedural importance for a municipality in Starr County. The City of La Grulla is a Type C general law city. The Mayor has resigned. The City of La Grulla Council members have 4-year terms Section 11, Article XI of the Texas Constitution applies requiring a special election to fill the Mayor position. This is a unique situation and there is conflicting guidance because the law is silent on Type C general law cities.

As outlined in Texas statutes, the Mayor of our city holds various responsibilities, including those akin to a Chief Executive Officer (CEO) for the municipality. However, when a Mayor resigns, it is not clear within Texas law whether the Mayor Pro Tem is to assume the operational duties of the Mayor until a new Mayor is elected via special election.

While Texas statutes, particularly those governing Type C cities, are silent on this specific issue, we believe it may be possible to interpret existing statutes to provide guidance in this matter. Specifically, borrowing from statutes such as Sec. 23.027 for Type B cities and Sec. 22.037 for Type A cities, which outline circumstances where the Mayor Pro Tem assumes the duties of the Mayor if the Mayor fails, is unable, or refuses to act, but is limited when the Mayor resigns in Type A and Type B cities because of the difference in structure. Another possibility would be to apply the Holdover Doctrine under Article XVI, Section 17 of the Texas constitution. Would the resigning Mayor continue to perform the duties of office until the successor is elected?

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Given the uniqueness of La Grulla's structure, which consists of a Mayor and only two council members, it is imperative to seek clarification on whether, and to what extent, the Mayor Pro Tem is empowered to assume the operational duties of the Mayor until a new Mayor is elected via special election. Without an acting Mayor the City of La Grulla will not be able to continue operating important projects such as a pending USDA funded water plant and other city functions.

Therefore, the City of La Grulla respectfully requests an Attorney General Opinion to provide clarity on the following points:

- A. Does Texas law, specifically statutes applicable to Type C general law cities, provide guidance regarding succession of duties when a Mayor resigns?
- B. If such guidance is not explicit, can statutes governing other types of cities, such as Type A or B, be applied and appropriately interpreted to inform the succession of duties in a Type C city? Type A and B hold conflicting remedies regarding succession duties.
- C. What is the extent of authority vested in the Mayor Pro Tem when assuming the operational duties of the Mayor, in a Type C city structure with unique statutory responsibilities assigned to the Mayor?

We understand that this may be a novel situation, and we greatly appreciate your attention to this matter. Clarity on these points will not only aid in the smooth functioning of our municipality but also serve as a precedent for similar scenarios in other Type C cities across the state of Texas.

Thank you for your prompt consideration of this request. We look forward to receiving guidance from your office.

Respectfully,

*Rene P. Montalvo*

Starr County Attorney

Cc: Hon. Sarah Tompkins, Attorney, Texas Municipal League [sarah@tml.org](mailto:sarah@tml.org)  
Hon. Martie Garcia Vela, City Attorney La Grulla