

VILLAGES: In filling vacancies on the board
CHAIRMAN: the chairman of the Board of
VOTE: Trustees of the Village of Bel-
BOARD OF TRUSTEES: Ridge has no vote unless there is
a tie.

Opinion No. 328

September 13, 1962



Honorable Norman H. Anderson
Prosecuting Attorney
St. Louis County
Court House
Clayton 5, Missouri

Dear Mr. Anderson:

This is in reply to your letter of August 31, 1962,
which reads as follows:

"I respectfully request an official
opinion relative to the proper inter-
pretation of Sec. 80.230, Revised
Statutes of Missouri. I have been
asked to obtain this opinion by the
City officials of the Village of
Bel-Ridge, Missouri.

"The section involved is as follows:

80.230. TRUSTEES -- VACANCY, HOW
FILLED.-- All vacancies in the
board of trustees shall be filled
by the remaining members of the
board. In case the office of
chairman becomes vacant, the re-
maining members shall select one
of their own number as temporary
chairman and then proceed to elect
some person to fill such vacancy;
provided, the chairman or temporary
chairman shall have no vote except
in case of a tie.

"The factual background giving rise to
this request for an interpretation is

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as follows: The Chairman of the Board of Trustees of the Village of Bel-Ridge, Missouri, recently resigned prior to the end of his elective term. The remaining Board members elected a temporary Chairman and then voted to elect the temporary Chairman the permanent chairman. The Board now wants to elect a person to fill the vacancy created by the election of the present Chairman.

"Does the present Chairman have a vote in filling the vacancy on the Board that was created by his election to Chairman, or would he be able to vote only in case of a tie vote by the other Board members?"

In answering your question we refer you to the case of *Krug v. Village of Mary Ridge*, 271 S.W. 2d 867, in which the St. Louis Court of Appeals said at page 872:

"* * * It should be pointed out that the chairman of the board of trustees of a village is not a mere presiding officer with the power to vote only in case of a tie (as in the case of the mayor of the fourth class city, § 79.120). He is entitled to vote on all measures which come before the board, except that in filling vacancies on the board the chairman has no vote unless there is a tie. Section 80.230. * * *"

It is our opinion that the last provision of Section 80.230, RSMo 1959, quoted in your letter, and the case of *Krug v. Village of Mary Ridge*, which we have cited, are controlling in this instance. The "present chairman" is governed by this law regardless of whether he is the chairman or the temporary chairman, and he does not have a vote in filling a vacancy on the board and he would be able to vote in such instance only in case of a tie.

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CONCLUSION

It is, therefore, the opinion of this office that in filling vacancies on the board the chairman of the Board of Trustees of the Village of Bel-Ridge has no vote unless there is a tie.

This opinion, which I hereby approve, was prepared by my Assistant, Wayne W. Waldo.

Very truly yours,

THOMAS F. EAGLETON
Attorney General

WW:bj;sr