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OPINION NO. 99-08

TO: Janice L. Graziano, City Clerk
FROM: Stephen M. Kemp, City Attorney
DATE: April 16, 1999
SUBJECT: Recall Election Nominations

QUESTION:

You have inquired as to:

1. How is the number of signatures calculated for nomination of a candidate for the Peoria City Council in a Special Recall Election to be held in September 1999?
2. Is the number of signatures needed the same as the number required of the Office under Recall at the time that they ran for the office?

OPINION:

For purposes of this Opinion, the following factual background is provided. A special recall election is scheduled to be held in the Ironwood District for the position of City Councilmember in September 1999. The office holder currently holding the position of Councilmember was elected for a four-year term in March, 1997. As any qualified elector within the district may be a candidate, it is necessary to determine the required number of signatures.

A.R.S. §16-322 sets for the requirements for the number of signatures required on nomination petitions for election of City Councilmembers. Subsections A. 8-9 state:

8. If for a candidate for Mayor or other office nominated by a City at large, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the designated party vote in the City.
9. If for an office nominated by ward, precinct or other district of a city, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the designated party vote in the ward, precinct or other district.

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As Peoria City elections are non-partisan. There is no separate party vote for any office. Therefore, the entire vote is used as the method of calculation.

Under subsection 9, the statute uses the entire vote cast in the district at the last election in which a candidate was elected. In this case, the position of Ironwood District City Councilmember was last elected in March, 1997. Therefore, the total number of votes cast in the Ironwood District in March, 1997 is used to calculate the number of signatures required on petitions for nomination in the special recall election.

In regards to question number 2, at the time the Ironwood District Election was held in 1997, the number of signatures required would have been based on the 1993 City Council election for the position. This is not the measure to be used for a special recall election in 1999. See, A.R.S. §16-322.A.8, 9.

Therefore, it is our conclusion that the signature requirement for nomination at a special recall election for the position of Councilmember Ironwood District shall be based on the total number of votes cast in the Ironwood District election in 1997.

If you should have any further questions, please contact this office.

cc: Honorable Mayor and Council
Terry Ellis, City Manager

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