

# City of Memphis



DR. W. W. HERENTON  
MAYOR

TENNESSEE

July 22, 2009

Elbert Jefferson, Jr., City Attorney  
City of Memphis  
125 North Main, Suite 336  
Memphis, Tennessee 38103

Dear Attorney Jefferson:

I want to make you aware of my concerns as it specifically pertains to the action of the Memphis City Council and proposed action of the Election Commission on the issue of my ensuing retirement. More specifically, I am concerned that the action of the City will establish irreversible precedent on matters as to when an office can be deemed vacated and by whom.

First, the Council has resolved through Council resolution that the Office of Mayor is vacant effective July 30, 2009. As Mayor and as an employee of the City of Memphis, I have the unfettered right to rescind my retirement. I have not executed a declaration waiving my right to rescind my retirement. Thus, I do not want precedent to be established by the inappropriate action of the Memphis City Council or the Election Commission in moving forward with the special election in advance of my retirement.

Second, I have concerns that certain councilmembers may have acted inconsistent with state law or the City's Ethics Ordinance. In my opinion, any councilmember, having a potential benefit following a vote on the resolution declaring a vacancy in the Office of Mayor should have recused himself or herself. I cannot overlook the potential direct financial benefit that may ensure to the councilmember ascending to the position of Mayor Pro Tem. It is my belief that a member of the public could reason that a vote on a matter that triggers direct financial gain to a councilmember voting on a matter, should warrant that councilmember declaring a conflict, complying with state law or recusing himself or herself. Neither of the options was exercised.

Ultimately, I have not waived my right to rescind my retirement. Consequently, I believe that any action by the Memphis City Council and the Election Commission is premature.

Sincerely,

A handwritten signature in black ink, appearing to read "Willie W. Herenton".

Willie W. Herenton  
Mayor