

itself specifically provides for the appointee serving until his successor is appointed and qualified.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

1171.

MUNICIPAL CORPORATION—HOW CONFIRMATION OF APPOINTMENTS MADE BY MAYOR ARE CONSIDERED BY COUNCIL—RESOLUTION MUST BE TAKEN BY “YEAS” AND “NAYS” AND AFFIRMATIVE VOTE OF MAJORITY OF MEMBERS CONSTITUTING QUORUM NECESSARY TO CONFIRM—SEE SECTIONS 4224, 4237 AND 4384 G. C.

1. *The confirmation of appointments made by the mayor under section 4384 G. C. may be made by resolution of council, and the votes of the councilmen on the resolution must, by virtue of section 4224 G. C., be taken by “yeas” and “nays” and entered upon the journal.*

2. *A resolution of council confirming appointments made by the mayor under section 4384 G. C., must be adopted by the affirmative votes of a majority of the members constituting a quorum. See section 4237 G. C.*

COLUMBUS, OHIO, April 20, 1920.

The Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Your letter of recent date inquiring, first, whether the action of a municipal council in confirming the mayor's appointment of deputy marshals, etc., as provided for in section 4384 G. C., may be evidenced by resolution, or by a “yea” and “nay” vote only, and, second, as to the number of votes necessary to effect confirmation, was duly received.

(1) Section 4384 G. C. provides that:

“When provided for by council, and subject to its confirmation, the mayor shall appoint all deputy marshals, policemen, night watchmen and special policemen,” etc.

It is clearly apparent that confirmation necessarily requires, and is, action of council, and that being true the confirmation may be made by resolution, and the votes of the councilmen taken by “yeas” and “nays” and entered upon the journal. See section 4224 G. C., which provides that:

“The action of council shall be by ordinance or resolution, and on the passage of each ordinance or resolution the vote shall be taken by ‘yeas’ and ‘nays’ and entered upon the journal,” etc.

(2) There appears to be no statutory provision requiring that resolutions shall be passed by the votes of any particular number of members,—the nearest approach being section 4237 G. C., which provides that “a majority of all the members elected shall be a quorum to do business,” etc.

See, also, *State vs. Massillon*, 13 O. D. 292, (involving certain statutes since amended), which holds, in effect, that a majority of a quorum at a regular or

regularly called meeting is all that is necessary to transact business, in the absence of a statutory provision to the contrary.

You are advised, therefore, first, that the confirmation of appointments made by the mayor under section 4384 G. C. may be made by resolution of council, and votes of the councilmen on the resolution must, by virtue of section 4224 G. C., be taken by "yeas" and "nays" and entered upon the journal; and, second, that a resolution of council confirming appointments made by the mayor under section 4384 G. C., must be adopted by the affirmative votes of a majority of the members constituting a quorum. See section 4237 G. C.

Respectfully,

JOHN G. PRICE,
Attorney-General.

1172.

ROADS AND HIGHWAYS—WHEN COUNTY COMMISSIONERS ARE WITHOUT AUTHORITY TO REDUCE ROAD ASSESSMENTS MADE IN ACCORDANCE WITH SECTION 1214 G. C.

County commissioners, after having made and confirmed an assessment in accordance with section 1214 G. C. have no authority to reduce the amount apportioned to one or more of the persons affected by such assessment.

COLUMBUS, OHIO, April 20, 1920.

HON. LEWIS STOUT, *Prosecuting Attorney, Wapakoneta, Ohio.*

DEAR SIR:—You have made inquiry of this department as follows:

"Have the board of county commissioners authority to reduce a county or state road assessment without reassessing, that is, can they reduce an assessment and have the county bear the loss?"

In response to a request for additional information, you have written as follows:

"The road in question is an inter-county highway extending between St. Marys and Wapakoneta, this county, known as I. C. H. No. 165, Sections A-3, B-1, B-2; the assessments were made October 11th, 1919; bonds had been issued prior thereto.

What I want to know is,—have the commissioners the authority to cut down individual assessments without making an entire re-assessment over the whole road. That is, can they reduce the assessments against certain parties and let the county stand the reduction, or, would it be necessary, if they feel that certain of the assessments are too high, that the whole road assessments be reassessed?"

In connection with what you have stated, it has been found upon inquiry at the state highway department that the sections of road you mention were improved on the so-called "state aid" plan; hence what is said herein will have reference to the statutes relating to that plan. Furthermore, the matter of purely clerical errors will not be considered herein, since your inquiry does not concern that subject directly or indirectly.

So far as a search reveals, there is no statute in connection with state aid