

Opinion No. 16-1736

February 10, 1916

BY: FRANK W. CLANCY, Attorney General

TO: Mr. J. R. Hull, Clovis, New Mexico.

Five members attending a meeting of city council constitutes a quorum.

OPINION

{*307} I have just received your letter of the 8th instant in which you say that the city council of Clovis is composed of eight councilmen and the Mayor, and you ask whether five councilmen, one of whom acts as chairman of the meeting, constitute a quorum, all five voting upon the propositions brought before the council.

I do not find in the statutes any distinct provision on this subject, but Section 3584 vests the corporate authority of cities in a Mayor and board of aldermen, to be denominated "The City Council." It is, perhaps, not entirely clear from the wording of the statute, whether the board of aldermen is to be denominated "The City Council," or the combination of the mayor and the board of aldermen, but I do not think that this is important to an answer to your question as either way there can be no doubt that five aldermen constitute a quorum. A quorum is sufficient to do business, and a majority of that quorum is sufficient to carry any motion or resolution brought before the council. It is true that the statute says that the mayor shall be the presiding officer and shall vote only when there is a tie vote, but Section 3600 authorizes the members of the council to elect from their own body, a temporary president, and in the absence of the mayor, that temporary president would discharge the duties of a presiding officer.

I do not think it is important that all five should vote upon propositions brought before the council as long as the record shows the presence of the five and the vote of a majority of the five for or against any proposition.