



Filling Council Vacancies

City of Tacoma | City Attorney's Office

City Council Meeting/GPFC
November 6, 2018



OVERVIEW



- Background information on state and local laws related to filling vacant council positions.
- Policy and process issues.
- Samples from other cities.

BACKGROUND



- RCW 42.12.070 and City Charter Section 2.7 provides the legal authority to fill a vacant council position.
- “Vacant” means resignation, death, a move from the district or some other reason where the office is unfilled.
- Vacant does not mean an extended excused absence from office.

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BACKGROUND



- Under state and local law when a position is vacant the “remaining” councilmembers fill the vacancy.
- The departing member cannot vote on filling the vacancy, but can vote to fill an extended excused absence.
- There is no particular process that must be followed

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BACKGROUND



- What ever process is used, the remaining members vote and the candidate receiving the majority of the votes cast is appointed. RCW 42.12.070(1)
- If there are two or more positions vacate, the remaining members vote to fill one position and then the remaining remember plus the new member vote to fill another vacate position, and so on. RCW 42.12.070(2)

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BACKGROUND



- If less than two members of the Council remain in office, he county council shall appoint persons until the Council has two members. RCW 42.12.070(3)
- If the Council fails to fill the office within 90 days of the vacancy, the county council shall appoint the person, and if the county council fails to fill the vacancy within 180 days of the vacancy, the governor may appoint the person. RCW 42.12.070(4) and .070(5)

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BACKGROUND



- City Charter requires a faster timeline, the vacant office must be filled with 60 days of the vacancy, and if the Council fails to do so, the Mayor – subject to confirmation of the remaining members of the Council, shall make the appointment. Charter sec. 2.7.
- If Council and Mayor do not fill the vacancy then state law would apply (i.e. county council and governor).

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Policy and Process Issues



Process Issues

- The Council determines the process it wants to use.
- Law only mandates that vacancies be filled, does not mandate extended excused absences be filled.
- Council can advertise vacancies, take letters of interests, and require applications; however documents submitted will be public records subject to disclosure.

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Policy and Process Issues



- Council can require interviews, but if done as a quorum, must be done in an open public session. RCW 42.30.110(1)(h)
- Council can discuss the qualifications of potential appointees in either an open public session or during an executive session.
- Council must vote to fill vacancy only in a public meeting.

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Policy and Process Issues



Policy Issues

- What role should council committee(s) play?
- How should community feedback be obtained?
- How long should a vacancy advertisement be displayed prior to interviews and appointment?
- Can the City Clerk reject a late application?
- Should all applicants be interviewed? If so, by the whole Council or a committee?

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Policy and Process Issues



Policy Issues

- How long will applicant interviews last?
- How will the applicant's order of appearance be determined (e.g. random, alphabetical, etc.)?
- How will finalists be selected? *A quorum of the council must vote in public.*
- How will balloting take place?

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Policy and Process Issues



Policy Issues

- Should the council fill extended excused leaves of absences, if so, when and what process should be used?
- How will equity and inclusiveness be achieved in the appointment process and outcome?

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Samples



- City of Vancouver (see Policy and Procedure 100-38)
- City of Bothell (see City Council Protocol Manual section 10.02)
- City of Seattle (clerk's web site)