



Filling Council Vacancies

City of Tacoma | City Attorney's Office

City Council Study Session
January 15, 2019

OVERVIEW



- Background information on state and local laws related to filling vacant Council positions
- Policy and process issues
- Review proposed Council Rule to fill vacant Council positions
- Next Steps

● ● ● BACKGROUND



- RCW 42.12.070 and City Charter Section 2.7 provide 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
- Neither state nor local law mandates the specific process to be used

● ● ● BACKGROUND



- Under state and local law, when a position is vacant, the “remaining” Council members fill the vacancy
- The departing member cannot vote on filling the vacancy, but can vote to fill an extended excused absence
- 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)

● ● ● BACKGROUND



- The City Charter requires a faster timeline: the vacant office must be filled within 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.
- The Council has used an ad-hoc approach over the past decade
- Many cities have adopted a formal process, which is efficient, transparent, and provides consistency



Policy and Process 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?



Policy and Process 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?



Policy and Process 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?

Proposed Council Rule



Open Positions

- Proposed Council Rule differentiates between formally vacated positions and approved extended leaves of absence
- Vacant positions must be filled
- Openings created by an extended leave should be filled if the absence is 90 days or longer, but filling the position is at the discretion of the Council (*90 days is a policy decision*)

Proposed Council Rule



Process

- Per state and local law, a Council Member vacating a position cannot participate in the appointment process
- Council Members approved for an extended leave may, if able, participate in the appointment process
- When a notice of a vacancy or extended leave occurs, the City Manager is required to start the appointment process immediately

Proposed Council Rule



Process

- The Clerk posts the open position notice for two weeks in the newspaper and on the web (*two weeks is a policy decision*)
- Notice includes the requirements to apply, along with time to be served, and the interview and appointment schedule
- The Clerk will copy and circulate all applications received after the deadline to the Council
- The Clerk will reject and return applications submitted late

Proposed Council Rule



Process

- The Clerk will publish the meeting date in which the Council will interview the applicants
- If more than ten applicants, the Council will reduce the number in an open public meeting by having each Council Member select one applicant from the pool to be interviewed – with a maximum of nine applicants to be interviewed (*more than ten applicants limit is a policy decision*)

Proposed Council Rule



Interviews

- Interviews conducted in an open public meeting
- Interviews times are scheduled for eight minutes
 - Three minutes for applicant presentation
 - Five minutes for Council questions
- Applicant order determined by random drawing
(Eight minute interview time is a policy decision)

••• Proposed Council Rule



Narrow Down the Interview Pool to the Finalists

- The Mayor will ask Council Members to nominate finalist(s) from the interview pool, no second is required
- No pre-set number of finalist(s) is required under the proposed Council Rule (could be as many as nine, and as few as one)
- Once the finalist(s) are nominated, the Mayor will close nominations
- The Council will second the finalist list and vote to approve the list

Proposed Council Rule



Voting on the Appointment

- Finalists will be placed in alphabetical order based on last name
- The Clerk will call roll-call vote on the first applicant on the list, if that nominee receives a majority vote, then the nominee is new the Council Member
- If not, then the Clerk will call roll-call vote on the next applicant, and so on, until a nominee receives a majority vote

Proposed Council Rule



Voting on the Appointment

- At any time during the appointment process, the Council, by motion, second, and majority vote, can postpone the appointment process until another date
- At any time during the appointment process, the Council may go into Executive Session to discuss applicant qualifications

Proposed Council Rule



Voting on the Appointment

- Pursuant to City Charter, if the Council does not appoint a person to fill a VACANT position within 60 days, the Mayor can appoint, subject to Council confirmation
- Pursuant to state law, if the Council does not confirm the appointment within 90 days of the declared vacancy, then the power to appoint is delegated to the Pierce County Council

Proposed Council Rule



Voting on the Appointment

- For extended leaves of absence, there is no requirement that the open position be filled (*filling of an open position due to an extended leave of absence is a policy decision*)
- If the Council does not appoint an individual within 60 days of the beginning of the leave of absence, the Council may keep the position open until such time as it wants to fill it

Next Steps



- If acceptable, the proposed Council Rule will be placed on the Council agenda as an amendment to the Council Rules
- Amendments to Council Rules must be made by resolution, and require two readings of the Council



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