



MEMORANDUM

Date: July 6, 2009

To: Mayor Degginger and City Councilmembers

From: Steve Sarkozy, City Manager
Myrna Basich, Assistant City Manager/City Clerk

Subject: Process for Filling Vacancy on City Council

Attached is detailed background information on laws, procedures and time limits for filling the vacancy on the City Council resulting from Councilmember Noble's departure from the Council. As you will note, due to the timing of the current vacancy, the process for filling Councilmember Noble's unexpired term will differ from those used recently for filling Council vacancies. In this case, the Council will fill the vacancy through the certification of this fall's General Election ballot results, at which time the individual receiving the highest vote count for Position 7 at the General Election will be elected. A special filing period to seek candidates for the position to be placed on the General Election ballot will be scheduled in mid-August.

Per State law, the Council has 90 days to appoint a qualified person to serve the interim period before election certification. If Council does not make an appointment within 90 days, your appointment authority moves to the King County Council.

Since neither State law nor Council rules direct a process, the Council may determine the process used to fill the vacancy. Several options that Council has used previously are outlined in the attachment.

As a reminder, Council may go into Executive Session to evaluate the qualifications of candidates for appointment. Any interviews of candidates and final action appointing a candidate must be done in a meeting open to the public.

Council action to designate the process to be used and/or to make the appointment may be done by motion.

Laws, Procedures and Time Limits for Filling a Vacancy on the Bellevue City Council

June, 2009

Due to the timing of the current vacancy on the City Council for Position 7, the process for filling the vacancy will differ from what has been done in recent past since an election at which Councilmembers are to be elected is scheduled for November. In this case, Council will fill the vacancy on a temporary basis, and a new Councilmember will be elected at the General Election this fall. Following are the related state regulations for filling positions in this case:

How is the temporary vacancy filled? (RCW 42.12.070)

- The remaining Councilmembers shall appoint a qualified person to fill the temporary vacancy.
- If Council fails to appoint a qualified person within 90 days of the vacancy being created (i.e., September 19), its authority to appoint the replacement ceases.
- After 90 days, the King County Council shall appoint a qualified person.

What is the period of service of the appointed Councilmember? (RCW 42.12.070)

- The Council appointee serves until a qualified person is elected at the **next election at which a member of the City Council would normally be elected** that is 28 or more days after the vacancy occurs.

For vacancies in positions for which filings have not been held, a resignation prior to August 18, 2009 triggers filling the long-term vacancy at the General Election on November 3. The temporary appointee serves until the election is certified, at which point the newly elected Councilmember will be sworn in.

Certification of the General Election ballot results is scheduled to occur on November 24.

What is the period of service of the elected Councilmember? (RCW 42.12.070)

- The elected Councilmember will serve the duration of Councilmember Noble's unexpired term (through year-end 2011).

If filling a vacancy that occurred prior to August 18, how is filing for election handled? (RCW 29A.24.181)

- Filings for a nonpartisan office...shall be reopened for a period of three normal business days, such three-day period to be fixed by the election officer....

King County Elections has scheduled the 3-day filing period for Wednesday, August 19

through Friday, August 21 from 8:30 a.m. to 4:30 p.m.

- Any number of people can file for the unexpired term. There will be no Primary Election.
- To be eligible to file, candidates must have been a registered voter and a resident of the City for at least one year on election day.

Since a primary election cannot be held, how is the election determined? (RCW 42.12.070)

- The individual receiving the highest vote count at the General Election is elected and takes office immediately.

The newly elected Councilmember would be sworn in at the next regular Council meeting following certification of the election.

Other Election Factors

- The last day for candidates who filed during the earlier June filing period for Positions 2, 4, or 6 during to withdraw their candidacy was June 11, 2009.

King County Elections has determined that candidates who had previously filed may not file for this newly vacated position because the withdrawal date has passed, and RCW 29A.36.200 does not allow an individual to have his/her name on the ballot for more than one position.

What procedure is followed by the Council in making the temporary appointment?

- No procedure is prescribed by state law, Council Rules, or Robert's Rules of Order; therefore Council can establish its own process.
- On past occasions the Council has used several different processes:
 1. Appointment of a former Councilmember. This was the method used in 2000 when filling the remainder of Councilmember Smith's term.
 2. Solicit interest from former Councilmembers and make an appointment. This was the method used in 1998 when filling the remainder of Councilmember Zumdieck's term.
 3. Seek applications from citizens, conduct interviews, and make an appointment. This was the process used during 2008 to fill the remainder of Councilmember Marshall's term.
 4. Appointment of a citizen. This was the method used in 1974.
- The Council may go into executive session to evaluate the qualifications of a candidate for appointment to elective office (RCW 42.30.110(1)(h))
- Any interview of candidates by the Council and final action appointing a candidate must be in a meeting open to the public.