



Legislation Text

---

File #: 24-417, Version: 1

---

## CITY COUNCIL AGENDA ITEM

Memo Date: July 22, 2024  
Agenda Date: July 23, 2024  
Prepared By: Stockton Whitten, City Manager  
Through:  
Requested Action:

Approve Resolution No. 2024-069 recognizing the resignation of Councilman Matthew Barringer and declaring a vacancy in Seat 3 of the City Council effective July 31, 2024. Take whatever action the City Council deems legally necessary to fill the Seat (District) 3 vacancy on the City Council pursuant to Article III, Section 10 (a) of the City Charter.

### **BACKGROUND:**

Councilman Mathew Barringer has announced his resignation of Seat (District) 3 effective July 31, 2024.

City Charter, Article III, Section 10 (a) states that *“A vacancy in a councilmember's office shall occur upon the death, resignation, removal from office as authorized by law, or forfeiture of office of the councilmember. In the event of such a vacancy, it shall be the duty of the remaining members, absent the councilmember that created the vacancy, at either of the next two regular meetings following the creation of such vacancy, to select a duly qualified citizen to fill said vacancy until the next general election; except that no such appointment shall be made during the period between any election and the time the newly elected councilmembers are seated. Appointment of such person shall be by the affirmative vote of three (3) councilmembers.”*

As such, the City Council has a “duty” to attempt to fill the vacancy, by majority vote of at least 3 of the remaining City Councilmembers, at either of the next two regular Council meetings. The next two regular City Council meetings are scheduled for August 13, and August 27, 2024.

Given that the vacancy is related to Seat (District) 3, any person appointed to fill the vacancy must meet all of the qualifications for Seat 3 in order to serve on the City. Specifically, pursuant to Article III, Section 1 of the City Charter, that person *“shall have been domiciled within the district ... for at least one year prior to the date of qualification for office and shall have the qualifications of a city elector and shall be domiciled within the district during their term as councilmember.”*

Any person appointed by the City Council to serve in Seat 3 will serve the remaining balance of the existing four (4) year term which will expire at the general election held in November of 2024.

At this time, the City Council is working under a tight time frame per the City Charter. Generally, the City Council has the following two options for appointing a duly qualified person to fill the vacancy

and serve as a Seat 3 City Councilmember:

1. The City Council can take a less structured approach and leave it up to each City Councilmember to nominate one or more duly qualified persons for consideration by the City Council. Again, the nominations must occur at either the August 13<sup>th</sup> or August 27<sup>th</sup>, 2024 meeting, or
2. The City Council can take a more structured approach and require that a public notice be published in various places advising interested candidates to file an application for serving in the District 3 seat by 12:00 P.M., Tuesday, August 6, 2024. Candidate application packages that are timely submitted to the Office of the City Clerk will be reviewed to determine whether the person is qualified to serve in Seat 3.

Any appointment of a qualified person made by the City Council to fill the vacancy will be effective immediately upon acceptance by the person and upon the candidate taking the oath of office.

However, City Charter, Article III, Section 10 (b) also provides that if the council fails to fill the vacancy by the conclusion of the second regular meeting following the creation of such vacancy, the city clerk is required to schedule a special election pursuant to Article XVII, Section 5 of the City Charter, to fill the vacancy for the balance of the unexpired term

Here, however, a separate special election is not required because the November 5, 2024, general election is only 97 days away from the vacancy's effective date of July 31, 2024. Thus, assuming the council had to schedule a special election, Article XVII, Section 5 provides that when a regular municipal election "is scheduled to be held within 100 days of the creation of such vacancy, ... [then] ... the special election shall be held on the same day as the regular municipal election." Therefore, the Charter would require the unexpired term to be filled by a qualified candidate on November 5, 2024. In this case though, District 3 is already scheduled for a general election for a new 4-year council term. As such, there is an intervening general election already scheduled within 100 days for District 3 and no special election will be required if the council is unable to make an appointment because the District 3 seat will be filled in accordance with its normal election schedule per City Charter.

Accordingly, if Council is unable to make an appointment of a qualified candidate to serve the remaining balance of the District 3 term for approximately 3-months, the District 3 seat will just remain vacant until filled by the voters at the general election scheduled on November 4, 2024.

**STRATEGIC PLAN CONNECTION:**

N/A

**BUDGETARY IMPACT:**

N/A

**PREVIOUS ACTION:**

N/A

**RECOMMENDED MOTION:**

Approve Resolution No. 2024-069 recognizing the resignation of Councilman Matthew Barringer and declaring a vacancy in Seat 3 of the City Council effective July 31, 2024. Take whatever action the City Council deems legally necessary to fill the Seat (District) 3 vacancy on the City Council pursuant to Article III, Section 10 (a) of the City Charter.