
TOWN ATTORNEY MEMORANDUM

TO: Mayor and Council
FROM: Andrew M. Miller, Town Attorney
SUBJECT: Procedure for Filling Vacancy in Council Office
DATE: June 8, 2000 Council Work Study Session

Timing for Filling the Vacancy

There is no indication in the state statutes or the Town Code as to how soon a vacancy in the Council must be filled, thus it would seem to be at the discretion of the Council as to how soon it would fill the vacancy. The last time a vacancy existed on the Town Council (resulting from Councilperson Phyllis Sears moving out of the Town), the process of filling the vacancy took at least a couple of months.

Procedures for Filling the Vacancy

As I noted in a memo on a similar topic two weeks ago, even though the Town Code states that the Council must appoint a successor to fill a vacant seat on the Council, the code is silent as to the procedures to be used to make the appointment. Additionally, the state statutes fail to specify any procedures as well.

Because of the lack of formal procedures being spelled out in the statutes or the Code, it is up to the Council's discretion as to the procedures for filling a vacancy. I have attached copies of prior memos discussing some of the different options that have been used by other communities (see memo from Cathy Connolly of the League of Cities) and as to how the last vacancy on the Council in Paradise Valley was filled (see my memo of May 25, 2000). These options include:

- Advertising for qualified residents interested in the appointment to submit background information and to then have a committee of the Council review and make a recommendation or for the Council as a whole to do the review process
- Use a process similar to the one listed above, but have the interviews and discussions on who to select be done in an executive session, with the formal appointment to occur at an open meeting (procedure used by the Council in 1996)
- Simply filling by appointing a "natural" candidate, e.g., a person who just lost a recent election or who has served the Town in a distinguished manner in the past
- Just appointing someone the Council thinks would be a good addition without going through any selection process
- Have no before-selection review process and have Councilpersons separately make multiple nominations of qualified residents and use a ballot of the Council to decide

These are only some of the many procedures that might be used to fill the vacant seat and there may be other methods available that I have not identified. Again, it is the Council's discretion as to which method of filling the vacancy it chooses. To effectively assist Council in whichever method it chooses to use, Staff will need some guidance as to what we may do to help the process.

Because there is no time requirement as to how soon the appointment must be made, a decision need not be made at the study session on June 8 as to what the exact process should be, and it may be appropriate for the Council to mull over the different options until its next meeting and schedule this matter as an action item if necessary.

Enclosures: E-mail memo from Cathy Connolly
May 25 Memo Regarding Appointment Process Used Previously by the Town