



City of Homer

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Memorandum 21-037

TO: Mayor Castner and Homer City Council
FROM: Rob Dumouchel, City Manager
DATE: February 3, 2021
SUBJECT: Update to Council Operating Manual Regarding Council Vacancies

Councilmember Evensen contacted my office with a concern related to a lack of clarity regarding the process required when replacing Councilmembers who vacate their seats on the City Council. He has worked with my office to try to find a solution which ensures a process which is logical and encourages public participation is used to fill any vacancy. In consultation with the City Attorney, the suggestion is that Council adopt a change to the Council Operating Manual which requires the Council to advertise for applicants and interview those in which the Council has an interest.

The suggested modification to the Council Operating Manual reads as follows:

COUNCIL VACANCY

Title 29 and HCC 2.08.050 delegate responsibility for the appointment to a vacated Council seat exclusively to the City Council. Upon the Council's acceptance of a vacancy the City Clerk shall prepare an advertisement soliciting applications for candidates for appointment to the vacated seat to be submitted within a time certain. Applications, which are a public record, shall be submitted on a form approved by Council who shall schedule interviews of the candidates. Upon conclusion of the interviews Council shall appoint in its sole discretion the candidate to fill the vacated seat.

Regarding the interviews discussed in the draft language above, the intent is that those interested in filling a Council vacancy be asked to participate in a public interview where all those interviewed respond to the same series of questions. This is an opportunity for both the Council and the public to hear directly from those looking to serve a truncated term in a vacated seat.

For reference, the power of appointment to a vacated seat is exclusively delegated to the Council under Alaska Statutes 29.20.180 and Homer City Code 2.08.050. Both code sections are provided below:

AS § 29.20.180

(a) If a vacancy occurs in a governing body, the remaining members shall, within 30 days unless a different period is provided by ordinance, appoint a qualified person to fill the vacancy. If less than 30 days remain in a term, a vacancy may not be filled.

(b) Notwithstanding (a) of this section, if the membership is reduced to fewer than the number required to constitute a

HCC § 2.08.050

a. If a vacancy occurs in the City Council the remaining members shall, within 30 days, appoint a qualified person to fill the vacancy. If less than 30 days remain in a term, a vacancy may not be filled.

b. Notwithstanding subsection (a) of this section, if the membership is reduced to fewer than the number required to constitute a quorum, the remaining members shall, within seven

<p>quorum, the remaining members shall, within seven days, appoint a number of qualified persons to constitute a quorum.</p> <p>(c) A person appointed under this section serves until the next regular election, when a successor shall be elected to serve the balance of the term.</p>	<p>days, appoint a number of qualified persons to constitute a quorum.</p> <p>c. A simple majority, not a quorum, vote of the remaining Council members is required to select and appoint persons to fill Council vacancies.</p> <p>d. A person appointed under this section serves until the next regular election, when a successor shall be elected to serve the balance of the term.</p> <p>e. A vacancy in the office of Mayor occurring within six months before a regular election shall be filled by the Council. The person appointed serves until the next regular election when a successor is elected to serve the balance of the term. If a member of the Council is appointed Mayor, the member shall resign the seat on the Council. If a vacancy occurs more than six months before a regular election, the governing body shall call a special election to fill the unexpired term.</p>
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Staff recommendation: Pass a resolution amending the Council Operating Manual to include a section on filling Council vacancies.