

November 23, 2022

To: Honorable Mayor Hall and Members of the City Council
From: Cindie K. McMahon, City Attorney
Subject: City Council Vacancies

Carlsbad Municipal Code Section 2.04.110 establishes the procedures for vacancies in the offices of elected officials in the City of Carlsbad. The following is a summary of that code section as it relates to a City Council member who forfeits office by accepting another elective public office.

- Vacancy by forfeiture takes effect on the date the City Council member is sworn into the other office. (CMC 2.04.110(A)(3)(b).)
- The City Council must declare the existence of the vacancy or anticipated vacancy as soon as practicable. (CMC 2.04.110(A)(3).)
- If the vacancy is declared with more than one year, but less than 25 months remaining in the term, the City Council may appoint a person to fill the vacancy or call a special election to fill the vacancy. (CMC 2.04.110(D)(1).)
- The City Council must determine whether to fill the vacancy by appointment or by special election within 14 days of the declaration of vacancy. (CMC 2.04.110(D)(2).)
- If the City Council decides to fill the vacancy by special election:
 - The special election would occur on the next regularly established election date not less than 114 days after the declaration of vacancy, which would be November 7, 2023 for vacancies declared after November 13, 2022. (CMC 2.04.110(C); Elec. Code, § 1000(b), (e).)
- If the City Council decides to fill the vacancy by appointment:
 - The City Council has 45 days from the date of the declaration of vacancy to make the appointment. (CMC 2.04.110(B)(1) & (D)(3).)
 - The person selected to fill the vacancy must meet the eligibility requirements for the office. (CMC 2.04.110(B)(1).)
 - To represent a council district, a person must reside in the district and be a registered voter in the district. (CMC 2.04.040(A) and CMC 2.04.070(C).)



City Attorney

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- For District 2, the applicable district boundaries are those from which the vacating council member was elected, not the district boundaries recently approved by the Independent Redistricting Commission. For District 2, the district boundaries approved by the Independent Redistricting Commission do not take effect until the November 2024 election. (CMC 2.04.070(A)(1)(b) & Figure B.)
- The appointee would hold the office until a successor is elected. (CMC 2.04.110(B)(4).)
- The appointee would be ineligible to seek election for the same office until one year after the appointment ends. (CMC 2.04.110(B)(4).)
- If the City Council is unable to make an appointment within 45 days of the declaration of vacancy, then the City Council must call a special election (see timing of the election above). (CMC 2.04.110(D)(3).)

Once Mayor Pro Tem Blackburn is sworn into office as Mayor, creating a District 2 vacancy, staff will place an item on the next available City Council meeting agenda, which is January 10, 2023, to discuss the vacancy. Assuming the City Council declares the existence of the vacancy at that meeting, the City Council would need to decide how to fill the vacancy by January 24, 2023. If the City Council opts to fill the seat by appointment, the City Council would have until February 24, 2023 (45 days from the declaration of vacancy), to make the appointment or the seat would need to be placed on the ballot for a November 7, 2023, special election.

cc: Council Member Elect – District 1
City Manager
Assistant City Manager
Director of Communications & Engagement
Director of Legislative & Constituent Services
City Clerk Services Manager