

July 9, 2021

To: MAYOR AND CITY COUNCIL

From: CITY ATTORNEY

Subject: CITY COUNCIL VACANCIES

Carlsbad Municipal Code section 2.04.110, which was amended by the City Council on February 23, 2021, 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 the resignation of a City Council member.

- Vacancy by resignation takes effect on the date specified in the letter of resignation or the date upon which the letter is delivered to the City Clerk. (CMC 2.04.110(A)(3)(a).)
- 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 April 12, 2022, for vacancies declared after July 11, 2021. (CMC 2.04.110(C); Elec. Code § 1000(c), (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) & (C)(3).)
 - The person selected to fill the vacancy must meet the eligibility requirements for the office: (CMC 2.04.110(B)(1).)



City Attorney

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- To represent a council district, a person must reside in the district and be a registered voter in that district. (CMC 2.04.040(A) and CMC 2.04.070(C).)
- The resigning City Council member may not vote on the appointment. (CMC 2.04.110(B)(3).)
- 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 election above). (CMC 2.04.110(D)(3).)

Councilmember Schumacher's letter of resignation specifies that her resignation is effective immediately. This matter will be placed on the next available City Council meeting agenda, which is July 20, 2021. 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 August 3, 2021. If the City Council opts to fill the seat by appointment, the City Council would have until September 3, 2021, to make that appointment or the seat would need to be placed on the April 12, 2022 election. As part of the recent City Council amendments to this code section, an appointee would be unable to seek election to the seat until one year after the appointment ends.

Very truly yours,
/s/ Celia A. Brewer
Celia A. Brewer
CITY ATTORNEY

cc: City Manager
City Clerk