

MEMORANDUM

Date: June 15, 2017

To: Muscatine City Council

From: Gregg Mandsager, City Administrator

Re: Mayoral Vacancy

Following a vacancy, the first step is for the Council to decide whether to fill the vacancy by appointment or by calling for a special election. We have worked with City Attorney Brick to provide the following summary and decision points. Please note that there is no provision that simply allows the Mayor Pro Tem to fill in through the remainder of the year.

If the Council decides to appoint a person to fill the position, they must publish notice of its intention to appoint at least 4 but no more than 20 days before the appointment is scheduled to occur. The publication must also notify residents of the right to request a special election by filing a petition. The publication must occur once and must be published in a newspaper of general circulation in the City.

The Council has 60 days to make an appointment (July 10th). If the city council fails to appoint a replacement within 60 days or chooses to hold a special election, the city clerk then provides notice of the vacancy to the county auditor and the county auditor may then call an election "at the earliest practicable date" but no sooner than 32 days after the notice from the city clerk was received. Please note that the appointment expires following the November General Election.

If the Council fills the vacancy by appointment, then after the City publishes notice of the appointment, residents have 14 days from that date to petition the City for a special election and 14 days after an appointment is made to file a petition for special election. The petition needs to have signatures equal to 15% of the total number of votes cast in the prior election for the particular office that is vacant. In this case, 1,527 people voted for office of mayor in 2015, so the petition would need 229 valid signatures.

Please note, that it is our understanding that the former Mayor may not be eligible to run in a special election as the removal was for the remainder of the term which expires at the end of the year. However, the former Mayor would be eligible to run in the general election in November.

If the required number of residents petition for a special election within the 14 day period, the election is required to occur "as soon as practicable," but it cannot occur less than 32 days after notice to the county commissioner. While the code states that the City can select the date of the special election so long as it is more than 32 days after notice was given, county auditors have discretion to interpret the absolute drop dead

date for a special election and how close to the general election is “too close” to hold a special election. For example, it is our understanding that some county auditors will not hold a special election that is within three months of a general election.

Dates to remember:

- July 10, 2017: Last day an appointment can be made.
- July 6, 2017: Last regular meeting prior to the July 10th deadline.
- July 1, 2017: Publication deadline.

Questions:

- Does the Council wish to hold a special election?
- Does the Council wish to appoint a Mayor?
 - If so, do you wish to take applications?
 - If so, do you wish for the council as a whole to review the candidates, have the Nominating Committee review applications and make a recommendation to Council, or use some other process?