




THOMAS J. TRASK, B.C.S.*
JAY DAIGNEAULT, B.C.S.*
ERICA F. AUGELLO, B.C.S.*
RANDY D. MORA, B.C.S.*
ROBERT ESCHENFELDER, B.C.S.*
NANCY S. MEYER, B.C.S.*
JEREMY SIMON
MEGAN R. HAMISEVICZ

** Board Certified by the Florida Bar in
City, County and Local Government Law*

MEMORANDUM

TO: Mayor Dan Saracki
Vice Mayor Andrew Knapp
Council Member Steve Graber
Council Member Jarrod Buchman
Council Member Katie Gannon
Felicia Donnelly, City Manager

CC: Kristin Garcia, City Clerk

FROM: Thomas J. Trask, Esq., City Attorney 

DATE: December 20, 2023

RE: Process for Appointment of Council Member

This memorandum is being sent as a follow-up to my brief discussion at the Council meeting on December 19, 2023 regarding the need to fill the vacancy on the City Council after having received Council Member Jarrod Buchman's resignation. Section 3.07 of the City of Oldsmar's Charter provides:

Section 3.07. Vacancies; forfeitures of office; filling of vacancies.

- (a) Vacancies. The office of councilmember or mayor shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law or forfeiture of his/her office; such forfeiture to be declared by the remaining members of the council.
- (b) Forfeiture of office. A member of the council shall forfeit his/her office if he/she:
 - (1) Lacks at any time during the term of his/her office any qualifications for the office prescribed by this charter or by law.
 - (2) Is convicted of a felony or a crime involving conduct contrary to justice, honesty or good morals.

- (3) Fails to attend three (3) consecutive meetings of the council, unless such absence is excused by the council. Work sessions are included. All special meetings are excluded.
- (4) Fails to attend six (6) meetings of the council during a twelve-month period. Work sessions are included. All special meetings are excluded.
- (5) Gives orders or directions to any city employee, either publicly or privately.

The council shall be the judge of the grounds for forfeiture of their office. A councilmember charged with conduct constituting grounds for forfeiture of his/her office shall be entitled to a public hearing on demand and official notice of such hearing shall be published in a newspaper of general circulation in the city at least two (2) weeks in advance of the hearing.

- (c) Filling of vacancies. A vacancy in the council shall be filled by majority vote of the remaining members of the council within thirty (30) days of the vacancy, and the person so appointed shall serve as councilmember or mayor until the next regular election. Any person appointed to fill such vacancy shall possess all the qualifications required of a councilmember or mayor by this charter and by law. At the next regular calendar election a special ballot shall be voted upon to elect a councilmember or mayor to serve any remainder of the unexpired term of the office filled by vote of the council.

Notwithstanding any quorum requirements established herein, if at any time the membership of the council is reduced to less than a quorum, the remaining members shall by majority vote, appoint additional members to fill all vacant seats. If the next regular election is more than three hundred sixty-five (365) days away, a special election shall be scheduled to be held not sooner than one hundred twenty (120) days nor more than one hundred eighty (180) days following the occurrence of the vacancies.

Extraordinary vacancies: In the event that all members of the council are removed by death, disability, law or forfeiture of office, the governor shall appoint an interim council that shall call a special election as provided in [subsection] (c) above.

Because the Charter provides that a vacancy on the City Council shall be filled by a majority vote of the remaining members of the Council within thirty (30) days of the vacancy, the City Council will be required to complete that process by January 29, 2024. The City Council meetings in January are on January 2 and January 16. It is my recommendation that the January 2 Council Agenda include the following Agenda item:

Discuss process for appointment of Council Member to fill vacant Council seat.

I have prepared the attached City Council Vacancy Application for your consideration and approval. It is my recommendation that the Application be made available on January 2 and that

applications be submitted to the Office of the City Clerk no later than 4:00 p.m. on January 9, 2024. Each applicant must meet the qualifications to become a Council Member pursuant to City Charter. It is my recommendation that the applications be considered at the January 16 City Council meeting. Therefore, I would request that the following Agenda item be included on the January 16, 2024 Council Agenda:

Review applications for City Council vacancy and appoint Council member to fill the vacancy until special election is held.

I would recommend the following procedure be used for this Agenda item on January 16:

1. Five (5) minute introduction by each applicant (alphabetical order).
2. Ten (10) minute question and answer period for each applicant by Council members.
3. Three (3) minute follow-up comments by the applicants.
4. When the question/answer sessions for all of the applicants have been completed, the Mayor will open the floor for public comments (5 minute time limit per speaker). **Only comments will be received regarding the applicants. The public will not be allowed to question the applicants.**
5. Council will consider motion to appoint an applicant.
6. The applicant that has been chosen will be sworn in by the City Clerk.

The person that is appointed shall fill the seat until the special election is held. The special election will take place sometime between April 28, 2024 and June 27, 2024, pursuant to the Charter. More information on that will follow after the first of the year.

Attachment: City Council Vacancy Application