

**MEMORANDUM**

TO: Town Council  
FROM: Kevin Foy, Mayor  
SUBJECT: Council Vacancy  
DATE: September 4, 2009

**PURPOSE AND BACKGROUND**

The purpose of this memorandum is to begin the process of filling the vacancy on the Town Council as a result of the resignation of Bill Strom on August 1, 2009.

The Town Charter (Sec. 2.3) provides that this vacancy shall be filled by appointment of the Town Council. Pursuant to this Charter provision, the Council has adopted a process in Article II, Chapter 2 of the Town Code for the filling of the vacancy.

**DISCUSSION**

In accordance with Section 2-25 of the Town of Chapel Hill Code of Ordinances it is my responsibility to announce at this meeting the vacancy on the Chapel Hill Town Council created due to the resignation of Council Member Strom.

Section 2-25 of the Town Code further provides that the Council shall at this meeting set a deadline for applications for the vacant seat. The deadline for applications shall be no less than seven days and no more than thirty days after publication of a notice of the vacancy. Notice of the vacancy will be published within the next seven days.

There is no official form for applications. Under Sec. 2-26 of the Town Code, applications are required to include the name, residence address and signature of the applicant. (Thus, the code would indicate that an original application (e.g. letter) and signature and not a fax or email transmission would be required by the application deadline established by the Council.) Additional information supporting the application may also be included.

I recommend that the Council set a date of October 2, 2009, as the deadline for applications to be filed. This would allow the applications to be distributed with the Council's agenda for the business meeting on October 12th. (The Town code (Sec. 2-28) requires that this matter be considered at each meeting after the October 2 deadline. Thus, the matter will be placed on the agenda for each meeting. However, I am recommending that the Council choose to defer action until it hears applicant presentations on November 9) Section 2-27 of the Town code provides that the Council shall review the applications and make nominations at that meeting. All

nominations under this article shall be made only from applications received by the application deadline and only those who have submitted an application prior to the application deadline can be considered for appointment. At a subsequent regular or special meeting at least six days after the October 12th meeting, the Council may make additional nominations and may make an appointment.

When vacancies have occurred on the Council in the recent past, the Council has invited applicants to attend a Council meeting and make a brief presentation. If the Council desires to use this procedure for this vacancy, candidates could be invited to attend and make presentations at the Business Meeting on November 9th. I would recommend that whenever held, the candidate presentations be at a meeting which is on cable television.

### **RECOMMENDATION**

I recommend that the Council adopt the attached resolution setting an October 2 deadline for the submittal of applications for the vacant seat on the Town Council and inviting applicants to attend the Business meeting on November 9th and make brief remarks regarding their interests in serving on the Town Council.

I propose the following schedule:

September 4: vacancy announced and applications accepted

October 2: deadline for applications to be filed

October 12: Council Business Meeting to review applications and make nominations.

November 9: Applicants will have an opportunity to make brief remarks regarding their interests in serving on the Town Council and Council may make an appointment that evening.

A copy of Article II of Chapter 2 of the Town Code is attached.

**A RESOLUTION SETTING A DEADLINE FOR SUBMITTAL OF APPLICATIONS  
FOR A VACANT SEAT ON THE CHAPEL HILL TOWN COUNCIL AND INVITING  
APPLICANTS TO ATTEND THE BUSINESS MEETING ON NOVEMBER 9, 2009  
(2009-09-04/R-1)**

BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF CHAPEL HILL that the Council sets October 2, 2009 as the deadline for filing applications by persons seeking to be appointed to the vacant seat on the Chapel Hill Town Council.

BE IT FURTHER RESOLVED that applicants for the vacant seat are invited to attend the Town Council business meeting on November 9, 2009 and to make brief remarks regarding their interest in serving on the Town Council.

This the 4<sup>th</sup> day of September, 2009.

## **CHAPEL HILL CODE OF ORDINANCES**

### **CHAPTER 2, ARTICLE II. APPOINTMENTS TO VACANCIES**

#### **Sec. 2-23. Applicability.**

This article shall govern the filling of vacancies in the offices of mayor and town council members.

(Ord. No. 86-2-24/0-4a, § 1)

#### **Sec. 2-24. Provisions pursuant to the charter and general statutes.**

A vacancy in the council which occurs in the first year of a four-year term of office, or during the portion of the second year which ends on the third day before the end of the filing period for that office as provided by the General Statutes, shall be filled by appointment of the town council only until the next general election, at which time the candidate receiving the fifth highest number of votes (and, if necessary, the sixth, seventh and eighth highest number) shall be declared elected for the remainder of the unexpired term. A vacancy occurring at any other time shall be filled for the remainder of the term.

A vacancy in the office of mayor shall be filled for the remainder of the term.

If the number of vacancies is such that a quorum of the council cannot be obtained, the mayor shall appoint enough members to make up a quorum and the council shall fill the remaining vacancies; and, if the office of mayor is also vacant, the governor may fill the vacancies, as provided by North Carolina General Statute Section 160A-63.

(Ord. No. 86-2-24/O-49, § 1; Ord. No. 95-9-11/O-4, § 1)

#### **Sec. 2-25. Announcement of vacancy; publication of notice.**

When a vacancy occurs, the mayor shall announce the vacancy at the next regular or special meeting of the council. The council shall at the same meeting set a deadline for applications for the vacant seat, which deadline shall be no less than seven (7) days and no more than thirty (30) days after publication of a notice of the vacancy. The mayor shall direct the clerk to have the notice of the vacancy published in a newspaper of general circulation by the seventh day after the date on which the mayor announced the vacancy. If the office of the mayor is vacant, the mayor protempore shall perform the duties of the mayor under this section.

The notice of a vacant office shall invite residents who are registered voters and otherwise qualified to hold the office to file an application with the town clerk by the deadline set by the council. If the mayor fills the vacancies under North Carolina General Statute Section 160A-63 because a quorum of the council cannot be obtained, the mayor shall determine an application deadline which shall be no less than seven (7) and no more than thirty (30) days after publication of the notice of vacancy.

(Ord. No. 86-2-24/O-49, § 1)

#### **Sec. 2-26. Applications.**

Applications for a vacancy shall include the name, residence address, and signature of the applicant. The applicant may include information in support of the application if the applicant

wishes. The application may but need not be on a form provided by the town clerk. Applications shall be submitted to the clerk's office.

(Ord. No. 86-2-24/O-4a, § 1)

Sec. 2-27. Consideration of applications; nominations.

Promptly after the deadline for applications, the mayor shall cause copies of the applications to be distributed to the council.

At the next regular meeting of the council, or at a special meeting which may be called at the discretion of the council, the council shall review the applications and council members may make nominations. All nominations under this article shall be made only from applications received by the application deadline.

(Ord. No. 86-2-24/O-4a, § 1)

Sec. 2-28. Appointments.

At the next regular meeting or at a special meeting which shall be at least six (6) days after the meeting at which nominations may have been made as provided in section 2-27, the council may make additional nominations and may make an appointment to fill the vacancy. If the council does not make the appointment at such a meeting, the council shall make nominations and vote on the appointment at each subsequent meeting, whether regular or special, in which the appointment may be made under the council's rules of procedure.

(Ord. No. 86-2-24/O-4a, § 1)

Secs. 2-29--2-48. Reserved.