



## CITY OF KIRKLAND

City Manager's Office

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### MEMORANDUM

**To:** Kirkland City Council

**From:** Kurt Triplett, City Manager  
Robin S. Jenkinson, City Attorney

**Date:** March 28, 2013

**Subject:** FILLING THE POSITION NO. 2 VACANCY ON THE CITY COUNCIL

#### **RECOMMENDATION:**

City Council considers the process by which the vacancy for Position No. 2 on the City Council will be filled and provides direction to staff regarding the process and timelines the Council selects.

#### **BACKGROUND DISCUSSION:**

Council Member Bob Sternoff submitted his resignation from Position No. 2 on the City Council on Monday, March 25, 2013. This memorandum provides information about the process by which the vacancy could be filled.

#### **State Law**

There is no established procedure for selecting a person to fill such a vacancy. RCW 42.12.070 provides that when a position becomes vacant, the remaining members of the City Council appoint a "qualified" person to fill the position.<sup>1</sup> If the Council fails to appoint a person to fill a vacancy within 90 days of the occurrence of the vacancy, the Council's authority to fill the vacancy ceases and the King County Council would appoint a person to fill the vacancy.

Just as the law does not require any particular process to fill the vacancy, there are no notice or advertising procedures to be followed. The method for filling vacancies is a policy decision for the Council. When there have been vacancies on the Kirkland City Council in the past (the most recent being 2005), the Council has either conducted a public application process similar to what is done for filling vacancies on Kirkland Boards and Commissions, or simply taken nominations from the remaining members of the Council.

The Mayor and Deputy Mayor met with the City Manager to discuss filling the vacancy and recommend that the position be filled at the April 16, 2013 Council meeting. Should the Council concur with this recommendation, two options based on past Council practice follow.

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<sup>1</sup>"Qualified" as used in the statute means an individual must be a registered voter of the City of Kirkland and must have been a resident of the City for at least one year.

## City Council Options to Fill Vacancy by April 16

Option 1: The City Council may decide to fill the vacancy by accepting nominations from the Council. The simplest way to implement this option is to allow each Councilmember to nominate one candidate for consideration. Not all Councilmembers would need to submit a nomination under this scenario. The Council could request that completed application forms or resumes be provided by the nominees to be used in conjunction with interviews to be conducted by the Council, but there is no requirement for applications or that interviews take place. Staff suggests that Council nominations be provided to the City Clerk by 5:00 p.m., Tuesday, April 9, 2013. The Clerk would verify the qualifications of the nominations and then Council would hold a special meeting on Monday, April 15<sup>th</sup> to review the nominations and decide which nominees to schedule for an interview on Tuesday, April 16<sup>th</sup>. As discussed below, if the Council decided to interview the nominees, the interviews would need to be conducted at an open public meeting.<sup>2</sup>

Option 2: Should the Council decide to advertise and solicit applicants for the vacant position, a process is outlined below for the Council's consideration. This is not intended to suggest the only logical path or timeline, but simply to aid the Council's discussion.

- The City advertises the vacant position on Wednesday, April 3, 2013. Interested and eligible individuals would be invited to submit an application (which would be available to download from a City webpage or pickup at City Hall.) The City Clerk will prepare an application form. Completed applications would be required to be filed with the City Clerk by 5:00 p.m., Tuesday, April 9, 2013.
- The City Clerk confirms, with King County Elections, that the applicants are residents of the City and registered voters. The Clerk distributes the applications to the City Council on Wednesday, April 10, 2013.
- On Monday, April 15, 2013, the City Council holds a special meeting to review the applications and determine which applicants to schedule for interview.
- The City Clerk invites the candidates chosen by the City Council for interviews to be conducted on Tuesday, April 16, 2013 as outlined below.
- Staff prepares interview questions for Council consideration to be provided at the April 15 special meeting. Council could also decide to give each candidate time to make a brief presentation before their interview begins.
- The City Council interviews the candidates at a special meeting to be held instead of the regular Council Study Session on Tuesday, April 16, 2013, preferably with an earlier start time. Candidates could be sequestered while waiting for their turn to be interviewed.
- The Council could convene an executive session at the conclusion of the interviews to consider the qualifications of the candidates to fill the vacancy. (See discussion below about Open Public Meetings Act.)

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<sup>2</sup> RCW 42.30.110(1)(h).

- At the regular Council Meeting on April 16, 2013, the Mayor would open nominations to fill the vacancy. After the nominations are closed, the Council would vote on each nominee, in the order in which they were nominated. When a nominee receives four votes, the voting would be over and the appointment to fill the vacancy made.
- Once the appointment is made, the City Clerk can administer the Oath of Office and the new Councilmember is then seated at the dais and has all powers, duties, rights and obligations as the other Councilmembers.

### **Open Public Meetings Act**

The Open Public Meetings Act requires that "action" of the City Council take place at an open public meeting. Any interview of candidates for appointment to an elective office must be conducted at an open public meeting.<sup>3</sup> While the Council may meet in executive session to discuss the candidates' qualifications, no vote or poll may be taken while the Council is in executive session. Final action appointing a candidate to Position No. 2 must take place in a meeting open to the public.

### **Term of Appointment**

The person appointed to fill Position No. 2 will serve from the date that the person is sworn-in until November 2013. In accordance with state law, the City must hold an election to fill Position No. 2 at the November 2013 election. The person elected to fill the position will take office as soon as the election results are certified and serve for the remainder of the unexpired term which ends December 31, 2015.<sup>4</sup> The candidate filing period for the upcoming November 2013 election is May 13 – 17, 2013.

### **Advertising/Notice (If Option 2 is selected.)**

- An informational webpage will be created under the City Council home page. Information about the qualifications, application process, and King County elections filing period will be posted. The application form will be available on the webpage to be downloaded.
- A news release will be issued for the purposes of announcing the application/recruitment process and the related City Council meetings. The news release will include the website where the eligibility requirements and application can be found. News releases will also be issued following the Council's selection of candidates for interview and the appointment to fill the vacancy.
- News releases are emailed to the Council, public buildings, media (newspaper, TV, radio and community blogs), are posted to the News Room webpage, and linked from the City's website home page. In this particular case, a link to the news release will be posted on the City Council's homepage.
- Additionally, news releases are distributed to NEWS Room (790+ subscribers) and

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<sup>3</sup> RCW 42.30.110(1)(h).

<sup>4</sup> RCW 42.12.070(6).

Neighborhood News subscribers (1,100+ subscribers).

- Also, hard copies are posted at city community centers and Kirkland's two libraries.
- The print deadline for the *Kirkland Reporter* is noon on Monday for information to be printed in the Friday edition.
- Information will be posted to the City's Twitter account (238 followers).

### **Issues for Council Consideration**

Is there any additional information the Council needs to decide about the appointment process?

Does the Council wish to complete the appointment process at the April 16, 2013 Council meeting or do the members prefer a longer selection timeframe?

Does the Council prefer Option 1, Option 2 or some other option?

If Option 1 is selected, does the Council want to limit each Councilmember to one nomination or allow multiple nominations?

Does the Council agree to set a special meeting on April 15 to determine interviews for the appointment under either option?

If there is a special meeting on April 15 for either option, does the Council desire to have it videotaped and televised?

Does the Council agree to a special meeting on April 16 for purposes of interviewing finalists?

If Option 2 is chosen, does the Council desire to have the candidates' applications posted on the City's website? The candidates' personal addresses and contact information would not be included.