

**RESOLUTION ESTABLISHING THE PROCESS FOR FILLING THE VACANCY ON  
THE WINSTON-SALEM CITY COUNCIL**

**WHEREAS**, Derwin Montgomery, Council Member of the East Ward (“Council Member Montgomery”) received the nomination of the Democratic Party to fill the vacancy in the North Carolina General Assembly created by the resignation of Representative Edward Hanes, Jr.(“Hanes”); and

**WHEREAS**, the Democratic Party also voted to replace Hanes on the ballot with Council Member Montgomery for the November 6<sup>th</sup> General Election; and

**WHEREAS**, Council Member Montgomery submitted his resignation effective the \_\_\_\_\_day \_\_\_\_\_, 2018; and

**WHEREAS**, the Mayor and the Winston-Salem City Council have accepted said resignation; and

**WHEREAS**, the Mayor and Winston-Salem City Council have decided to adhere to North Carolina General Statute §160A-63 in filling said vacancy; and

**WHEREAS**, the aforementioned statute provides that the city council may fill said vacancy; however, the statute does not set forth the procedure for filling the vacancy;

**WHEREAS**, the Mayor and Winston-Salem City Council wish to establish a procedure for filling said vacancy.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Winston-Salem City Council that the attached procedure shall be used for filling the vacancy on the Winston-Salem City Council.

This Resolution shall become effective upon adoption.

PROCEDURE FOR FILLING THE VACANCY  
ON THE WINSTON-SALEM CITY COUNCIL

The following procedure shall be used to fill the vacancy on the Winston-Salem City Council in accordance with North Carolina General Statute §160A-63.

**1. Advertising the vacancy. Submission of applications.**

- (a) The City shall advertise the vacancy and the deadline for submission of applications by persons interested in the seat. The deadline for submitting applications shall be no sooner than 14 calendar days following the first date of publication of the ad regarding the vacancy. For purposes of determining 14 calendar days, the first date of publication shall not count. The application shall include a letter of interest, resume, contact information and a written opinion on the top three challenges facing Winston-Salem and a separate written opinion on the top three challenges facing the East Ward. The application, including the written opinions, shall not exceed 500 words. Applications will be received via mail, email and hand delivery. All mailed applications must be postmarked by 5:00pm on the due date. All emailed and hand delivered applications must be received in the City Attorney's Office by 5:00pm on the due date. Applicants must be eligible to vote and must reside in the East Ward. The applicants must be a member of the Democratic Party.
- (b) The applications must be sent to the City Attorney. The City Attorney shall forward to the Mayor and City Council for review the applications of all candidates meeting the eligibility criteria.
- (c) The nomination of a candidate(s) to fill the vacancy and the process for appointing the new council member shall occur in open session at a regular meeting or at a duly called and advertised special meeting of the Mayor and Winston-Salem City Council.

**2. Meeting to appoint a new council member.**

- (a) At the meeting to receive nominations for the vacant seat, the Mayor will open the process for receiving nominations.
- (b) Members of the city council may tender or propose a nominee/candidate for the seat from the applications received. Each council member is limited to one nomination. The qualifications of the nominees may be subject to debate. Nominees must come from the list of applications received.
- (c) All nominees will be listed on the written ballot or the electronic voting system in the order received.

- (d) Once there are no other nominations and the debate, if any, ends, the nomination process shall be closed by the Mayor. If there are only two nominees, both names shall be placed on the final ballot and the presentation process set forth below in paragraph 5 shall commence followed by the question and answer period and the voting process. In the event there is only one nomination, a council member shall make a motion to approve the appointment of said nominee as the council member of the East Ward effective upon the resignation date of the East Ward council member. If the motion passes by a majority vote, then said nominee shall be appointed as council member of the East Ward effective upon the resignation date of the East Ward council member.
- (e) The City Secretary shall verify: (i) that the names of all the nominees are listed on the electronic voting system or on the written ballot and (ii) that the names are listed in the order of nomination.

### **3. Voting. Written ballot or electronic means.**

- (a) Individual council members shall vote. The council member that has resigned may vote as long as he is still a sitting council member. The Mayor shall call the roll of members and each council member shall cast his or her vote by electronic means or written ballot.
- (b) Each vote shall be cast in a manner that displays the name of the council member casting the vote. If votes are cast by written ballot, then each council member must sign his/her written ballot. Should a discrepancy in the votes cast arise, the council member shall identify the discrepancy immediately. The Mayor shall determine the process for resolving the discrepancy.

### **4. Counting the written ballots or electronic votes.**

- (a) If necessary, the Mayor and City Council shall take a 10 minute recess while the counting process takes place.
- (b) The City Secretary shall count the votes. If written ballots are used, the City Secretary shall identify, in writing, the nominees by name and the number of votes received by each nominee. If the electronic voting system is used, the names of the nominees and the votes received for each nominee shall be displayed on the electronic voting system.
- (c) The names of two nominees that receive the highest votes will be placed on the final written ballot or in the electronic voting system in the order of the nominations received.

- (d) In the event of a tie, the council members will vote to break the tie between the nominees until there are only two nominees remaining. During each balloting or voting process, no council member may cast more than one vote for a single nominee. The names of the two nominees will be placed on the final ballot or in the electronic voting system.

**5. Vote on the two nominees. Final vote by written ballot or electronic system.**

- (a) Before the final vote is cast, the two nominees on the written ballot or displayed in the electronic system will be given ten minutes each to make a presentation. While one candidate is making a presentation or being questioned, the other candidate shall be sequestered during this process. Following the presentation, the Mayor and Council Members may ask questions.
- (b) Each council member will vote again on the two nominees either by written ballot or the electronic voting system.
- (c) The nominee receiving the majority of the votes cast shall be appointed as the council member of the East Ward. The Mayor shall state the name of the appointee and the effective date of said appointment.
- (d) In the event of a tie, the voting process shall continue until one nominee receives a majority of the votes. If necessary, City Council may, pursuant to G.S. 143-318.12, recess the meeting to a specified date, time and place, without the need to advertise the subsequent meeting, to continue the voting process.

Since the City of Winston-Salem does not have staggered elections, the appointment shall be to fill the remainder of the unexpired term of the council member of the East Ward. Per G.S. 160A-69, the Mayor has a right to vote only when there are equal number of votes in the affirmative and in the negative. However, since this is not a matter where there are “yes” and “no” votes, the Mayor does not vote.