

City Council Agenda Memo

From: Bonnie Foster, City Clerk

Council Meeting: March 11, 2025

Subject: Discussion on City Council Vacancy Process

Person(s) Responsible: Bonnie Foster, City Clerk
Steve Britzman, City Attorney

Summary:

On February 25th, Council Member Andrew Rasmussen resigned his position as City Council Member, effective February 28th. Guidance on the next steps is found in South Dakota State Law, the City Charter, and City Council Policy.

Item Details:

In the past 10 years, the City Council, has filled the following City Council vacancies by the application process set forth in City Council Policy 205:

- April 2021 – City Council Member Oepke Niemeyer elected to position of Mayor, appointed Wayne Avery.
- April 2017 – City Council Member Keith Corbett elected to position of Mayor, appointed Holly Tilton Byrne.
- February 2016 – City Council Member Scott Meyer resigned, appointed David M. Meyer.

While there are State Statutes which guide the procedure of filling of vacancies in municipalities which have not adopted a City Charter, those statutes are not applicable to the City of Brookings. The City of Brookings has a City Charter and a City Council Policy (CC #205) which outlines the procedure to fill City Council Vacancies.

The City Council reviewed and amended City Council Policy #205 (City Council Vacancies) in 2024. The policy is attached.

The City Charter provides the following guidance with respect to vacancies on the City Council:

City Charter: Section 2.06 – Vacancies:

- (d) Filling of Vacancies. Filling of Vacancies. Except as provided below, a vacancy in the office of Mayor or of a City Council Member shall be filled for the remainder of the unexpired term at the next regular City election. The Council by a majority vote of all its remaining members shall appoint a qualified person to fill the vacancy until the person elected to serve the remainder of the unexpired term takes office. However, if the vacancy occurs less than sixty days prior to the next regular City election, then the person

appointed to fill the vacancy shall continue to serve and the vacancy shall be filled at the regular City election immediately following the next regular City election. Notwithstanding the requirement in Section 2.11, if at any time the membership of the Council is reduced to less than 6, the remaining members shall, within sixty (60) days, fill the vacancies by appointment or call for a special election to fill the vacancies.

Council Member Andrew Rasmussen's vacancy has occurred less than 60 days prior to the next regular City election. Therefore, the individual appointed to fill the vacancy shall continue to serve, and the vacancy shall be filled at the regular election immediately following the next regular City election. More clearly, this individual will serve until the April 2026 City Election.

The City Council will need to determine how to select an individual to fill this vacancy, but the law is silent as to how to identify and select an individual. The Council will need to determine this, and ultimately will require a majority vote to select any individual to fill the vacancy.

Supporting Documentation:

Proposed Timeline

Code of Ethics – City Council

DRAFT Press Release and Application

City Council Vacancy Policy #205