

City of Finlayson – Special City Council Meeting – Finlayson City Hall

Thursday, October 5, 2023 5:30 PM

1. Call to Order/ Pledge of Allegiance
2. Selecting presiding Officer
3. Accept Price and Hedtke resignations
4. Declare Mayoral and Council vacancies
5. Open Forum: Interested candidates each have three minutes to speak as to why they want to be on the Council or hold Mayor position.
6. Appointment of positions

1. If Mayor slot is not filled an interim mayor needs to be established and the individual will have duties of the mayor.
  - a. In a weak mayor council the mayor votes on any/and all issues.
  - b. The only tie a mayor can break is fulfilling a vacancy.
2. The person appointed interim mayor stays interim until the position is filled or at next election.
3. Swearing in of new members can take place at special meeting or at next council meeting (October 10<sup>th</sup>)
4. It is best to wait until next meeting to fill liaison positions.

## RELEVANT LINKS:

Minn. Stat. § 412.02, subd. 2.  
Minn. Stat. § 205.07, subd. 1a.

Minn. Stat. § 351.07.

Minn. Stat. § 412.02, subd. 2a.  
A.G. Op. 59a-30 (July 24, 1996).

See *Accepting Council Member Resignation and Declaring a Vacancy*, LMC Model Resolution.

Minn. Stat. § 412.02, subd. 2a.

A.G. Op. 471-M (Oct. 30, 1986).

Minn. Stat. § 412.121. Minn. Stat. § 471.46.

Minn. Const. art. VII, § 6.

Minn. Stat. § 415.15.  
A.G. Op. 471-M (Dec. 27, 1977).

## 9. Expiration of elected term

Generally, the vacancy occurring at the conclusion of an incumbent's term of office is filled immediately by the successor. If no one has been elected, the incumbent fills the office until the council appoints a successor and that person qualifies for the office.

## 10. Habitual drunkenness

State law provides that the habitual drunkenness of any person holding office is good cause for removal from office.

## F. Filling vacancies

While a council might identify and declare the facts giving rise to a vacancy, for all practical purposes they occur automatically and are not based upon any removal action. Because the council must fill vacancies in elective offices, it should determine whether a vacancy exists. After investigating the facts, the council should pass a resolution declaring a vacancy and then fill it as soon as possible.

State law provides that statutory city councils make the appointment to fill a vacancy, except in the case of a tie vote when the mayor makes the appointment. That means all members of the council, including the mayor, can vote on the appointment. And as long as at least a quorum of the council is present, a majority vote of those present is sufficient to make the appointment.

State law does not place any limitation on a mayor's ability to make an appointment in the case of a tie vote. As a result, the mayor can appoint any qualified person willing to fill the vacancy even if that person was not the subject of the original appointment vote. If the vacancy is for the mayor's office and the council casts a tie vote, the acting mayor should make the appointment. The acting mayor may not, however, appoint himself or herself.

The council may appoint any individual who is eligible for election to that office. Generally, to be eligible a person must be a U.S. citizen, a resident of the city, a qualified city voter, and at least 21 years old. The council is not obligated to appoint any candidate previously defeated in an election for the office.

A resigning council member may not vote on the appointment of the successor to that vacancy. A council member who is elected mayor, however, may participate in the appointment vote to fill the vacancy in his or her former council position.



Minn. Stat. § 412.501.

Minn. Stat. § 134.09, subd. 1.  
Minn. Stat. § 134.195, subd. 2.

Minn. Stat. § 412.221, subd. 16.

Minn. Stat. § 44.04, subd. 1.

Minn. Stat. § 469.003, subd. 6.

Minn. Stat. § 469.095, subd. 2.

Minn. Stat. § 450.20.

Minn. Stat. § 12.25, subd. 1.

Minn. Stat. § 412.02, subd. 2a.

Minn. Stat. § 204C.07, subd. 3.  
Minn. Stat. § 204C.31, subd. 1.

Minn. Stat. § 12.29, subd. 1.  
Minn. Stat. § 12.29, subds. 2, 3.

Minn. Stat. § 18.80, subds. 2, 3.  
Minn. Stat. § 18.81, subd. 2.

Minn. Stat. § 299F.04.

Minn. Stat. § 412.02, subd. 1a.

- Park board members (for a non-advisory park board).
- Public library board members.
- Hospital board members.
- Some civil service commission members.
- Housing and redevelopment authority members.
- Economic development authority members.

The mayor has authority to make the following appointments without council approval:

- City art commission members (First Class cities).
- Director of the local organization for emergency management.
- Filling a vacancy on council if the council vote to fill the vacancy is tied.

**Election duties.** Mayors of all cities have election responsibilities. At elections where residents will vote on a question, the mayor, upon receiving a written petition signed by at least 25 eligible voters, must appoint one voter for each precinct to act as a challenger of voters in the polling place. Also, the mayor of the most populous municipality in a given county (or the mayor's designee) serves as a member of that county's canvassing board.

**Declaring local emergencies.** Only the mayor can declare a local emergency. A local emergency cannot last for more than three days except with the consent of the city council. A local emergency must receive prompt and general publicity.

The next two powers, while still found in statute, are largely regarded as vestiges of a bygone era.

**Weed inspector.** The mayor is the city weed inspector. The city may appoint one or more assistant weed inspectors to fulfill the mayor's statutory weed inspector obligations.

**Fire investigator.** In cities without fire departments, the mayor must investigate or have investigated the cause, origin, and circumstances of any fire where damages exceed \$100. The investigation must begin within two days of the fire. The mayor must report the fire to the state fire marshal. Within one week of the fire, the mayor must furnish a written statement to the state fire marshal.

All this without being a full-time employee! Neither the mayor, nor a council member, may be a full-time, permanent city employee.

But not so fast . . . In light of changes to state law and perhaps a myth or two, here are a few powers mayors do not have: