



***CITY OF EASTHAMPTON***  
**OFFICE OF THE CITY COUNCIL**

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Rules and Government Relations Committee  
Dan Rist, Chair  
Koni Denham, JP Kwiecinski

May 17, 2023

Councilors:

The Rules and Government relations committee has made final recommendations on the three requests before it.

**1. Charter Section 3-1 c: Compensation for the Mayor**

The committee recommends making NO changes to this section since the salary of the mayor is set by ordinance and the city attorney has verified that an ordinance allowing varying salary increases for the mayor over the term of office is legal, codifying this in the charter was not necessary.

**2. Charter 2-10 : Council Review of Certain appointments:**

The committee does NOT recommend extending the time for affirming mayoral appointments to 60 days. The committee feels this is unnecessary for the following reasons;

- 45 days has been sufficient for the past 13 years since the charter was changed from 30 days in 2011.
- Since the primary reason for this section is to judge whether to deny an appointment, adding more time would be detrimental to getting volunteers, especially minoritized candidates who have been marginalized in this community to fill positions open on our many boards and committees.
  - It is our duty to expedite the approval process in support of boards and committees to diversify their membership, ensure quorums are met, promote equitable division of labor and responsibilities -- all of which helps them to fulfill their commitments to the community.
  - Additionally, the 45 day limit only poses a challenge for summer months. There is no need to add additional time for the remainder of the year when the Council already has other systems in place to address concerns, including calling special sessions.
- The minor language change recommended is provided by the city attorney for clarification on when the clock starts on the 45 days. The word “presented” was ambiguous whereas “received” clarifies that the 45 day clock does not start until the council receives the appointment at a regularly scheduled meeting thus giving adequate time especially in the summer for review. Timing used to be when the clerk stamped the appointment as “received” which might delay the appointment from being reviewed by 14 days or even 30 days in the summer.

### 3. Charter 3-9 : Vacancy in the office of the Mayor:

The Committee recommends the following complete change to 3-9 as it is necessary since the term of office was changed by the voters to 4 years for the mayor. The committee looked at numerous other charters and with the city attorneys help, presents language that seeks to examine all scenarios. The primary concerns were limiting the need for costly special elections and to protect the president of the council from unintended consequences of accepting the position as acting mayor.

- a. Special Election: This section recommends a special election be called only in years 1 and 3 when no municipal election is normally held. The 120 day period is long enough to inform voters, allow for nominations as required by Article 7 and print ballots etc. Also, the president of the council would assume the duties of acting mayor for the 120 days if they wanted to and allows for a council election to provide for an acting mayor. Reference to 3-1(a) is about not having to give up a councilors regular employment as required by 3-1(a)
- b. Council election: If a vacancy occurs in the second or fourth year, the president of the council would be acting mayor for as much as 10 months and must resign as a councilor thus requiring a new councilor be appointed under charter 2-11. This possible 10 month period also does not require the councilor to give up his day job as in 3-9 (a).

Section c and d refer to an acting mayor have ALL the powers of a mayor and the compensation entitled to the mayor.

Please also see Barbara's spread sheet that is helpful to examine the various scenarios. Thank you to Barbara who helped immensely in drafting a less complicated vacancy section

Respectfully,

Dan Rist, Chair Rules and Government Relations.

**Amendment Section 2-10 – Rules – May 2, 2023**

**SECTION 2-10. COUNCIL REVIEW OF CERTAIN APPOINTMENTS<sup>1</sup>**

The mayor shall submit to the city council the name of each person the mayor desires to appoint to any city office, as a department head or as a member of a multiple-member body, but not including any position which is subject to the civil service law pursuant to chapter 31 of the General Laws. The city council shall refer each such name as is submitted to it to a standing or special committee of the city council which shall investigate each such candidate for appointment and may make a report, with recommendations, to the full city council not less than 7 nor more than 45 days following such referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the city council, to give such information relevant to such appointment as the committee, or the city council, may require.

Appointments made by the mayor shall become effective on the forty-fifth day following the date on which notice of the proposed appointment was ~~first presented~~ **first received by the council** at a regularly scheduled meeting of the city council, unless the city council shall within the said 45-day period vote to reject such appointment, or unless the city council has sooner voted to affirm the appointment. For the appointment of a department head appointed by the mayor, the council must act upon said appointment at the next regularly scheduled meeting following the meeting at which the appointment was first ~~presented to~~ **received by** the full council or that appointment shall become effective. Rejection by the city council shall require a two-thirds vote of the full council, except that an appointment to a multiple-member body may be rejected by a majority vote of the full council. The question on rejection of any appointment made by the mayor shall not be subject to the procedure of charter objection provided in subsection (b) of section 2-9.

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<sup>1</sup> Sec. 2-10 amended by Chpt. 175 of the Acts of 2011; further amended by Chpt. 95 of the Acts of 2022.

**CURRENT SECTION 3-9 – BASED ON A TWO-YEAR TERM OF OFFICE FOR MAYOR**

**SECTION 3-9. VACANCY IN OFFICE OF MAYOR**

**(a) Special Election** - If a vacancy in the office of mayor occurs in the first fifteen months of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, incapacity or otherwise the city council shall forthwith order a special election to be held within ninety days following the date the vacancy is created, to fill such vacancy for the balance of the then expired term.

**(b) Council Election** - If a vacancy in the office of mayor occurs in the last nine months of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, or otherwise, the president of the city council shall become the mayor. Upon the qualification of the president of the city council as the mayor, under this section, a vacancy shall exist in that council seat on the city council which shall be filled in the manner provided in Section 2-11. A council president serving as mayor under this sub-section shall not be subject to the restrictions contained in the third sentence of Section 3-1(a).

**(c) Powers, Term of Office** - The mayor elected under Section 3-9 (a) or (b) shall have all the powers of the mayor. A person elected pursuant to subsection (a), above, shall serve for the balance of the term unexpired at the time of election to the office. A person chosen pursuant to subsection (b), above, shall serve until the time of the next regular election at which time the person elected to fill the office for the ensuing term of office shall serve, in addition, for the balance of the then unexpired term.

**Rules – May 2, 2023**

**REPLACE current Section 3-9 with the following NEW Section 3-9:**

**SECTION 3-9. VACANCY IN OFFICE OF MAYOR**

- a) **Special Election** - If a vacancy in the office of mayor occurs during the first or third year of the term for which the mayor is elected whether by reason of death, resignation, removal from office, incapacity or otherwise the city council shall forthwith order a special mayoral election to be held within one hundred twenty (120) days following the date the vacancy occurs to fill the vacancy for the balance of the then expired term pursuant to Article 7 of this charter. If the vacancy occurs in the second or fourth year of the term for which the mayor is elected a special mayoral election need not be held, the office of mayor shall be temporarily filled under the provisions of Section 3-9 (b) of the charter and the position shall be permanently filled by the voters at the next regular municipal election.

If a vacancy occurs in the two (2) months immediately prior to a regular municipal election, the city council shall forthwith order a special mayoral election to be held within one hundred twenty (120) days following the date the vacancy occurs, to fill such vacancy for the balance of the then unexpired term.

During the one-hundred twenty (120) day period immediately prior to a special mayoral election the city council president shall serve as acting mayor until the office of mayor is filled. In the event the city council president is unable or unwilling to serve, a special meeting of the city council shall be called by the city council president and the council shall elect, by majority vote, one of its members to serve as acting mayor. The acting mayor shall remain as a member of the council but shall only vote on council measures in the event of a tie. During the time the president is serving as acting mayor under this subsection, the vice-president shall serve as acting city council president. Any person serving as acting mayor under this subsection shall not be subject to the restrictions contained in the third sentence of Article 3, Section 3-1(a).

b) **Council Election** - If a vacancy in the office of mayor occurs in the second or fourth year of the term for which the mayor is elected, the president of the city council, or other councilor elected by the council in accordance with subsection (a) above, shall serve as acting mayor until the next regular municipal election at which time the person elected to fill the office of mayor for the ensuing term of office shall be immediately sworn into office, and shall thereafter serve, in addition to the term for which they were elected, the balance of the present term. Unless the vacancy occurs in the last two (2) months prior to a regular municipal election, upon the qualification of the president of the city council or other councilor elected to serve as the acting mayor under this section, a vacancy shall exist in that council seat on the city council which shall be filled as provided for in Article 2, Section 2-11.

In the event the acting mayor is a candidate for mayor in the ensuing election, such person shall not be entitled to have the words "candidate for re-election" used in conjunction with their name on the election ballot.

If a vacancy in the office of mayor occurs the last two (2) months of the term for which the mayor was elected, the mayor-elect shall be immediately sworn into office and shall thereafter serve the remainder of the mayoral term in addition to the term of office for which they were elected.

c) **Compensation** - Any councilor serving as acting mayor under subsections (a) or (b) shall receive the compensation then in effect for the position of mayor and shall not receive council compensation.

d) **Powers, Term of Office** – The councilor serving as acting mayor under subsections (a) or (b) shall be sworn to the faithful discharge of the mayoral duties and shall have and exercise all the right, powers and duties of the mayor.

When does the vacancy occur?	To hold a Special election - or not?	Who will serve as Acting Mayor?	Will there be a vacancy on city council - or not?
Vacancy in year <b>ONE</b> of Mayoral Term	Special Election within 120 days	City Council President (or other councilor) serves as Acting Mayor Vice-President to serve as Council President	Acting Mayor continues to serve as councilor - only voting in event of tie.
Vacancy in year <b>TWO</b> of Mayoral Term	No Special Election Office of Mayor to appear on city election ballot in November	City Council President (or other councilor) serves as Acting Mayor until November election. Elected Mayor sworn in immediately after election. Serves rest of term, plus term they were elected to.	Vacancy in city councilor seat (unless in last 2 months prior to election) Council vacancy to be filled as provided for in charter (Art. 2, Sec. 2-11)
Vacancy in year <b>THREE</b> of Mayoral Term	Special Election within 120 days	City Council President (or other councilor) serves as Mayor Vice-President to serve as Council President	Acting Mayor continues to serve as councilor - only voting in event of tie
Vacancy in year <b>FOUR</b> of Mayoral Term	No Special Election Office of Mayor on city election ballot (as scheduled)	City Council President (or other councilor) serves as Mayor until November election. Elected Mayor sworn in immediately after election. Serves rest of term, plus term they were elected to.	Vacancy in city councilor seat (unless in last 2 months prior to election) Council vacancy to be filled as provided for in charter (Art. 2, Sec. 2-11)
Vacancy occurs in in the <b>TWO</b> months prior to a regular municipal election	Special Election within 120 days	City Council President (or other councilor) serves as Mayor Vice-President to serve as Council President	Acting Mayor continues to serve as councilor - only voting in event of tie.
Vacancy in last <b>TWO</b> months prior to end of a regular Mayoral term of office	No Special Election - Mayor elect is sworn into office immediately. Serves rest of term, plus term they were elected to		

**LEGISLATIVE SPECIAL ACT WORDING**

**SECTION 1.** The second paragraph of section 2-10 of article 1 of the charter of the city of Easthampton, which is on file in the office of the archivist of the commonwealth, pursuant to section 12 of chapter 43B of the General Laws, **is amended by striking out the first sentence and inserting in place thereof the following sentence:** “Appointments made by the mayor shall become effective on the forty-fifth day following the date on which notice of the proposed appointment was first received by the council at a regularly scheduled meeting of the city council, unless the city council shall within the said 45-day period vote to reject such appointment, or unless the city council has sooner voted to affirm the appointment.”

**SECTION 2.** The second paragraph of section 2-10 **is amended by striking out the second sentence and inserting in place thereof the following sentence:** “For the appointment of a department head appointed by the mayor, the council shall act upon said appointment at the next regularly scheduled meeting following the meeting at which the appointment was first received by the full council or that appointment shall become effective”.

**SECTION 3. Section 3-9 of article 3 is amended by striking out the section in its entirety and inserting in place thereof the following section:**

“a) Special Election – If a vacancy in the office of mayor occurs during the first or third year of the term for which the mayor is elected whether by reason of death, resignation, removal from office, incapacity or otherwise the city council shall forthwith order a special mayoral election to be held within one hundred twenty (120) days following the date the vacancy occurs to fill the vacancy for the balance of the then expired term pursuant to Article 7 of this charter. If the vacancy occurs in the second or fourth year of the term for which the mayor is elected a special mayoral election need not be held, the office of mayor shall be temporarily filled under the provisions of Section 3-9 (b) of the charter and the position shall be permanently filled by the voters at the next regular municipal election.

If a vacancy occurs in the two (2) months immediately prior to a regular municipal election, the city council shall forthwith order a special mayoral election to be held within one hundred twenty (120) days following the date the vacancy occurs, to fill such vacancy for the balance of the then unexpired term.



During the one-hundred twenty (120) day period immediately prior to a special mayoral election the city council president shall serve as acting mayor until the office of mayor is filled. In the event the city council president is unable or unwilling to serve, a special meeting of the city council shall be called by the city council president and the council shall elect, by majority vote, one of its members to serve as acting mayor. The acting mayor shall remain as a member of the council but shall only vote on council measures in the event of a tie. During the time the president is serving as acting mayor under this subsection, the vice-president shall serve as acting city council president. Any person serving as acting mayor under this subsection shall not be subject to the restrictions contained in the third sentence of Article 3, Section 3-1(a).

- b) Council Election - If a vacancy in the office of mayor occurs in the second or fourth year of the term for which the mayor is elected, the president of the city council, or other councilor elected by the council in accordance with subsection (a) above, shall serve as acting mayor until the next regular municipal election at which time the person elected to fill the office of mayor for the ensuing term of office shall be immediately sworn into office, and shall thereafter serve, in addition to the term for which they were elected, the balance of the present term. Unless the vacancy occurs in the last two (2) months prior to a regular municipal election, upon the qualification of the president of the city council or other councilor elected to serve as the acting mayor under this section, a vacancy shall exist in that council seat on the city council which shall be filled as provided for in Article 2, Section 2-11.

In the event the acting mayor is a candidate for mayor in the ensuing election, such person shall not be entitled to have the words "candidate for re-election" used in conjunction with their name on the election ballot.

If a vacancy in the office of mayor occurs the last two (2) months of the term for which the mayor was elected, the mayor-elect shall be immediately sworn into office and shall thereafter serve the remainder of the mayoral term in addition to the term of office for which they were elected.

- c) Compensation - Any councilor serving as acting mayor under subsections (a) or (b) shall receive the compensation then in effect for the position of mayor and shall not receive council compensation.

d) Powers, Term of Office – The councilor serving as acting mayor under subsections (a) or (b) shall be sworn to the faithful discharge of the mayoral duties and shall have and exercise all the right, powers and duties of the mayor.”