



Legislation Details (With Text)

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**Type:** SOB - Matters of special importance to council      **Status:** Passed

**File created:** 11/3/2020      **In control:** City Council

**On agenda:** 11/9/2020      **Final action:** 11/9/2020

**Title:** Acceptance of Resignation of Councilor Cara Kaser and declaring the Ward 1 seat vacant, and appointing Councilor-nominee Virginia Stapleton as guest councilor of Ward 1.

Ward(s): All Wards  
 Councilor(s): All Councilors  
 Neighborhood(s): All Neighborhoods  
 Result Area(s): Good Governance.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
11/9/2020	1	City Council		
11/9/2020	1	City Council	approved	Pass

**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Department Director, Title

**SUBJECT:**

Acceptance of Resignation of Councilor Cara Kaser and declaring the Ward 1 seat vacant, and appointing Councilor-nominee Virginia Stapleton as guest councilor of Ward 1.

Ward(s): All Wards  
 Councilor(s): All Councilors  
 Neighborhood(s): All Neighborhoods  
 Result Area(s): Good Governance.

**ISSUE:**

Shall the City Council accept the resignation of Councilor Cara Kaser and declare the Ward 1 seat vacant, and appoint Councilor-nominee Virginia Stapleton as guest councilor of Ward 1?

**RECOMMENDATION:**

Accept the resignation of Councilor Cara Kaser and declare the Ward 1 seat vacant, and appoint Councilor-nominee Virginia Stapleton as guest councilor of Ward 1.

## **SUMMARY:**

Councilor Kaser submitted a letter of resignation to the City indicating she is resigning from City Council, because she has moved and no longer lives in Ward 1. Upon the resignation of a member of City Council, the City Charter allows the City Council to accept the resignation and declare the seat vacant. Council Rule 21(a) permits council to appoint a person to serve as guest councilor for multiple council meetings in the event of a councilor's extended absence or vacancy.

## **FACTS AND FINDINGS:**

**Status of a councilor upon moving from the ward or upon submitting a resignation:** Under the City Charter, section 19, a vacancy on council occurs automatically upon the incumbent's death, incapacity, or recall. Under section 19(2), Council can declare a vacancy upon an incumbent's failure to reside in the ward (Section 19(2)(d)) or upon the incumbent's resignation (Section 19(2)(g)).

**Filling a vacancy:** Under section 20(1) of the Charter, if less than a year remains until the next primary election at the time a vacancy occurs, the vacancy is filled by an appointment of council. Under section 20(2) if more than a year remains until the next primary election at the time a vacancy occurs, the vacancy is filled by special election.

In this case, the next primary election isn't until May 2022, which is more than a year from now. If council declares a vacancy prior to councilor-elect Stapleton's new term in January, the vacancy could not be filled by appointment. Further, there is insufficient time to conduct a special election to fill the seat before the new term begins in January.

Council Rule 18(h) allows council to appoint a councilor-elect when a seat becomes vacant. However, by its terms, Council Rule 18(h) only applies when a vacancy occurs under Section 20(1) of the City Charter. Section 20(1) of the Charter only applies when there is less than a year from the next primary election. That is not the case here. Further amending the council rules to apply under these circumstances will not change the result, because council rules cannot contradict the City Charter, and the Charter states that the vacancy must be filled by a special election.

However, Council may, under Council Rule 21 appoint someone to serve continuously as guest councilor if a councilor will either be absent from Council for an extended period or if council declares a seat vacant.

## **BACKGROUND:**

Dan Atchison  
City Attorney

Attachments:  
None.