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Filling Vacancies on Your City Council

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FILLING VACANCIES ON YOUR CITY COUNCIL

David Angerer, Municipal Management Consultant

May 2011

THE UNIVERSITY of TENNESSEE
MUNICIPAL TECHNICAL ADVISORY SERVICE

In cooperation with the Tennessee Municipal League

FILLING VACANCIES ON YOUR CITY COUNCIL

David Angerer, Municipal Management Consultant

May 2011

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The Municipal Technical Advisory Service (MTAS) was created in 1949 by the state legislature to enhance the quality of government in Tennessee municipalities. An agency of the University of Tennessee Institute for Public Service, MTAS works in cooperation with the Tennessee Municipal League and affiliated organizations to assist municipal officials.

By sharing information, responding to client requests, and anticipating the ever-changing municipal government environment, MTAS promotes better local government and helps cities develop and sustain effective management and leadership.

MTAS offers assistance in areas such as accounting and finance, administration and personnel, fire, public works, law, ordinance codification, and wastewater management. MTAS houses a comprehensive library and publishes scores of documents annually.

MTAS provides one copy of our publications free of charge to each Tennessee municipality, county and department of state and federal government. There is a $10 charge for additional copies of "Filling Vacancies on Your City Council."

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TABLE OF CONTENTS

What to Do When a Seat on the Governing Board Suddenly Becomes Open 1

Types of Vacancies 1

What Are the Rules? 2

Vacancies in Cities Having the TCA Mayor-Alderman Form of Government 2

Vacancies in Cities Having the TCA Manager-Commission Form of Government 3

Vacancies in Cities Having the TCA Modified Manager-Commission Form of Government 3

Vacancies in Cities Having Private Act, Home Rule, Metropolitan Government Charters . . 3

Resignations and Declarations of a Vacancy 3

Some Practical Considerations 5

Identifying Potential Recruits 6

Problematic Recruitments 7

Some General Selection Criteria 8

Making the Appointment 8

A Final Word About Appointed Board Members 10

Example of a Vacancy Declaration Resolution Resulting from Death of an Alderman 11

Example of a Vacancy Declaration Resolution Resulting from Resignation of an Alderman 12

Example of an Aldermanic Appointment Resolution 13

FILLING VACANCIES ON YOUR CITY COUNCIL

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WHAT TO DO WHEN A SEAT ON THE GOVERNING BOARD SUDDENLY BECOMES OPEN

Every city council will occasionally experience a vacancy. A board member might need to resign after moving his residence out of town. Or perhaps a member of the board has died, leaving an open seat.

Most cities do not have a formal policy to address how vacancies on the city council will be filled. As a result, the process of recruiting and appointing new board members can be emotionally charged and stressful. Recruitment and selection is conducted while the board is under time pressure. There can be confusion about how the appointment is to be made, eligibility requirements and the length of the term the appointee will serve. Such a state of affairs does nothing to improve the board's chances of selecting a good, qualified replacement to fill the opening. To the contrary, these situations can contribute to the appointment of controversial new members who are confused about their duties.

But it need not be this way. Board vacancies, even those created by unfortunate or tragic events, can be managed in a way that will strengthen the governing board or, at least, avoid protracted and divisive debates over the appointment of a successor. A council vacancy can be an opportunity for the community, one that will improve the board, its public image and its ability to address local issues.

This publication presents an argument in favor of cities adopting succession plans with two goals in mind:

- Developing a roster of citizens who are familiar with the processes of local government and willing to serve when a vacancy occurs; and
- Implementing a selection process that is open, transparent, fair and results in the placement of qualified persons on the governing board.

TYPES OF VACANCIES

Filling board vacancies can be influenced by factors that created the vacancy in the first place. Council vacancies are most commonly caused by the resignation of a member of the board. In some instances, the board member's resignation is mandatory after he or she has relocated to a new residence out-of-town or outside the district or ward he or she represents; the member may have contracted some debilitating illness that hinders regular attendance at board meetings; and less frequently, board members will sometimes resign their offices to protest board decisions with which they disagree or out of frustration.

The private act charters of some city governments require the board to declare a member's seat to be vacant after the member has missed a given number of council meetings. In some instances, the

charter may excuse these absences if they are due to extraordinary circumstances — a prolonged illness, for example. But in other cases, the charter grants no exception for multiple absences from council meetings or a failure of the member to perform his or her duties. In these circumstances, the board may be forced to declare a vacancy even if the member wishes to remain on the board.

The death of a board member, of course, is another cause of vacancy — often a very emotional time for the governing body.

Finally, and much more infrequently, a board vacancy can result from the ouster or removal of a board member. Such actions are ordered by the courts, usually after the board member's conviction for serious misbehavior.

Any of these factors may have a profound effect on the board's selection of a citizen to fill the vacancy. The death of a popular mayor, for example, may result in a desire to fill the vacancy in a manner that memorializes the deceased member. In these circumstances, there may be a call to appoint the deceased member's spouse or some other close associate to fill the vacancy. Such sentiments are, of course, natural and understandable. They do not, however, always result in the best appointment to fill a board vacancy.

Similarly, if the vacancy is the result of an alderman's repeated absences from board meetings, the board may look to recruit a replacement who is known to be available on meeting nights. Here again, an understandable response by the board, but there are other criteria that the board should consider as well.

If the vacancy was created by the abrupt resignation of a frustrated board member, the board may feel it important to select a replacement who will "go along" with the majority and who won't rock the boat too much. This may result in more cordial board meetings, but it is no guarantee that the appointee possesses the knowledge, skills, abilities and temperament needed to oversee operation of the city government.

The selection of a citizen to fill a board vacancy should not simply be a reaction to the circumstances that led to the creation of the vacancy. Instead, the appointment should reflect the board's agenda for the remaining term of the vacant seat — selecting a person who can help the board meet that agenda.

WHAT ARE THE RULES?

Consult your charter before taking any action!
The city charter usually contains the rules governing the filling of council vacancies. Typically, there is a section in the city charter entitled "Vacancies on the Board" or some such language where this information will be found. The rules vary greatly from city to city and it is very likely that the process used in one city is not acceptable or legal in another.

So, the first rule in filling vacancies is to consult your city charter. Ask your city attorney to review with the board what it must do to return its membership to full strength.

The vacancy provisions in a well-written city charter will include:

- A list of the conditions that require the declaration of a vacancy by the board;
- The amount of time the board has to fill the vacancy;
- The term to be served by the appointed board member; and
- Special conditions involving the vacancy of the mayor.

VACANCIES IN CITIES HAVING THE TCA MAYOR-ALDERMAN FORM OF GOVERNMENT

For those Tennessee cities having the General Law Mayor-Alderman form of government, the procedures for declaring and filling vacancies may be found in

T.C.A. § 6-3-107, entitled "Vice Mayor — Vacancies in Office." For these cities, a vacancy in the office of mayor is filled by the vice mayor, who serves in that capacity until the next election, provided such vacancy occurs more than 20 days in advance of the election. Otherwise, the vice mayor would serve until the expiration of the former mayor's term of office.

Aldermanic vacancies are filled by a vote of the remaining board members. Should the vote result in a tie, the presiding officer of the board may vote a second time in order to break the tie.

The charter does not specify how much time a city has to declare or fill an aldermanic vacancy.

VACANCIES IN CITIES HAVING THE TCA MANAGER-COMMISSION FORM OF GOVERNMENT

Cities having this form of government must fill city commission vacancies according to the stipulations of T.C.A. § 6-20-110, entitled "Vacancies."

This section requires that any vacancy on the board will be filled by appointment of the remaining members of the board, for a term until the next regularly scheduled municipal election, at which point an election is held to fill the remainder of the unexpired term.

This same section of law allows the city to have only one appointed board member at any given time. In those instances where the board already has one appointed member, a subsequent vacancy must be filled by an election.

The law gives these cities 90 days to fill a board vacancy. If after 90 days the vacancy remains unfilled, the city must hold a special election to fill the vacancy. If the vacancy occurs within 75 days of a regularly scheduled municipal election, however, the city may forego the special election and simply fill the vacancy at the regular municipal election.

VACANCIES IN CITIES HAVING THE TCA MODIFIED MANAGER-COMMISSION FORM OF GOVERNMENT

The rules for filling vacancies in this form of government are found in T.C.A. § 6-31-201. These rules contain some unique provisions:

- A board member's seat must be declared vacant if the member fails to attend at least 60 percent of all board meetings in any consecutive six-month period.
- A vacancy is created when a board member accepts employment with a state, county, or municipal agency that is filled by public election or "which is remunerative, except as a notary public or member of the national guard."
- If the board is unable to agree upon an appointment within 30 days of the vacancy declaration, the mayor shall make the appointment.
- No appointments to fill board vacancies are to be made within 60 days prior to a regular municipal election.

VACANCIES IN CITIES HAVING PRIVATE ACT, HOME RULE, METROPOLITAN GOVERNMENT CHARTERS

The variety in these cities is almost endless and is too numerous to cover here. It should be sufficient to say that prior to declaring or attempting to fill a board vacancy in these cities, the board should carefully review its charter to determine the required procedure.

RESIGNATIONS AND DECLARATIONS OF A VACANCY

Written or Verbal?

MTAS frequently responds to inquiries concerning the "correct" way for a board member to resign his or her office. Surprisingly, few if any city charters

specify a process for its municipal officers to resign their positions.

For any municipal official, the best and most responsible way to resign their position is to put it in writing. Elected officials wanting to leave office in a professional, dignified and helpful fashion would do well to submit a written statement addressed to the mayor and board. As a minimum, the resignation should state the title of the office being resigned, the date on which the resignation is effective and bear the notarized signature of the resigning office member.

It is permissible, but certainly not necessary, for the written statement to enumerate the reasons for the resignation. Usually, a short, politely worded statement is sufficient to dispel any rumors about the causes of the resignation.

Some public officials resign their offices by making a simple verbal statement. Such resignations are sufficient to effectively terminate one's participation on the board, but they are clearly not the most professional and courteous way to do the job. Verbal resignations can be misunderstood by the board, the employees and the general public — including the people who voted for and supported the official. They can create legal headaches for the municipality and should be avoided whenever possible.

In the case of verbal resignations, the municipality should document the names and addresses of any witnesses to the resignation — ideally including other members of the board and/or the city staff and noting the time and place of the resignation. If the verbal resignation was made at a meeting of the board, the city recorder's minutes should clearly state the name and title of the resigning official along with the effective date, if possible.

When does a vacancy legally occur?
Whether a resignation is written or verbal, it does not take effect unless and until the board votes to accept it and declares the seat to be vacant.

As with the resignation itself, it is best that the acceptance and vacancy declaration be made in writing, by passage of a short resolution. The resolution should indicate the name and title of the resigning official, as well as a statement declaring the seat to be vacant. A sample resignation acceptance resolution is included in the addendum to this publication.

The board may accept a resignation by adoption of a motion made at a properly convened meeting. Here again, the motion should specify the name and title of the resigning official. The motion should also declare the resigning official's seat to be vacant. The motion and resulting vote should be clearly stated in the city recorder's minutes.

Once the resignation has been accepted by the board and the office declared vacant, a copy of the resignation resolution or the minutes reflecting the board's acceptance should be delivered to the county election commission.

PROBLEMS RELATING TO RETRACTED RESIGNATIONS

It is not unusual for a board member to change his mind and want to retract his resignation. This is most likely to happen when the member resigns in the heat of a contentious debate or after a board decision has not gone his way. It is not unusual for board members to reconsider their resignations the morning after they announced they were quitting.

An elected official may retract his or her resignation at any time before the board has voted to accept it. However, after the board has voted to accept the resignation, it may not be retracted. See *State ex. Rel. v. Bush, Sheriff, 141 Tenn. 229 (1918)*.

The time between an official's resignation announcement and the board's acceptance of it can be crucial. Any delay in accepting the resignation and declaring a vacancy increases the opportunity for the member to change his mind — creating a potentially chaotic situation in city hall. Retracted resignations can lead to confusion and worse in city government. If for no other reason, municipal boards should act quickly to accept the resignation of a member.

SOME PRACTICAL CONSIDERATIONS

MAYORAL VACANCIES

Because their duties and roles differ so widely, the resignations of mayors and aldermen will have different impacts on municipalities.

A mayoral vacancy is far more problematic than the resignation of an alderman. The mayor is often the city's CEO and a vacancy in this office can delay important duties that are essential for day-to-day operation of the local government. There is only one mayor in town. Consequently, when the mayor resigns, there is a 100 percent vacancy in this crucial municipal office. For this reason, cities need to act quickly to fill mayoral vacancies. Delay carries with it opportunities for confusion and serious problems to occur.

The filling of aldermanic vacancies, on the other hand, can be done at a more deliberate pace. When a single alderman resigns his office, the remaining aldermen can carry on and perform the legislative duties. Aldermanic vacancies, therefore, are somewhat less imperative than those involving the mayor.

Many city charters recognize this fact and arrange for the appointment of a vice mayor — who immediately assumes the office of mayor upon the resignation of the mayor. This assures continuity in the administration of the local government. Ideally, mayors keep their vice mayors informed concerning the administrative details and initiatives of their office, so that the vice mayor is "up to speed" if ever called upon to assume the mayor's office.

In some cities, there is no charter provision for the appointment of a vice mayor. In these municipalities, there is no one immediately available to perform the mayor's duties when a vacancy occurs. Consequently, a mayoral vacancy may not be filled for days or weeks while various contenders for the office solicit support for their appointment to the position. In these cities, there is no guarantee that a mayoral vacancy will be filled by someone who has been prepared for the office.

Whether filled by a vice mayor or by any other member of the board, a vacancy in the office of mayor usually results in two board vacancies — the mayor and that of the alderman who is appointed to fill the mayoral vacancy (the exception being those instances where the mayoral vacancy may be filled by persons who are not otherwise members of the board).

For this reason, the first order of business for a newly appointed mayor is to have the board declare a vacancy in his or her former aldermanic seat.

ALDERMANIC VACANCIES

In the vast majority of Tennessee cities, a vacancy in the office of mayor must be filled by a member of the municipality's governing board. This means that there are only a handful of people who might conceivably be promoted to fill a mayoral vacancy in your town.

On the other hand, aldermanic vacancies may be filled by any legally qualified resident of the community — meaning that there may be thousands of people who might potentially fill a vacant position. This fact tends to slow down the replacement of a resigning alderman, as the board

may want time to advertise, recruit, interview and examine numerous possible contenders.

While the filling of aldermanic vacancies is not usually as crucial as those in the office of mayor, cities must avoid delaying the process longer than is necessary. There are two reasons for this:

- Some city charters establish a strict time limit for the filling of board vacancies. Failure to meet these deadlines would be a violation of the charter that municipal officials are sworn to uphold. In some communities, failure to meet the appointment deadline requires the board to hold a costly special election to fill the vacancy.
- Particularly in those municipalities where board members are elected by district or ward, a prolonged aldermanic absence deprives citizens of the representation to which they are entitled. Citizens likely will not appreciate the passage of important legislation that occurred while they were either unrepresented or under-represented at city hall. Better to delay such actions until after the vacancy is filled, if possible.

IDENTIFYING POTENTIAL RECRUITS

Municipal boards should always have persons in mind that might be recruited for board service in the event of a vacancy. There need not be an official roster of such persons, but each elected official should be capable of recommending a replacement for his and other's seats.

Even better would be for the board to develop a succession plan — a short resolution that outlines the process the board will follow in filling the vacancy and enumerates the minimum qualifications needed for appointment. The resolution should not (in fact, cannot) force the board to automatically limit the scope of the search, but should encourage an aggressive recruitment in the community.

Cities can often find good candidates to fill board vacancies among the following groups:

- **Former members of the board.** People with prior service on the board might be enticed to come back for a limited time. The board should look for persons who served with distinction and otherwise left their positions with a good reputation. Avoid the appointment of former officials who left under a cloud or whose re-election was overwhelmingly rejected by the voters.
- **Former members of other local governments.** There may be a former county commissioner or school board member in your community who would be willing and able to fill in for a resigning official. Such persons may not be as familiar with municipal issues and processes as former members of the board, but they probably understand the legislative process and how to function in a public capacity.
- **Community leaders.** Try to get recommendations from the local chamber of commerce, civic organizations, educational institutions, neighborhood groups, professional associations, churches and the like. Ask if they know someone who might make a good replacement.
- **City commissions.** There may be persons on the city's planning and zoning commission, board of adjustment, historic preservation committee, park board, etc. who have gained experience in city affairs and who understand how local government works.
- **Graduates of community leadership programs.** Some cities have organizations and programs designed to identify and develop future community leaders. These programs often involve education on local government and issues. If your community has such a program, it would make perfect sense to solicit interest from recent graduates.

PROBLEMATIC RECRUITMENTS

While they might otherwise be well-qualified for appointment, the board should be careful to avoid filling vacancies with certain types of persons. The voters in your community are free to elect whomever they wish to serve on the board. The performance of an elected official is a reflection of the voters who sent him or her to city hall. But an appointed official is a reflection of the board making the appointment — and the board can expect to be held accountable for making an unacceptable appointment.

Following is a short list of persons to be careful of:

Persons with excess baggage. It was previously mentioned that the board should probably avoid filling vacancies with former board members who left office under a cloud. This may not be entirely fair, but it is a fact of life that selecting such persons can damage the image of the board.

The Runner-up. Sometimes it is suggested that a board vacancy be filled by the person who finished second in the race for the seat in the last election. This should never be the sole criteria for the filling of a board vacancy. While such persons should not be automatically excluded from consideration, they likewise should not be the board's automatic choice.

The reason is simple — the voters rejected such candidates. Perhaps the voters' decision was the simple preference for someone else. But it might also be that the voters did not want that specific person to represent them in city hall. To automatically select the runner-up from the last election risks installing someone on the board who is unacceptable to a majority of the voters.

Hell-raisers. It is not unusual for the voters to elect a board member who promises to "shake things up" in city hall. The voters have the right to do this and such candidates are sometimes necessary to wake up a complacent city government.

However, it is another matter when the board appoints such a person to sit on the city council. An elected alderman has a mandate from the voters to pursue the policies on which he campaigned — including those that give the local government a good, hard shaking. But an appointed alderman enjoys no such advantage; and his goals and activities may not reflect the will of the community.

For this reason, it is usually better for vacancies to be filled by persons who are believed to reflect mainstream thought in the community.

Relatives. There is no law against it, but boards should avoid appointing their spouses, kids, or other relatives to fill a board vacancy. Again, it is one thing if the voters make this selection, but it looks unethical if the board makes the decision.

Persons doing business with the city. The local car dealer may have what it takes to be an outstanding city council member — but he won't be able to sell vehicles to the city while he serves as an alderman. Similarly, other local business persons will lose the city's business during their service on the board. The board should make this fact clear to anyone under serious consideration for an aldermanic appointment.

Delinquent tax payers. It will be (or should be) embarrassing for a city council to fill an aldermanic vacancy with someone who has failed to pay his or her taxes for the past several years. The image of the board will be damaged and the newspapers will have a field day. Similarly, the board should be certain that vacancies are not filled by persons who regularly fail to pay their municipal utility bills.

City employees. In the vast majority of Tennessee cities, it is not legal for a city employee to serve as an alderman in that same city. Consequently, city employees should not be considered for filling board vacancies for the city that employs them.

This is by no means a complete list. But most city councils are wise enough to avoid appointing aldermen who have serious police records, drug and alcohol problems, persons who are suing the city, etc.

SOME GENERAL SELECTION CRITERIA

Any person asking for an appointment to the municipal governing board should be willing to submit to an interview for the position. Ideally, such interviews would be held in the council chamber at an open meeting — giving the public the opportunity to see for themselves the persons under consideration for the position.

The purpose of the interview is for the board to ascertain whether the person has the temperament for the position, a political point of view that can be accommodated by the board, and any other skills that might be useful to the city. We will assume here that municipal board members already know how to assess candidates in this regard.

However, in making an aldermanic appointment, the board needs to consider more than a person's political or philosophical orientation, values or experience. Three other important factors should not be overlooked — time, temperament, and residency.

- **Time considerations.** Most persons would be surprised at the amount of time an alderman spends performing his or her duties. Does the person understand the amount of time required to successfully serve as a board member? Is he/she available at the times when the board regularly meets? Does the person have the time to attend the training sessions and conferences that other board members do? Is the person willing to attend the annual TML Conference, the legislative conferences, MTAS training, etc.
- **Temperament.** This may be a little harder to ascertain, but before appointing anyone to the city council, the board should have a firm understanding of precisely why the person wants the position. A wise mayor once said that some people run for office to do something; while others run for office to be something. A candidate who cannot clearly, succinctly say why they want a seat on the board is not as likely to be interested in accomplishing city goals.
- **Residency.** Everyone knows that an appointee to the town governing board must be a resident of that town (but again, check your charter — exceptions may be possible). But sometimes there may be a question about an appointee's actual place of residence. It will be embarrassing to the governing board to learn — after the fact — that it has appointed an out-of-town resident to fill a vacancy on the board. For this reason, cities should also ask potential appointees for official identification (driver's license, voter registration, etc.) that proves their residency. And, in those municipalities where aldermen are elected by ward or district, check to make sure that the proposed appointee lives within the district he wants to represent.

MAKING THE APPOINTMENT

BY RESOLUTION OR ORDINANCE

It is emphasized again that your city charter should be reviewed before attempting to fill any vacancy on the governing board. The charter may require that vacancies be filled by passage of an ordinance or resolution. In many cities, the charter simply requires that appointments are made by a majority vote of the remaining board members, with no reference to an ordinance or resolution. In some cities, the charter will prohibit the board from making an appointment — and require that a special election for the office is held.

If the board has the authority to fill vacancies, it is a good idea to do so by adoption of a written document — an ordinance or, preferably, a resolution. As in the case of submitting a resignation, a written document should eliminate any doubt about who, specifically, is being appointed to the board.

As a minimum, the appointment resolution should indicate the following:

- The title of the position being filled — with reference to the person who resigned the position and created the vacancy;
- The date on which the vacancy was declared, with reference to the vacancy declaration resolution number, if applicable;
- The term to be served by the appointed official (i.e., until the next municipal election, until the end of the completed term, until a special election is held, etc.); and
- The full, legal name of the person being appointed. To avoid any confusion, it also would be wise to include the appointee's residential address.

A sample appointment resolution is included in the addendum to this pamphlet.

OTHER DETAILS

Though not legally required, it is a good idea to publicly announce the appointment of a new alderman to the board. This can help the community avoid any confusion about who is in charge of the local government.

- Work up a short press release for distribution to the local news media. A "just the facts" sort of statement should suffice — one that includes the appointee's name, the vacancy he or she is filling, and the length of the term remaining to be served. Of course, a statement from the mayor or the appointee also can be inserted into the release.
- The appointee should be introduced to the municipal staff — particularly the department heads and supervisors. At the least, this will involve the circulation of a memo containing the same information as the press release. Better, of course, is having the appointee personally introduced to the employees in an informal meeting.
- Give the appointee the same documents and support that is extended to any newly-elected board member. This will include copies of minutes from recent board meetings, the city charter, and the municipal code.
- Notify state and federal agencies that regularly correspond with individual members of the board. This will include MTAS, the Tennessee Municipal League, and state and county representatives.
- Notify the county election board of the filling of the vacancy.

AVOIDING THE OBVIOUS PITFALLS

The appointment of a new alderman can be a controversial decision in any community — particularly if the board is facing issues on which it is evenly divided. The appointment of a new alderman in these instances can tip the balance of power one way or the other — by an un-elected member of the board, no less.

In other instances, there may be several qualified candidates under consideration for the appointment — with board members concerned about offending those candidates who are not selected for the job. These sorts of conditions can contribute to a poor decision-making process by the board.

- **Passing the buck:**
  Part I — Delegating the Decision. It is certainly acceptable for the board to seek and obtain recommendations from the public concerning the appointment of a new alderman. But governing boards must realize that they cannot delegate the final appointment decision to any other person or group. Governing boards should avoid the temptation to have a citizens' panel "recommend" an aldermanic appointment — with the board serving merely as a rubber stamp. The responsibility for the appointment rests with the governing board and it will be held accountable for its decision, regardless of any recommendations it might have received.

- **Passing the buck:**
  Part II — An Unnecessary Special Election. As previously discussed, some municipal charters require that board vacancies must be filled by means of a special election. For these cities, there is no alternative and the governing board may not simply appoint someone to fill a vacancy. However, in those cities where the charter authorizes the governing board to fill vacancies, the board must not shrink from its duty. Special elections are expensive — and wasteful for those municipalities where the board is authorized to make the appointment at no cost to the taxpayers.
- **Playing politics.** There is no legal prohibition against filling a vacancy with a person who is known to have political ambitions — someone who may see the position as a "stepping stone" to higher or more permanent office. Still, appointing such a person to fill a vacancy can be risky. Some people are likely to feel that the appointee has an inside track in the next general election, inasmuch as he or she will be able to run as an incumbent. It is best to let such people win the election on their own and to avoid appointing them to office.

A FINAL WORD ABOUT APPOINTED BOARD MEMBERS

Once the new appointee takes the oath of office, he or she becomes a fully authorized member of the governing board — vested with all the rights, privileges, and responsibilities as any elected member of the board. They should not be viewed in any way as a lesser member of the board. Appointees may not be fired by a governing board that becomes disappointed with them.

EXAMPLE OF A VACANCY DECLARATION RESOLUTION RESULTING FROM DEATH OF AN ALDERMAN

RESOLUTION NO. _____

A RESOLUTION OF THE *ANYTOWN*, TENNESSEE,
BOARD OF MAYOR AND ALDERMEN TO DECLARE VACANT THE SEAT OF ALDERMAN JOHN DOE.

WHEREAS, Section 10 of the *Anytown* private act charter stipulates that the Board of Mayor and Aldermen shall declare that a vacancy on the Board exists if the Mayor or an Alderman dies while in office; and,

WHEREAS, Alderman John Doe has recently passed away.

NOW, THEREFORE, in recognition of these facts be it resolved by the *Anytown* Board of Mayor and Aldermen:

1. **Vacancy declared.** The *Anytown* Board of Mayor and Aldermen hereby declares the aldermanic seat held by John Doe to be vacant as of the date of this resolution.

2. **Vacancy to be filled within thirty (30) days of this Resolution.** Pursuant to Section 10 of the *Anytown* town charter, the Board of Mayor and Aldermen shall, within thirty (30) days of the date of this Resolution, appoint a qualified person to fill this vacancy.

3. **Condolences extended to family and friends of Alderman Doe.** The Board of Mayor and Aldermen acknowledges Alderman Doe's many years of service to the community and extends its deepest sympathy to his family and friends.

PASSED AND APPROVED THIS 7th DAY OF APRIL, 2011, BY A ROLL CALL VOTE OF THE *ANYTOWN* BOARD OF MAYOR AND ALDERMEN.

_____ ATTEST: _____
MAYOR City Recorder

EXAMPLE OF A VACANCY DECLARATION RESOLUTION RESULTING FROM RESIGNATION OF AN ALDERMAN

RESOLUTION NO. _____

A RESOLUTION OF THE *ANYTOWN*, TENNESSEE BOARD OF MAYOR AND ALDERMEN TO ACCEPT THE RESIGNATION OF ALDERMAN JOHN DOE AND DECLARING AN ALDERMANIC VACANCY ON THE BOARD OF MAYOR AND ALDERMEN.

WHEREAS, Article IV, Section 11 of the *Anytown* private act charter stipulates that a vacancy shall exist on the Board of Mayor and Aldermen if the Mayor or an Alderman resigns or moves his residence from the Town; and

WHEREAS, Alderman John Doe has advised the Board of Mayor and Aldermen that he has moved his residence from the Town of *Anytown*; and

WHEREAS, Alderman John Doe has submitted his written resignation to the *Anytown* Board of Mayor and Aldermen, and;

WHEREAS, the *Anytown* Board of Mayor and Aldermen respectfully wishes to accept the resignation submitted by Alderman John Doe.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF *ANYTOWN*, TENNESSEE AS FOLLOWS:

I. The resignation of Alderman John Doe from the *Anytown* Board of Mayor and Aldermen is hereby accepted.

II. The Board of Mayor and Aldermen hereby declares the aldermanic seat formerly held by John Doe to be vacant.

PASSED AND APPROVED THIS 29TH DAY OF MARCH, 2011 BY A ROLL CALL VOTE OF THE *ANYTOWN* BOARD OF MAYOR AND ALDERMEN.

_____ ATTEST: _____

MAYOR City Recorder

EXAMPLE OF AN ALDERMANIC APPOINTMENT RESOLUTION

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF *ANYTOWN*, TENNESSEE APPOINTING MARY SMITH TO FILL THE UNEXPIRED ALDERMANIC TERM OF JOHN DOE.

WHEREAS, Alderman John Doe has submitted his resignation from the *Anytown* Board of Mayor and Aldermen; and

WHEREAS, the *Anytown* Board of Mayor and Aldermen has adopted a Resolution to accept the resignation of John Doe from the Board of Mayor and Aldermen; and

WHEREAS, Section 10 of the *Anytown* City Charter requires the Board of Mayor and Aldermen to appoint a qualified citizen to fill the aldermanic vacancy created by John Doe's resignation, and that such appointee shall serve the remainder of the vacant term of office or until the next regular general election, whichever shall occur first; and

WHEREAS, John Doe's term of office was scheduled to expire with the election scheduled for November 4, 2014 and the next regularly scheduled general election is scheduled for November 6, 2012; and

WHEREAS, Mary Smith of 1320 South Columbus Street in *Anytown* has agreed to fill the Aldermanic vacancy created by John Doe's resignation.

NOW, THEREFORE, IN CONSIDERATION OF THESE FACTS, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF *ANYTOWN*, TENNESSEE, AS FOLLOWS:

1. **Appointment to the Board of Mayor and Aldermen.** Mary Smith is hereby appointed to the position of Alderman in the City of *Anytown*, Tennessee.

2. **Term of Office.** Pursuant to Section 10 of the *Anytown* Private Act Charter, Mary Smith shall serve as Alderman until after the next regular general election, scheduled for November 6, 2012 and until her successor to office has been elected and qualified.

3. **Effective Date.** This Resolution shall be in full force and effect from and after its date of passage by the Board of Mayor and Aldermen of the City of *Anytown*.

PASSED AND APPROVED THIS 12TH DAY OF AUGUST, 2011 BY A ROLL CALL VOTE OF THE *ANYTOWN* BOARD OF MAYOR AND ALDERMEN.

_____ ATTEST: _____

MAYOR City Recorder

THE UNIVERSITY of TENNESSEE

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