

# Town of Windsor

## Memorandum

January 10, 2023

**TO:** The Honorable Mayor and Town Council

**FROM:** William G. Saunders, IV, Town Manager WGS/IV

**SUBJECT:** Appointment to fill Vacancy on Town Council / Resolution for Petition of a Writ of Election

### Background

Certain actions are required following the resignation of a Councilmember.

### Specifics

#### Appointment to fill Vacancy on Town Council

The resignation of Vice Mayor Willis has created a vacancy on the Town Council. The Town Council is required to appoint a replacement within 45 days of the vacancy; a special election will be held at the general election in November 2023 to elect a candidate to fill balance of the unexpired term.

Per § 3.10 of the Town Charter: *...A vacancy on the council shall be filled within 45 days by a majority vote of the remaining members. The person appointed by council shall hold office until the qualified voters fill the vacancy by special election pursuant to Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2 of the Code of Virginia (1950), and the person so elected has qualified.*

Per § 24.2-228.A. of State Code: *When a vacancy occurs in a local governing body or an elected school board, the remaining members of the body or board, respectively, within 45 days of the office becoming vacant, may appoint a qualified voter of the election district in which the vacancy occurred to fill the vacancy. If a majority of the remaining members of the body or board cannot agree, or do not act, the judges of the circuit court of the county or city may make the appointment. Notwithstanding any charter provisions to the contrary, the person so appointed shall hold office only until the qualified voters fill the vacancy by special election pursuant to § 24.2-682 and the person so elected has qualified. Any person so appointed shall hold office the same as an elected person and shall exercise all powers of the elected office.*

#### Resolution to Petition the Circuit Court for a Writ of Election

Due to the fact that the next scheduled general election is not in the last year of the unexpired term, the Town Council shall petition the circuit court for a special election. This special election should take place on the same date of the next general election, November 7<sup>th</sup>, 2023.

A resolution should be adopted to authorize the Town Attorney to petition the circuit court for a writ of election for the special election.

*Per § 24.2-226.A. of State Code: A vacancy in any elected local office, whether occurring when for any reason an officer-elect does not take office or occurring after an officer begins his term, shall be filled as provided by § 24.2-228 ... or unless provided otherwise by statute or charter requiring special elections within the time limits provided in this title. The governing body ... shall, within 15 days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy as set forth in Article 5 (§ 24.2-681 et seq.) of Chapter 6. Either upon receipt of the petition or on its own motion, the court shall issue the writ ordering the election promptly and shall order the special election to be held on the date of the next general election in November ... However, if the governing body or the school board requests in its petition a different date for the election, the court shall order the special election be held on that date, so long as the date requested precedes the date of such next general election and complies with the provisions of § 24.2-682.*

**Enclosures**

Resolution for Petition of Special Election

**Recommended Motion**

Move that Council adopt a resolution entitled:

A Resolution to Authorize the Presentation of a Petition for Writ of Election to the Isle of Wight Circuit Court to Fill a Vacancy on the Windsor Town Council by Special Election on Nov.7, 2023.

**RESOLUTION**

A Resolution to Authorize the Presentation of a Petition for Writ of Election to the Isle of Wight Circuit Court to Fill a Vacancy on the Windsor Town Council by Special Election on Nov.7, 2023.

**BE IT RESOLVED** by the Council of the Town of Windsor Virginia as follows:

WHEREAS, a council member, The Honorable James “Greg” Willis, has notified the Town Council of Windsor, Virginia, of his resignation, effective December 31, 2022; and

WHEREAS, in accordance with §24.2-226 of the Code of Virginia, “The governing body or, in the case of an elected school board, the school board of the county, city, or town in which the vacancy occurs shall, within 15 days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy...”

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Town Council of Windsor, Virginia authorizes and directs the Town of Windsor attorney to present a Petition for Writ of Election to the Isle of Wight County Circuit Court to fill the vacancy by ordering a special election for the remainder of the resigning council member’s term of office on the date of the next general election, which is November 7, 2023.

This resolution shall be in effect on and after its adoption.

Adopted: January 10, 2023

ATTEST:

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Town Clerk