



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



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TO: **Mayor Jordan**
City Council

CC: **Sondra Smith**, City Clerk
Don Marr, Chief of Staff
Paul Becker, Chief Financial Officer

FROM: **Kit Williams**, City Attorney

DATE: **November 20, 2017**

RE: **Former City Council Member Alan Long's Resignation**

This morning at 7:56 a.m. I received an unsigned, but apparently authentic, scanned "Letter of Resignation" from Alan Long to "Mayor Jordan (submitted through Sondra Smith, Fayetteville City Clerk)" with a "CC: City Attorney." This letter was dated "November 18th 2017." I believe this letter has clarified that the Office of Council Member from Ward Four, Position Two is now vacant.

As I warned in you in my November 2, 2017 memo, A.C.A. § 14-43-411(b)(1) requires:

"at the first regular meeting after the occurrence of the vacancy, the city council shall proceed to either elect by majority vote of the remaining members elected to the council an alderman to serve for the unexpired term or call for a special election. . . ."

That **"first regular meeting after the occurrence of the vacancy,"** is tomorrow, November 21, 2017. The City Council must then either elect a replacement Council Member or call for a special election pursuant to A.C.A. § 7-11-105(a). The first motion on this issue should be one either moving to elect a new Council Member by Council Member vote or a motion to call for a special election. Once either the election by City Council versus special election option is selected, the appropriate procedure for either option can begin.

The state statute is silent about what Council Members should do prior to electing "by majority vote" the new Council Member. In the past when we had plenty of time to plan such election, persons applied and were often interviewed by the City Council

during the meeting. Then a public vote was taken to elect the replacement. I do not know if attempting to get applications would be feasible tomorrow night with so little time for persons to apply. Please think about how you would like to proceed.

I believe the procedure is almost totally discretionary with the City Council. I do recommend that this be the last order of business so as not to delay citizens appearing for items already on the agenda. Additionally, any applicant should experience at least one night's City Council meeting before being appointed to such an important position.

The statute refers to A.C.A. § 7-11-101 to fill a vacancy by special election. My review of that subchapter reveals a special election could be held on February 13, 2018. I will prepare a call for a special election resolution in case this is what the majority of the City Council votes to do.