

AGENDA

**City of University Heights, Iowa
City Council Meeting**

Monday, February 13, 2017

Community Center - OUP
1302 Melrose Avenue

7:00 – 8:00 p.m.

Meeting called by Mayor Pro Tem Jerry Zimmermann

Time		Topic	Owner
7 :00	Call to Order Meeting	Roll Call	Jerry Zimmermann
		-Review of Mayor appointment process	Steve Ballard
		-Appointment to fill mayor vacancy:	
		a) Acknowledgement of written materials filed by candidates.	
		b) Nominations by council members to fill vacancy.	
		c) Oral presentations by nominees.	
		d) Public input.	
		e) Council discussion.	
		f) Council vote.	
		-Consideration of Resolution No. 17-05 appointing Mayor pursuant to council vote.	
		-Administration of Oath of Office for appointed mayor.	
		-Consideration of Resolution No. 17-06 requesting that the Johnson County Auditor set a special election to fill the vacancy created by Mayor Heitman's resignation. (to be considered if council does not fill vacancy by appointment)	
8 :00	Adjournment		Jerry Zimmermann

Next Regular City Council Meeting is February 14, 2017: Community Center - OUP

February 13, 2017 Special Meeting – City Attorney's Report (Amended)

1. **Filling Mayor Vacancy by Appointment.** Here is an outline of the process for appointing a Mayor at the Council's Special Meeting February 13, 2017, to fill the vacancy created by Wally Heitman's resignation:

- **Acknowledgement of Written Applications.** The City Clerk will identify and acknowledge the written application materials filed by various candidates.
- **Nominations.** The Mayor Pro Tempore (hereafter "Mayor") will ask for nominations to fill the vacancy.
 - Council Members may nominate candidates of their choosing. Persons interested in being appointed were invited to submit applications, and at least four have done so. The request for applications was an opportunity for candidates to signal their interest in the office and provide relevant information about themselves; the applications do not amount to nominations, however. A Council Member must still nominate particular candidates for those candidates to be formally considered and voted upon.
 - Council Members may nominate persons who did not submit an application.
 - No second is required to support a nomination.
 - A Council Member may nominate more than one person, but each Council Member should have the opportunity to nominate one person before any Council member has the opportunity to nominate more than one.
 - A Council Member is not obligated to vote for a person nominated by that member. So, for example, if Citizen Smith submitted an application, Council Member Jones could nominate Smith to put Smith's name on the ballot (perhaps in deference to Smith's willingness to serve). But Jones would not be obligated to vote for Smith.
 - A candidate is not required to be present to be nominated.
- **Input from Candidates.** After all nominations have been made, the Mayor will acknowledge each nominee's written application, if any. The Mayor will then permit each nominee present to make a brief oral presentation to the Council. Nominees will be called upon in random.

- **Public Input.** At the conclusion of the nominees' oral presentations, the Mayor will ask for public input regarding the nominees.
- **Discussion.** At the conclusion of public input, the Council will discuss the nominees.
- **Voting.** When the Council discussion is concluded, the Clerk will conduct a roll call vote, listing nominees in random order. Each Council Member may vote only once, and the Clerk will record each vote.
 - If a nominee receives a majority of the votes (3 of the 5 Council Members), then that nominee will be declared appointed as Mayor.
 - If no nominee receives 3 votes, then the Mayor again will permit discussion of the nominees. At the conclusion of the discussion, the Clerk will again call the roll, and each Council Member may again vote only once. The slate of candidates will remain the same from one vote to the next unless, of course, a nominee withdraws, in which case the withdrawal should be noted in the minutes.
 - The Mayor will continue to permit discussion and continue to direct the Clerk to call the roll until a candidate receives a majority.
 - Once a nominee receives a majority, the Council will consider Resolution No. 17-05 formally appointing that nominee as Mayor. The Resolution is attached with the name of the appointed nominee left blank.
 - If, after repeated attempts, no nominee receives a majority vote and it appears likely none will even if the process continues, then the Council must resort to a special election to fill the vacancy. In that event, the Council will consider Resolution No. 17-06 requesting that the Johnson County Auditor set a special election on the soonest possible date permitted by law (at least 60 days after notice from the City to the Auditor). The Resolution is attached.
- **Post-Appointment Matters.**
 - Immediately after the vote, the oath of office will be administered to the appointed Mayor.
 - The Mayor may preside over the remainder of the meeting February 13 and the Council's regular meeting February 14, if the Mayor is comfortable in doing so. If not, the Mayor may request that the Mayor Pro Tempore preside.

- The Mayor will serve until the results of next City election are certified (about a week after the regular election on November 7, 2017 or shortly after any other City election (explained below)), unless a petition is filed with the Clerk within 14 days of the appointment (no later than February 27) requesting a special election.
- If a petition is filed, the appointed Mayor will serve until a special election is held and those results certified, at which time the elected Mayor will take office and serve through December 31, 2017.

2. **Filing Council Member Vacancy if One Occurs.** As noted in prior reports, if the Council appoints a Council Member as Mayor February 13 (Council Member Dotti Maher has applied), then the process of appointment or special election to fill the vacancy created by the appointment repeats itself as it is happening presently for the Mayor vacancy. If the Council decided to fill the Council Member vacancy by appointment and if that decision/appointment was challenged by petition, a special election would be triggered. At the special election, both the Council Member seat and the Mayor's seat would be on the ballot. Consider this illustration:

- The Council appoints Dotti Maher as Mayor. She takes that office, leaving her Council seat vacant.
- No petition is filed challenging the appointment.
- The Council decides to fill Council seat vacancy by appointment.
- The Council appoints Citizen Smith to fill the vacant Council seat.
- A valid and timely petition is received challenging the appointment of Citizen Smith to the Council seat, triggering a special election.
- At the special election, both the Council seat vacancy created by Dotti's appointment as Mayor and the Mayor vacancy created by Wally Heitman's resignation will be on the ballot.
- The special election is for both seats even though, in this illustration, there was no challenge to the appointment of Dotti as Mayor originally because Dotti's appointment would continue only until the next City election – November 7, 2017 unless a special election was triggered by the later appointment.
- Candidates elected Mayor and Council Member at this special election would then serve through December 31, 2017.