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MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: JOSHUA TETZLAFF, CITY ADMINISTRATOR
SUBJECT: VACATION OF MAYORAL SEAT
DATE: MAY 28, 2025

On May 22, 2025, Mayor Duane Jirik submitted his resignation to the City Council as the Mayor of New Prague, effective immediately. Per the City Charter, Section 2.05: (*italicized for emphasis*)

VACANCIES; APPOINTMENTS. *A vacancy in the City Council shall be deemed to exist on the happening of any of the following events, before the expiration of the term of such office:*

- (1) the death of the Mayor or City Council member;
- (2) *the resignation of the Mayor or City Council member;*
- (3) the removal of the Mayor or City Council member;
- (4) the Mayor's or City Council member's ceasing to be an inhabitant of the City;
- (5) the Mayor's or City Council member's conviction of any infamous crime, or of any offense involving a violation of the official oath;
- (6) the Mayor's or City Council member's refusal or neglect to take the oath of office, or to give or renew the official bond, or to deposit or file such oath or bond within the time prescribed;
- (7) the decision of a competent tribunal declaring the Mayor's or City Council member's election or appointment void;
- (8) the death of the person elected or appointed to fill a vacancy, or for a full term, before the person qualifies, or before the time when by law the person should enter upon the duties of the office, in which case the vacancy shall be deemed to take place at the time when the term of office would have begun had the person lived.
- (9) the Mayor's or City Council member's inability to serve in the office or attend City Council meetings for a ninety (90) day period because of illness, or because of absence from or refusal to attend City Council meetings for a ninety (90) day period. If any of the preceding conditions occurs, the City Council may, after it has by resolution declared a vacancy to exist, fill the vacancy at a regular or special City Council meeting for the remainder of the unexpired term, or until the person is again able to resume duties and attend City Council meetings, whichever is earlier. When the person is again able to resume duties and attend City Council meetings, the City Council shall by resolution remove the temporary officeholder and restore the original officeholder.

In each case, the City Council shall by resolution declare such vacancy to exist and shall appoint an eligible person to fill the vacant office until the next regular City election is held. In the case of a tie vote in the City Council for a vacancy in the position of a City Council member, the Mayor shall make the appointment. In the case of a tie vote in the City Council for a vacancy in the position of Mayor, the Vice President shall make the appointment. If the vacancy occurs before the first day to file affidavits of candidacy for the next regular City election and more than two (2) years remain in the unexpired term, a special election shall be held at or before the next regular City election and the appointed person shall serve until the qualification of a successor elected at a special election to fill the unexpired portion of the term. If the vacancy occurs on or after the first day to file affidavits of candidacy for the regular City election or when less than two (2) years remain in the unexpired term, there need not be a special election to fill the vacancy and the appointed person shall serve until the qualification of a successor.

Speaking with City Attorney Scott Riggs, the next step in this process is to declare, by resolution, that the vacancy exists. I have included a resolution provided by the City Attorney for this purpose. Following a declaration of vacancy, the City Council is tasked with appointing a person as the Mayor of New Prague until an election is held. The next election for Mayor is scheduled for November 2026, with the elected Mayor taking office in January 2027. So, the appointed Mayor would serve through 2026. While there is no required timeline, it is the City Attorney's belief, and I agree, that steps should be taken and progress made to fill the vacancy in a timely manner.

There are a few ways the City Council could go about finding a person to appoint to the position of Mayor. Each of these processes would meet the requirements of the City Charter, which was approved in 2014. Each of these processes has been used by cities across the State to fill vacancies when they arise.

First, the City Council, as elected representatives of the City's residents, may know who it wants to select as the Mayor for the remainder of the term. The City Council has the authority under the City Charter to appoint that person. That appointment would be by resolution and the appointed person would have all powers given to a Mayor elected during a General Election. They would fulfill the remainder of the term, and the seat of Mayor would be open for election for the 2026 Elections.

Second, the City Council may have a few people it wants to vet prior to appointing one of them as Mayor. The City Charter is silent on how that vetting takes place, and any meetings of at least three City Council members would be open to the public, so the process of vetting those few people is up to the City Council. It may be done by the entire Council, single Councilmember, or even staff. This decision would be made by the City Council. Then, similar to the above-mentioned option, the City Council may appoint their selected person as Mayor for the remainder of the term.

The third option the City Council has would be to open the appointment process up to the public to take applicants. Interested people may submit their interest to the City in a window selected by the City Council and then the City Council would vet those applicants as it wishes. This may include, similar to the above option, interviewing during a special meeting or another way, or by other means selected by the City Council. Then the City Council can select from those applicants who it would like to fill the seat of Mayor through 2026. Of course, the City Council is not required to select an applicant from the submitted pool if it chooses this process. Because the appointment may come at the Council's discretion, similar to filling Board and Commission seats, the Council may choose to go in another direction if it does not feel that any of the applicants could appropriately act as Mayor for the remainder of the term.

If the City Council is interested in the option of opening the process up to all interested residents, an example timeline may be to have a submission period from June 9th – 23rd. Then, the City Council could hold a special meeting the week of June 23rd to interview the applicants. If there are any additional interviews or conversations the City Council would like to have, they can then have them during the week of June 30th, and a formal selection of Mayor may happen at the July 7th City Council meeting. This timeline could be moved around a little to so that it meets the City Council's personal schedule better as well while still making the July 7th City Council appointment date.

One of the options that is not available for this is the option of the Special Election. The City of New Prague is under the authority of its City Charter, and the City Charter specifically calls out that seats which are open with less than two years remaining shall be filled via appointment by the remaining Councilmembers.