

<b>CITY OF TALLAHASSEE</b>	
<b><u>CITY COMMISSION AGENDA ITEM</u></b>	
<b>ACTION REQUESTED ON:</b>	June 10, 2009
<b>SUBJECT/TITLE:</b>	Sunset Review of City Commission Policy 144 – Filling Unanticipated City Commission Vacancies; City Charter Language
<b>TARGET ISSUE:</b>	N/A

**STATEMENT OF ISSUE**

City Commission Policy 144, Filling Unanticipated City Commission Vacancies, provides a process to fill unanticipated City Commission vacancies and a method to implement Section 14 of the City of Tallahassee Charter that deals with commission vacancies. The policy was adopted November 26, 2002, became effective January 15, 2003, and is now subject to sunset review by the City Commission.

The language in Section 14 of the City Charter requires that a special election be conducted in the event that a regular municipal election is not scheduled to be held in the November following the filling of the vacancy. The Leon County Supervisor of Elections estimates the current cost of a standalone special City election would be approximately \$342,000, and that his office requires 12 weeks notice before the election is held. Due to current economic conditions, staff recommends that Section 14 of the City Charter be amended to eliminate the special election requirement to avoid the potential of incurring the added election costs.

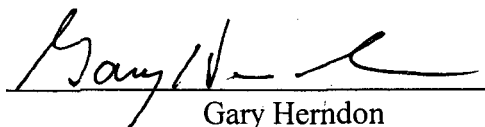
City Commission Policy 144 provides a nomination sequence to fill a vacant City Commission position based on seniority. However, the policy does not address the nominating sequence when Commissioners have equal seniority. Staff recommends that City Commission Policy 144 be readopted and revised to provide that, if two or more Commissioners have the same seniority, those Commissioners will nominate in the order that they last served as mayor pro-tem starting with the current mayor pro-tem.

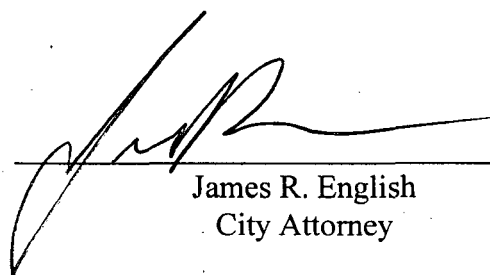
**RECOMMENDED ACTION**

Options 1 & 2 – Introduce Ordinance No. 09-O-30 and schedule for June 24, 2009 public hearing and readopt City Commission Policy 144 with revisions.

**FISCAL IMPACT**

\$342,000 - \$680,000 potential savings.

  
 \_\_\_\_\_  
 Gary Herndon  
 City Treasurer-Clerk

  
 \_\_\_\_\_  
 James R. English  
 City Attorney

For information, please contact: Gary Herndon, 891-8131 or Jim English, 891-8554.

ITEM TITLE: Sunset Review of City Commission Policy 144 – Filling Unanticipated City Commission Vacancies; City Charter Language

### **SUPPLEMENTAL MATERIAL/ISSUE ANALYSIS**

#### **HISTORY/FACTS & ISSUES**

##### **Issue 1 – Charter language:**

The language in Section 14 of the City Charter requires that a special election be conducted in the event that a regular municipal election is not scheduled to be held in the November following the filling of the vacancy. The Leon County Supervisor of Elections estimates the current cost of a standalone special City election would be approximately \$342,000, and that his office requires 12 weeks notice before the election is held. Due to current economic conditions, staff recommends that Section 14 of the City Charter be amended to eliminate the special election requirement to avoid the potential of incurring the added election costs.

##### **Issue 2 – Procedures for Filling a City Commission Vacancy:**

Prior to the adoption of City Commission Policy 144 (Filling Unanticipated City Commission Vacancies), the process for selecting an interim City Commissioner was reflected in Section 14 of the City Charter. The Charter essentially required that a replacement Commissioner be identified within ten (10) calendar days after the vacancy occurred. The language provided no detailed procedures that should be used to identify the new Commissioner; fortunately, there have only been two instances over the past 40 years when a Commissioner has died while in office, and another few instances when a Commissioner has been unable to complete his/her term of service.

Commission Policy 144 (CP 144) was approved by the Commission on November 26, 2002, and became effective on January 15, 2003. The purpose of CP 144 is to provide a process to fill unanticipated City Commission vacancies and to provide a method to implement Section 14 of the City of Tallahassee Charter that deals with commission vacancies. The policy provides advertising guidelines, applicant qualification, deadlines for filing an application, and a City Commission selection process. CP 144 also provides a nominating sequence to fill the vacant position based on the seniority. The policy does not address the nominating sequence when Commissioners have equal seniority. Staff recommendation is to readopt CP144 with a revision that provides that, if two or more Commissioners have the same seniority, those Commissioners will nominate in the order that they last served as mayor pro-tem, starting with the current mayor pro-tem.

At the time of the policy's adoption in 2003, the City Charter was also amended to reflect an expansion of the period of time the Commission would have in which to fill a vacancy, from 10 days to 20 days.

#### **CHARITABLE CONTRIBUTIONS**

N/A

**ITEM TITLE:** Sunset Review of City Commission Policy 144 – Filling Unanticipated City Commission Vacancies; City Charter Language

**OPTIONS**

1. Introduce Ordinance No. 09-O-30 and schedule for public hearing, which modifies Section 14 of the City Charter to remove the language calling for a special municipal election to be held for the purpose of filling an unanticipated city commission vacancy.
2. Readopt CP144 with a revision that provides that, if two or more Commissioners have the same seniority, those Commissioners will nominate in the order that they last served as mayor pro-tem, starting with the current mayor pro-tem.
3. Reaffirm Commission Policy 144, without making changes to the requirement for holding a special election(s) should a regular Municipal Election not be scheduled for the following year, which results in no changes to Section 14 of the City Charter.

**ATTACHMENTS/REFERENCES**

1. Ordinance 09-O-30
2. Proposed revised City Commission Policy 144
3. F.S. § 166.031(6)

ORDINANCE NO. 09-O-30

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA, AMENDING SECTION 14 (VACANCIES) OF THE CITY CHARTER, DELETING THE REQUIREMENT OF A SPECIAL ELECTION TO FILL A VACANCY IN THE OFFICE OF COMMISSION OR MAYOR, PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF TALLAHASSEE, FLORIDA:

**Section 1.** Section 14 of the City of Tallahassee Charter is hereby amended and shall read as follows:

**Sec. 14. Vacancies.**

Any vacancy in the commission, including the office of mayor, shall be filled by appointment until the following regular municipal election. ~~In the event that a regular municipal election is not scheduled to be held in the November following the filling of the vacancy, a special municipal election shall be conducted for the purpose of electing the mayor or a commissioner to serve for the unexpired term of a position vacated. Any vacancy occurring after the close of qualifying for a regular municipal election shall be filled until the special municipal election to be held in November of the following calendar year. Any vacancy occurring after the close of qualifying for a regular municipal election in which no candidate has qualified, shall be filled by appointment until the next regularly scheduled biennial election.~~ The term of commissioners elected to fill a vacancy shall be for the unexpired term of the

position vacated. Any vacancy resulting from a recall election shall be filled in the manner provided for in such cases by the Florida Statutes.

If any vacancy is not filled within twenty (20) days after it shall have occurred, an appointment to fill the vacancy shall be made by the governor.

**Section 2.** Conflicts. All ordinances and parts of ordinances of the Code of Ordinances of the City of Tallahassee, Florida, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section 3.** Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

**Section 4.** Effective Date. This ordinance shall be effective immediately upon adoption.

INTRODUCED in the City Commission on the \_\_\_\_ day of June, 2009.

PASSED by the City Commission on the \_\_\_\_\_ day of June, 2009.

CITY OF TALLAHASSEE

By: \_\_\_\_\_  
John R. Marks, III  
Mayor

ATTEST:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Gary Herndon  
City Treasurer-Clerk

By: \_\_\_\_\_  
James R. English  
City Attorney

## City Commission Policy 144 - Filling Unanticipated Commission Vacancies

DEPARTMENT: Treasurer-Clerk

DATE ADOPTED: November 26, 2002, effective January 15, 2003.

DATE OF LAST REVISION: N/A

**144.01 Authority:** City Commission action on November 26, 2002.

**144.02 Purpose:** To provide a process to fill unanticipated City Commission vacancies, providing a method to implement Section 14 of the City of Tallahassee Charter that deals with commission vacancies.

**144.03 Scope and Applicability:**

City Commission vacancies caused by death, resignation, refusal of any Commission Member to serve, removal of any member of the Commission, or for any other reason, shall be filled as provided for herein.

If the open position is the Mayor, the Mayor Pro Tem shall immediately act as Mayor and perform all functions assigned to the Mayor until a replacement is selected.

**144.04 General Procedures:**

- A. Remaining members of the Commission shall have not more than twenty (20) workdays to appoint by resolution with a majority vote an elector of the City who complies with the qualifications of the office.
- B. If any vacancy is not filled within twenty (20) working days after it shall have occurred, an appointment to fill the vacancy shall be made by the governor.
- C. All applicants must possess all of the qualifications required for an elected Commissioner.
- D. As soon as possible following the creation of an open position, the Treasurer-Clerk shall place in newspaper(s) of general circulation *and* publish on talgov.com an advertisement seeking applications from Citizens interested in filling the open seat. Commissioners may solicit applications and individually discuss the open position with Citizens or qualified applicants.
- E. Citizens interested in filling the vacancy will submit to the Treasurer-Clerk's Office by 5:00 PM on the tenth (10<sup>th</sup>) workday following the position becoming vacant a written request to be considered for the vacant position. The request may include a resume and cover letter stating their reasons for interest in the appointment and summarizing their qualifications for the position. Within the time frame prescribed in this section, the Mayor or individual Commissioners may also submit to the Treasurer-Clerk's Office the names of Citizens to be considered to fill the vacant position.
- F. On the eleventh (11<sup>th</sup>) workday, the Treasurer-Clerk will provide to each Commissioner a list of the applicants and copies of their resumes and cover letters. Only Citizens who have applied or individuals added by the Mayor or Commissioners in compliance with the time requirements will be considered for the open position. After reviewing the applicants' qualifications, each Commissioner and the Mayor will submit a list of their top three candidates to the Treasurer-Clerk's Office. Each candidate will receive one point for each time they are listed. The five candidates (and ties) with the highest point totals will be short-listed for consideration to fill the vacant position.

**144.04 Selection Process:**

The Mayor shall schedule a special meeting of the City Commission for the purpose of filling the open position. The meeting shall occur no sooner than fourteen (14) working days and not later than nineteen (19) working days after the vacancy occurred. The meeting process will be as follows:

1. Beginning with the Commissioner with the most seniority on the Commission and proceeding in order to the Commissioner with the least seniority, and finally to the Mayor, each Commissioner may place one name in nomination. If two or more Commissioners have the same seniority, those Commissioners will nominate in the order of serving as mayor pro-tem, starting with the current mayor pro-tem. Nominations may be made only from the short list of candidates. To be considered for the open position, the nomination must be seconded. If the nomination is not seconded, the Commissioner will not nominate another individual, except as provided under (3) below, and the process will proceed to the next Commissioner's choice, and so forth, until each Commissioner and Mayor have had the opportunity to place a name in nomination.

2. Following the nomination process, a vote will be taken on each nominee beginning with the first person nominated. The first nominee to receive three votes will be elected and the process shall cease.
3. If the Commission is unable to confirm a nominee through the first round of nominations, the process outlined in (1) and (2) above may be followed to provide additional candidates for consideration.
4. If the Commission is unable to fill the open position at the initial meeting, the Commission may schedule additional meetings for the purpose of filling the open position, provided such meetings occur within the twenty (20) workday period.

**144.06 Mayor Vacancy:**

- A. Since the City Charter has established a Leadership Mayor with expanded responsibilities and increased involvement in City activities, the person filling that position should possess a high degree of understanding of the day-to-day activities of the City. It may be difficult to find a Citizen with the skills and experience required to serve as Mayor. Therefore, a Commissioner may nominate either an individual from the applicants or a current Commissioner to fill the vacant Mayor's position.
- B. If a sitting Commissioner is selected to fill the vacant Mayor position, they shall serve for the remainder of the Mayor's term and then return to their Commission seat. The Commission may fill the then vacated Commission seat by following steps 1 through 4 in Section 144.05 of this policy by selecting an individual from the current applicant list, or by voting to start over the process.

**144.07 Extraordinary Vacancies:**

In the event that three or more members of the City Commission are removed by death, disability or forfeiture of office, the governor shall appoint an interim City Commission that shall call a special election to fill the vacant City Commission. In the event that two vacancies occur simultaneously on City Commission, the remaining members shall follow the procedures outlined in this policy to fill the vacant City Commission positions.

**144.08 Administration:** The Treasurer-Clerk's Office is responsible for coordinating the process.

**144.09 Sunset Review:** This Policy is subject to sunset review by the City Commission at least once every five (5) years from the date adopted. Revisions to this policy will become effective immediately upon City Commission approval. The first sunset review should occur not later than November 26, 2007.

**144.10 Effective Date:** This Policy shall become effective on January 15, 2003.

**The 2008 Florida Statutes**

**166.31 Charter amendments.—**

(6) Each municipality shall, by ordinance or charter provision, provide procedures for filling a vacancy in office caused by death, resignation, or removal from office. Such ordinance or charter provision shall also provide procedures for filling a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office.