



## Office of the City Attorney

201 Delafield Street, Suite 330  
Waukesha, Wisconsin 53188-3639

Telephone (262) 524-3520  
Email [attorneys@waukesha-wi.gov](mailto:attorneys@waukesha-wi.gov)

Brian E. Running  
*City Attorney*  
Miles W.B. Eastman  
*Assistant City Attorney*  
Julie M. Gay  
*Assistant City Attorney*  
Anne Marie Iselin  
*Assistant City Attorney*  
Karen J. Krueger  
*Legal Assistant*

May 3, 2023

### Memorandum

To: Common Council  
From: Brian Running  
Re: Filling a Council Vacancy

In light of Mike Payne's resignation from the Council, here's a quick summary of how a vacancy can be handled.

Resignations from the Common Council are expressly allowed by Wis. Stat. §17.03(2), and create a vacancy in the office.

Vacancies in the office of alderman can be addressed in one of three ways, according to Wis. Stat. §17.23(1)(am):

- The Common Council can appoint a successor by simple majority vote to fill the remainder of the term.
- A special election can be held to fill the seat, with the Common Council appointing a temporary successor until the special election.
- The seat can be left vacant until the next regular election.

The choice will generally be determined by the length of the remaining unexpired term. A district should not go unrepresented for a substantial period of time. In the case of Mike Payne's resignation, there is clearly enough time left in the term that the seat should not remain vacant until the next election. A special election involves a lot of time, effort, and money, so the most practical course is to appoint a successor to fill the remaining term.