



WHATCOM COUNTY COUNCIL

TO: WHATCOM COUNTY COUNCIL
FROM: COUNCIL STAFF
DATE: MARCH 30, 2022
RE: RESOLUTION ESTABLISHING GUIDELINES FOR COUNCIL APPOINTMENT
TO JUDICIAL AND LEGISLATURE VACANCIES

Whatcom County Council has the authority and guidance to make appointments in order to fill judicial and legislative vacancies:

- RCW [3.34.100](#)
- Washington State Constitution. [Article II](#), Section 15. Vacancies in Legislature and in Partisan County Elective Office.

In the recent past, the Whatcom County Council has made appointments to fill vacancies in judicial and state legislature positions. The attached examples provide details on the process followed for recent Council appointments. A pattern is evident in the steps taken and can provide a basic framework.

Council staff is providing a proposed resolution establishing the guidelines for appointments to fill a judicial or legislature vacancy in order to clarify the process for future appointments.

Please contact Cathy Halka, Legislative Analyst, at ext. 5019 with any questions.

EXHIBIT A: EXAMPLE APPOINTMENT PROCESSES

40TH DISTRICT SENATE PROCESS (2019)	
DATE	TASK
Jan. 11, 2019	VACANCY 40 th legislative district senate seat vacated by Senator Kevin Ranker. The 40 th legislative district spans three counties, so a multi-jurisdictional process was necessary.
	CANDIDATES NOMINATED WA State Democratic Central Committee submitted names of 3 constitutionally qualified candidates.*
	QUESTIONNAIRE AND/OR INTERVIEW Council staff asked councilmembers via email with response directly to staff (no reply all) about preferences for sending a candidate questionnaire to complete and/or having candidate interviews. <ul style="list-style-type: none"> o Council staff coordinated process with staff from other jurisdictions. o Councilmembers chose to do a questionnaire only o Council staff presented draft questions to councilmembers via email for feedback and approval Candidate questionnaires were sent to councilmembers/commissioners and posted online.
	RESOLUTION Resolution to appoint drafted in advance of joint meeting. Council staff coordinated approvals with other participating jurisdictions. Informal approval via email from staff to councilmembers in advance of the meeting (email - do not reply all)
Jan 31, 2019	NOTICE POSTED Meeting notice distributed and posted regarding joint meeting with agenda and draft resolution.
Feb. 5, 2019	APPOINTMENT Joint Meeting of Whatcom, Skagit, and San Juan Counties AB2019-130 , Resolution 2019-010 <ul style="list-style-type: none"> - Held at Skagit County Commission chambers, some participating by phone. - Questions asked of candidates individually in an open public meeting - Other candidates asked to leave room while candidate answered questions - Each candidate allotted time during the 10 min Q&A to make a statement - All Candidates called back to the room for council discussion and vote. - Each Councilmember/Commissioner voted for 1 candidate, roll call vote. - Votes tallied for all three counties (3 votes for each county)** - Agenda <ul style="list-style-type: none"> o Call to Order, Flag Salute, and Selection of Chair o Discussion and Adoption of Agenda o Review Process Including Tabulation o Interview of Three Nominees (5 min. interview and 5 min. Q&A) o Council/Commissioner Comments o Selection of Senator o Other Business o Adjournment
April 9, 2019	APPROVAL OF MINUTES County Council approved minutes of the joint meeting.
NOTES: * Article II , Section 15 of the Washington State Constitution: Nominations from state central committee of the same political party as the legislator whose office vacated, and candidates must reside in the 40 th legislative district **Votes weighted, three votes for each county – see Attorney General Office opinion	

40 TH DISTRICT STATE HOUSE VACANCY (2019-2020)	
Date	Event
Nov 27, 2019	VACANCY 40 th legislative district House of Representatives seat vacated by Rep. Jeff Morris. The 40 th legislative district spans three counties, so a multi-jurisdictional process was necessary.
	CANDIDATES NOMINATED WA State Democratic Central Committee submitted the names of three constitutionally qualified candidates. (in order of preference)*
	QUESTIONNAIRE AND/OR INTERVIEW Council staff asked councilmembers via email with response directly to staff (no reply all) about preferences for sending a candidate questionnaire to complete and/or having candidate interviews. <ul style="list-style-type: none"> o Councilmembers chose to do a questionnaire o Council staff presented draft questions to councilmembers via email for feedback and approval
Dec. 31, 2019	NOTICE POSTED Joint meeting notice posted on County Council webpage with link to public notice of joint meeting on January 6, 2020 to appoint candidates to vacancy. (agenda not included)
Jan. 2, 2020	CANDIDATE MATERIALS SUBMITTED Completed candidate questionnaires received and distributed to council via email (do not reply all) and posted on Legistar
Jan. 2, 2020	NOTICE POSTED Sent meeting notice to media list and posted on the council chambers doors
	RESOLUTION Resolution to appoint drafted in advance of joint meeting. Informal approval via email from staff to councilmembers in advance of the meeting (email - do not reply all)
Jan. 6, 2020	APPOINTMENT Joint Meeting of Whatcom, Skagit, and San Juan Counties; AB2020-022 ; Resolution 2020-001 <ul style="list-style-type: none"> - Process and location were same as when filling 40th LD Senate seat - Agenda <ul style="list-style-type: none"> o Call to Order, Pledge of Allegiance o Selection of Chair and Discussion and Adoption of Agenda o Review Process Including Tabulation** o Interview of Three Nominees (5 min interview and 5 min. Q&A)*** o Joint Deliberations o Action - Selection of Senator o Other Business o Adjournment
Feb. 11, 2020	APPROVAL OF MINUTES
NOTES: * Article II , Section 15 of the Washington State Constitution: Nominations from state central committee of the same political party as the legislator whose office vacated, and candidates must reside in the 40 th legislative district **Votes weighted, three votes for each county – see Attorney General Office opinion ***Interview questions for candidates: <ol style="list-style-type: none"> 1) What will you do to be effective in Olympia? 2) Why are you the best candidate to represent the 40th Legislative District and what distinguishes you from the other nominees? 3) If appointed, what will be your top priorities and why? 4) Transportation is a key issue for all communities. Share with us your transportation priorities. 5) How would you help maintain viable agriculture in the 40th Legislative District? 6) Share with us your thoughts on the Growth Management Act, and what, if any changes you would advocate for immediately? 7) Housing affordability is a key issue for all communities. Share with us your housing affordability priorities. 8) Our communities are also experiencing increasing levels of homelessness. What will you do as a legislator to meet the needs of Washingtonians without a home? 9) Local governments face a variety of unfunded mandates initiated by the legislature, as well as the day-to-day costs of facilities and general government operations. What will you do to ensure counties have the funding they need to meet state mandates and provide essential services? 	

DISTRICT COURT JUDGE APPOINTMENT (2021)

Date	Event
June 3, 2021	VACANCY Judge Grant announces vacancy
June 8, 2021	PRESS RELEASE & NEWSFLASH Council staff send out press release , announcing vacancy and applications due June 28. Applications made available on Council webpage or by request to Council Office. Newsflash of press release posted to Council webpage.
June 15, 2021	CONFIRM PROCESS Committee of the Whole discussion on process to appoint to district court judicial vacancy – AB2021-339 <ul style="list-style-type: none"> - Motion passed to request evaluations of candidates from the following by July 23rd: <ul style="list-style-type: none"> ▪ Whatcom County Bar Association, ▪ Washington Women Lawyers, and ▪ Prosecutor Richey (later declined to participate) - Motion passed to receive all applications and distribute to Councilmembers on June 28
June 27, 2021	CONFIRM PROCESS (cont'd) Council discussed the process to appoint, specifically voting procedures and interview questions (in Committee of the Whole – see AB2021-339) <ul style="list-style-type: none"> - Motion passed to have each councilmember vote for one person, and if Council is deadlocked then use ranked choice voting - Motion passed to accept interview questions and send to candidates in advance - Council staff sent memo to Council with interview schedule, posted to Legistar
June 28, 2021	APPLICATIONS RECEIVED Council staff distributed applications to councilmembers and posted on Legistar (AB2021-339). Personal contact information for candidates redacted from applications. Three letters of reference were requested with the application. Additional written references (letter or email to Council) were received by staff, compiled and posted with application online (after application deadline until the council vote)
July 23-25, 2021	EVALUATIONS RECEIVED Received, distributed to Councilmembers, posted on Legistar evaluations from Washington Women Lawyers and Whatcom County Bar Association
July 27, 2021	EXECUTIVE SESSION WITH JUDGES Council Executive Session to discuss appointment - AB2021-339 . Council requested Judge Elich and Judge Grant be present to get their perspective on the candidates (Elich declined to participate, Grant attended, but Councilmember motion to go into Executive Session failed)
August 5, 2021	INTERVIEWS Council interviews candidates* (Special Council Meeting) – AB2021-474 . Council staff memo to Councilmembers and candidates informing them of the interview schedule, posted on Legistar.
August 10, 2021	APPOINTMENT Council vote to appoint candidate – AB2021-485
September 14, 2021	APPROVAL OF MINUTES

NOTES:

*Interview questions

1. What do you believe are the central attributes of a good judge?
2. Why do you believe you possess those qualities and what experience do you possess that demonstrates those qualities?
3. What ideas do you have for office and caseload management of the district court?
4. What is the most cost-effective thing the County could do to maintain or enhance the effectiveness of the district court?
5. What role should district court judges have in regards to establishing budget priorities with the County Council and the law and justice system in the County?
6. What changes would you like to make to District Court that could help the people you will be interacting with each day?

42TH DISTRICT STATE SENATE VACANCY (2021-2022)	
Date	Event
Dec. 17, 2021	VACANCY 42 th legislative district Senate seat vacated by Senator Doug Erickson
Dec. 22, 2021	CONFIRM PROCESS Council staff schedules discussion item (Special Council Meeting) to review the appointment process to fill the vacancy – AB2022-007 . Council chair contacted chair of Whatcom County Republican party to come up with a reasonable timeframe. <ul style="list-style-type: none"> • One week to submit names to council • One week for council receive responses to Q and A • One week to convene an appointment meeting (special Council meeting) • Need 24-hours notice to schedule a special council meeting
Dec. 31, 2021	CANDIDATES NOMINATED Council staff requests nominations from Whatcom County Republican party* Whatcom County Republican party submits the names of three constitutionally qualified candidates to fill the current legislative district vacancy
	CANDIDATE STATEMENTS OF INTEREST Council staff receives statements of interest from candidates, sends to Councilmembers, posts on Legistar – AB202-010 .
Jan. 4, 2022	QUESTIONNAIRE AND/OR INTERVIEW Council discusses and approves questions for candidates
Jan. 4, 2022	RESOLUTION Draft resolution affirming appointment posted online – AB2022-033
Jan. 7, 2022	QUESTIONNAIRES DUE Candidate completed questionnaires received, distributed to councilmembers, and posted on Legistar – AB2022-033 .
Jan. 11, 2022	APPOINTMENT Council Special Meeting to discuss candidates. Each candidate given 3 minutes to make a statement followed by questions from councilmembers. Vote to appoint – AB2022-010 – by resolution . Judge Anderson administered oath of office immediately following the appointment.
Jan 25, 2022	APPROVAL OF MINUTES Council approved minutes of Council Special Meeting
NOTES: * Article II , Section 15 of the Washington State Constitution: Nominations from state central committee of the same political party as the legislator whose office vacated, and candidates must reside in the 40 th legislative district	