

From: May, Michael
Sent: Monday, April 21, 2014 2:45 PM
To: All Alders; Soglin, Paul
Cc: Brist, Steven; Lauten, Patricia
Subject: District 13 Vacancy: Qualifications of Candidates

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Alders:

I have been advising Council President Schmidt on this issue and we thought it a good idea to update you on my conclusions. I have confirmed my analysis with the Elections Division of the Government Accountability Board.

1. Under sec. 17.03(4)(c), Stats., the office of alder is vacant if the person does not live in the district. So, at a minimum, the person must live in the district as of April 29, when the person will be appointed by the Council. Otherwise, the office is immediately deemed vacant. They cannot qualify by moving into the district after that date.
2. Under sec. 17.28, Stats., "any officer who is elected or appointed to fill a vacancy shall qualify in the manner required by law of the officer in whose stead the officer is elected or appointed." Thus, any person to be appointed to a vacancy in an aldermanic district must have the same qualifications as the person they replace, a person who was elected.
3. Under sec. 62.09(2)(a), Stats., no person may be "elected by the people" to the position of alder unless they are both an "elector" and a "resident" of the aldermanic district. To be an elector of the district, the person must have resided in the district for 28 days before the election. Sec. 6.02(1), Stats. Therefore, any person who applied for the District 13 vacancy must have lived in the district 28 days before the expected appointment, or April 1, 2014. Persons who do not meet this requirement are not qualified for appointment.
4. Under 62.09(4)(a), Stats., the person qualified for an office must take the oath within 10 days. There is no reason it could not be done, and I would recommend that it be so noticed and be done, at the April 29 meeting. The appointee could immediately assume the District 13 chair at the April 29 meeting.

If you have any questions, please call me or make them by separate email. Thank you.

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