

**MEMORANDUM**

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Resolution to schedule special election to fill Council vacancy

As you know, Councilmember Praisner died on January 30. Under County Code §16-17, the Council must adopt a resolution within 30 days setting the date of a special election to fill the vacancy. See §16-17 on ©3-5. Although Councilmember Praisner left a statement urging the Council to fill a vacancy if it occurs by appointment, which could be done by enacting an expedited bill suspending the law's special election requirement for this vacancy, no Councilmember has proposed such a bill.

Council staff drafted the attached resolution, which would set the date for the special primary election on April 14 and the special general election on May 12. These dates are essentially identical to those used in the 2008 special election (April 15 and May 13). The Council approved Resolution 16-456, setting those dates, on February 19, 2008.

The other dates regarding petition candidates are set in this resolution to resolve ambiguities in state law. The required public notice, which staff will draft after this resolution is approved, will list other relevant dates that are mandated by County and state laws, most of which are shown in the attached timeline (see ©6-7) prepared by Elections staff.

Board of Elections staff estimated that last year's special election in this district cost about \$1.347 million. Council staff asked Elections staff to consider ways to reduce the cost of this special election, such as consolidating polling places. We will advise Councilmembers of any response we receive.

This packet contains:

Resolution  
County law re special elections  
Election timeline

Circle #

1  
3  
6

Resolution No. \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: County Council

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**SUBJECT:** Special Election to fill District 4 Council Vacancy

**Background**

1. On January 30, 2009, Councilmember Donald E. Praisner died.
2. Under County Code §16-17, a special election must be held to fill this vacancy. Under §16-17(d)(1), the Council must adopt a resolution within 30 days after the vacancy occurs that sets the date of the special primary and special general election and takes any other action authorized by law.
3. After the Council adopts the resolution setting the election dates, the public notice required by §16-17(g) must specify the procedures under which a person may be nominated and elected to fill the vacancy and should include other important deadlines and requirements set under County and State law.

**Action**

*The County Council for Montgomery County, Maryland approves the following resolution:*

1. The County Board of Elections must hold a special primary election to fill the vacancy in the office of Councilmember representing Council District 4 on April 14, 2009.
2. The County Board of Elections must hold a special general election to fill the vacancy in the office of Councilmember representing Council District 4 on May 12, 2009.
3. A candidate for nomination by petition in this special election must:
  - (a) if the candidate seeks an advance determination of the sufficiency of a petition, request an advance determination from the County Election Director not later than March 16, 2009;

- (b) file a declaration of intent with the County Board of Elections not later than March 23, 2009; and
  - (c) file a certificate of candidacy with the County Board of Elections not later than April 14, 2009.
4. The content and arrangement of the ballot for the special general election must be certified not later than April 28, 2009.

*This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date

such proposed amendment is to be submitted to the voters of the County. The question on the voting machine or ballot shall follow the ballot title, and shall be stated as follows: "For the Amendment" and "Against the Amendment." When two (2) or more amendments are submitted at the same election they shall be submitted so that each may be voted upon separately. (Mont. Co. Code 1965, § 2-6; 1968 L.M.C., Ex. Sess., ch. 8, § 6.)

### ARTICLE III. SPECIAL ELECTIONS.

#### Sec. 16-17. Council vacancy - election required.

- (a) In this Section, the following words have the meanings indicated:
- (1) "Board" means the Montgomery County Board of Elections.
  - (2) "Council vacancy" means a vacancy on the County Council that must be filled by a special election under this Section.
  - (3) "State law" means Article 33 of the Maryland Code, as amended from time to time, any successor provision, and any other relevant provision of state law.
  - (4) "Special election" means the combination of a special primary election and a special general election conducted under this Section.
- (b)
- (1) A vacancy on the Council that occurs before December 1 of the year before a year in which a quadrennial state election will be held must be filled by a special election as provided in this Section.
  - (2) The special election must be conducted among the registered voters of the Council district represented by the previous member, or among the registered voters of the entire County when the previous member did not represent a Council district.
  - (3) The person elected to fill a Council vacancy must meet the same qualifications and residence requirements, but need not be registered to vote in the same political party, as the previous member.
  - (4) The Councilmember elected at a special election serves:
    - (A) from the date the person elected takes the oath of office after the Board (sitting as a Board of Canvassers under state law) certifies the result of the special election; and
    - (B) for the rest of the unexpired term of the previous member.

- (c) Except as otherwise provided in this Section, and to the extent applicable:
- (1) The special election must be conducted in a manner consistent with provisions of state law that govern special elections to fill vacancies in the office of representative in Congress. The deadlines and time periods required under those provisions of state law apply to a special Council election unless the Council, acting under subsection (d) or subsection (e), expressly modifies them.
  - (2) Except as provided in paragraph (1), the general provisions of state and County law that govern quadrennial elections for Councilmembers apply to the special election conducted under this Section.
- (d) (1) Within 30 days after a Council vacancy occurs, the Council must adopt a resolution that:
- (A) sets the dates of the special primary election and the special general election; and
  - (B) takes any other action authorized by this Section or state law.
- If a Councilmember submits a resignation with a later effective date, the vacancy occurs when the Council receives the resignation.
- (2) Notwithstanding subsection (c)(1), if the Council vacancy occurs during the period beginning 120 days before the next regular or special primary or general election conducted in the County under state law and ending 40 days before that election, the special primary election provided for by this Section must be held on the same date as the other election. If a second regular or special primary or general election conducted in the County under state law is held more than 30 but less than 60 days after the special primary election referred to in the preceding sentence, the special general election held under this Section must be held on the same date as the second other election.
  - (3) Notwithstanding any other provision of law, a special primary or special general election under this Section must not be held within 30 days before or after any regular or special primary or general election conducted in the County under state law.
- (e) If the Board advises the Council in writing that certain deadlines or other time periods provided by state law cannot be complied with in a special election held under this Section, or that compliance with those deadlines or time periods would be unreasonable or burdensome, the Council may in the resolution set other deadlines or time periods appropriate for the special election held under this Section.

MONTGOMERY COUNTY CODE  
Chapter 16

- (f) Immediately after adopting a resolution under this Section, the Council must deliver the resolution to the Board.
- (g) Within 7 calendar days after adopting the resolution, the Council must publish a notice that a vacancy has occurred in at least one newspaper of general circulation in the County. The notice must specify:
  - (1) the dates of the special primary election and the special general election; and
  - (2) the procedures under which a person may be nominated to fill the vacancy.
- (h)
  - (1) An individual who has filed a certificate of candidacy for the special election may, by 5 p.m. on the second business day after the deadline for filing certificates of candidacy, withdraw the certificate on a form prescribed by the Board.
  - (2) A candidate to whom a certificate of nomination is issued may, by 5 p.m. on the second business day after the certificate of nomination is issued, decline the nomination by filing a certificate of declination on a form prescribed by the Board.
- (i) The Board must identify the costs it incurred in holding a special election under this Section and submit a request for a supplemental appropriation to the Director of the Office of Management and Budget within 60 days after the special general election. (1999 L.M.C., ch. 7, § 1.)

**Editor's Note**—Former Sections 16-17 through 16-21 were repealed by 1997 L.M.C., ch. 12, § 1. Former Section 16-22 was renumbered by 1999 L.M.C., ch 7, § 1.)

Date	Day	Time	Event	By Whom	Comments
January 30, 2009	Friday	1:45pm	Vacancy Occurs	Council	MCCSec 16-17 (d)(1)
March 1, 2009	Sunday	11:59PM	Adopt Resolution	Council	30 days after vacancy occurs
?			Candidate Filings Commence	Council Resolution determines	MD Code§ 5-303. When filed (21 days)
January 19, 2009	Monday		No party change permitted until after special primary election		MD Code§ 3-303(b)(1)(iii)
March 13, 2009	Friday	5:00 PM	Request advance determination of sufficiency of petition	petition candidates	MD Code§ 6-210 (a)(1) if advance determination sought
	Tuesday	11:59 PM	deadline to file campaign finance report (Tentative deadline)	candidates	file at SBE (SBE shall set schedule)
	Saturday	5:00 PM	deadline to file declaration of intent	petition candidates	30 days prior to election
	Monday	5:00 PM	deadline to file statement of organization (Tentative deadline)	party candidates	file at SBE (must be filed prior to filing certificate of candidacy) (SBE shall set schedule)
March 2, 2009	Monday	5:00 PM	deadline to file certificate of candidacy	party candidates	
March 3, 2009	Tuesday	5:00pm	deadline to withdraw candidacy	party candidates	Council may set in resolution
March 4 2009	Wednesday		Certify Ballot	BoE	
March 4 2009	Wednesday		Display Ballot	BoE	
March 7 2009	Saturday		Print Ballots	SBE/Premier	
March 23, 2009	Monday	9:00 PM	Registration closes		21 days prededing election
March 24, 2009	Tuesday	5:00 PM	deadline to apply for polling place change	voters	
April 3, 2009	Friday		deadline for mailing specimen ballots	BOE and MC Printshop	
April 7, 2009	Tuesday	11:59 by fax	deadline to request an absentee ballot by mail or fax	voters	5:00 pm by mail
April 8, 2009	Wednesday		begin period to request late absentee ballot applications		MD EL §8-102
April 14, 2009	Tuesday		Election Primary Day		
April 14, 2009	Tuesday	5:00 PM	deadline to file statement of organization	petition candidates	file at SBE (must be filed prior to filing certificate of candidacy) SBE sets schedule
April 14, 2009	Tuesday	5:00 PM	deadline to file certificate of candidacy	petition candidates	MD EL §5-703
April 14, 2009	Tuesday	5:00 PM	deadline to file petition signatures	petition candidates	
April 14, 2009	Tuesday		deadline to submit absentee ballots	voters	accepted at BoE through close of polls or USPS postmark by 11:59 pm
April 16, 2009	Thursday		Absentee 1 Canvass begins	BoE	
April 20, 2009	Monday		Provisional Canvass	BoE	
April 24, 2009	Friday		Absentee 2 Canvass	BoE	
April 24, 2009	Friday		Certification of Election Results	BoE	

April 25 2009	Saturday		Display content and arrangement of Ballot	BoE	MD EL § 5 9-207(d)
April 27, 2009	Tuesday		deadline to certify content and arrangement of ballot	BoE	MD Code§ 9-207(a)
?			deadline to file campaign finance report (Tentative deadline)	candidates	file at SBE (SBE shall set schedule)
April 27, 2009	Monday		Printing of Ballots		MD EL § 5 9-207(e)
April 28, 2009		6:00pm	Printing of Specimen ballot	BoE & Printshop	
May 1, 2008	Friday		deadline for mailing specimen ballots	BoE & USPS	MD EL § 8-102
May 5, 2009	Tuesday	11:59 by fax	deadline to request an absentee ballot by mail or fax	voters	5:00 pm by mail
May 6, 2009	Wednesday		begin period to request late absentee ballot applications		
May 6, 2009	Wednesday	5:00 PM	deadline to file certificate of candidacy for write in candidate	write-in candidate	earlier deadline if expend at least \$51
May 12, 2009	Tuesday	7 am - 8 pm	<b>Special General Election</b>	BoE	
May 12, 2009	Tuesday		Absentee ballot deadline	voters	accepted at BoE through close of polls or USPS postmark by 11:59 pm
May 14, 2009	Thursday		Absentee I Canvass begins	BoE	
May 18, 2009	Monday		Provisional Canvass begins	BoE	
May 22, 2009	Friday		Absentee II Canvass begins	BoE	
May 22, 2008	Friday		Certification	BoE	
May 26, 2009	Tuesday		Registration opens	BoE	
June 2, 2009	Tuesday	11:59 PM	deadline to file campaign finance report (Tentative deadline)	candidates	file at SBE (SBE Shall set schedule)

**MEMORANDUM**

TO: County Council

FROM: *MF* Michael Faden, Senior Legislative Attorney

SUBJECT: **Introduction:** Resolution to schedule special election to fill Council vacancy

The previously circulated resolution would have set the date for the special primary election on April 14 and the special general election on May 12. These dates are essentially identical to those used in the 2008 special election (April 15 and May 13). The Council approved Resolution 16-456, setting those dates, on February 19, 2008.

After further consideration, Council President Andrews concluded that the special primary and election should instead be held on April 21 and May 19. These dates would resolve problems with access to schools during the April 6-13 school holiday and conflicts with the last 2 days of Passover. The attached redraft uses the revised dates.

Also attached is a list of polling places that the Board of Elections used in the 2008 special election. Councilmembers have discussed consolidating the number of polling places used in this special election as one way to reduce its cost.

This packet contains:

Revised resolution  
List of polling places

Circle #

1

3

Resolution No. \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: County Council

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**SUBJECT:** Special Election to fill District 4 Council Vacancy

### Background

1. On January 30, 2009, Councilmember Donald E. Praisner died.
2. Under County Code §16-17, a special election must be held to fill this vacancy. Under §16-17(d)(1), the Council must adopt a resolution within 30 days after the vacancy occurs that sets the date of the special primary and special general election and takes any other action authorized by law.
3. After the Council adopts the resolution setting the election dates, the public notice required by §16-17(g) must specify the procedures under which a person may be nominated and elected to fill the vacancy and should include other important deadlines and requirements set under County and State law.

### Action

*The County Council for Montgomery County, Maryland approves the following resolution:*

1. The County Board of Elections must hold a special primary election to fill the vacancy in the office of Councilmember representing Council District 4 on April 21, 2009.
2. The County Board of Elections must hold a special general election to fill the vacancy in the office of Councilmember representing Council District 4 on May 19, 2009.
3. A candidate for nomination by petition in this special election must:
  - (a) if the candidate seeks an advance determination of the sufficiency of a petition, request an advance determination from the County Election Director not later than March 23, 2009;

- (b) file a declaration of intent with the County Board of Elections not later than March 30, 2009; and
  - (c) file a certificate of candidacy with the County Board of Elections not later than April 21, 2009.
4. The content and arrangement of the ballot for the special general election must be certified not later than May 5, 2009.

*This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date

## 2008 Special Elections Polling Places - Alpha Order

D/P	Polling Place - 2008	Address	City	Zip Code
13-56	Argyle MS	2400 Bel Pre Road	Silver Spring	20906
13-49S	Aspenwood Senior Living Community	14400 Homecrest Road	Silver Spring	20906
13-48	Bel Pre ES	13801 Rippling Brook Drive	Silver Spring	20906
05-19	Benjamin Banneker MS	14800 Perrywood Drive	Burtonsville	20866
05-18	Burtonsville ES	15516 Old Columbia Pike	Burtonsville	20866
05-11	Cannon Road ES	901 Cannon Road	Silver Spring	20904
13-46	Children's Learning Center	4511 Bestor Drive	Rockville	20853
05-15	Cloverly ES	800 Briggs Chaney Road	Silver Spring	20905
13-20	Colonel E. Brooke Lee MS	11800 Monticello Avenue	Silver Spring	20902
08-08	Colonel Zadok Magruder HS	5939 Muncaster Mill Road	Rockville	20855
13-52	Earle B. Wood MS	14615 Bauer Drive	Rockville	20853
05-21	Eastern Montgomery Regional Services Ctr.	3300 Briggs Chaney Road	Silver Spring	20904
05-23	Fairland Community Center	14906 Old Columbia Pike	Burtonsville	20866
05-17	Fairland School Center	13313 Old Columbia Pike	Silver Spring	20904
08-03	Flower Valley ES	4615 Sunflower Drive	Rockville	20853
13-11	Forest Knolls ES	10830 Eastwood Avenue	Silver Spring	20901
13-01	Georgian Forest ES	3100 Regina Drive	Silver Spring	20906
05-01	Good Hope Community Center	14715 Good Hope Road	Silver Spring	20905
05-02	Greencastle ES	13611 Robey Road	Silver Spring	20904
13-61	James Hubert Blake HS	300 Norwood Road	Silver Spring	20905
13-02	John F. Kennedy HS	1901 Randolph Road	Silver Spring	20902
13-33	Kemp Mill ES	411 Sisson Street	Silver Spring	20902
13-54	Leisure World Clubhouse I	3700 Rossmoor Boulevard	Silver Spring	20906
13-69	Leisure World Clubhouse II	3300 Leisure World Blvd.	Silver Spring	20906
05-20	New Hope Korean Church	15121 McKnew Road	Burtonsville	20866
05-12	Paint Branch HS	14121 Old Columbia Pike	Burtonsville	20866
13-45	Parkland MS	4610 West Frankfort Drive	Rockville	20853
13-51	Rock Creek Valley ES	5121 Russett Road	Rockville	20853
08-12	Rosa Parks MS	19200 Olney Mill Road	Olney	20832
13-36	Sargent Shriver ES	12518 Greenly Drive	Silver Spring	20906
08-04	Sequoyah ES	17301 Bowie Mill Road	Derwood	20855
08-07	Sherwood ES	1401 Olney-Sandy Spring Road	Sandy Spring	20860
08-06	Sherwood HS	300 Olney-Sandy Spring Road	Sandy Spring	20860
05-05	Springbrook HS	201 Valley Brook Drive	Silver Spring	20904
13-37	St. John's Evangelical Lutheran Church	4629 Aspen Hill Road	Rockville	20853
13-64	St. Matthew Presbyterian Church	4001 Bel Pre Road	Silver Spring	20906
05-16	Stonegate ES	14811 Notley Road	Silver Spring	20905
13-55	Strathmore ES	3200 Beaverwood Lane	Silver Spring	20906
05-04S	The Newport School (Formerly Riderwood Vill	12101 Tech Road	Silver Spring	20904
13-35	Weller Road ES	3301 Weller Road	Silver Spring	20906
05-09	Westover ES	401 Hawkesbury Lane	Silver Spring	20904
13-28	Wheaton HS	12601 Dalewood Drive	Wheaton	20906
13-43	Wheaton Woods ES	4510 Faroe Place	Rockville	20853
05-06	White Oak MS	12201 New Hampshire Avenue	Silver Spring	20904
05-08	William Tyler Page ES	13400 Tamarack Road	Silver Spring	20904