



James Krupienski
Acting Town Manager

TOWN OF NEWINGTON

200 GARFIELD STREET
NEWINGTON, CONNECTICUT 06111

MAYOR BETH DELBUONO

NEWINGTON TOWN COUNCIL SPECIAL MEETING AGENDA

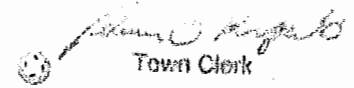
**Town Council Chamber, Room 103 – Town Hall
200 Garfield Street**

Monday, February 6, 2023, 6:00 P.M.

This meeting will be presented as a Zoom Webinar/Hybrid Meeting. Information on how to attend will be posted on the website at <https://www.newingtonct.gov/virtualmeetingschedule>

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2023 FEB -3 AM 11:28


Town Clerk

1. PLEDGE OF ALLEGIANCE
2. ROLL CALL
3. PUBLIC PARTICIPATION – IN GENERAL (**Via Zoom Application or Phone**)
(3 MINUTE TIME LIMIT PER SPEAKER ON ITEMS ON AGENDA ONLY)
 - A. Public Comments
 - B. Email Correspondence
4. REMARKS BY COUNCILORS ON PUBLIC PARTICIPATION
5. RESIGNATIONS/APPOINTMENTS
 - A. Newington Town Council
 1. Appoint a Replacement
6. PUBLIC PARTICIPATION – IN GENERAL (**Via Zoom Application or Phone**)
(3 MINUTE TIME LIMIT PER SPEAKER ON ITEMS ON AGENDA ONLY)
7. REMARKS BY COUNCILORS
8. ADJOURNMENT



James Krupienski
Acting Town Manager

TOWN OF NEWINGTON

200 GARFIELD STREET
NEWINGTON, CONNECTICUT 06111

OFFICE OF THE TOWN MANAGER

MEMORANDUM

To: Newington Town Council
From: James E. Krupienski, Acting Town Manager
Date: February 3, 2023
Re: Renewal of Appointment for Newington Town Council Vacancy

On January 17, 2023, Councilor Sharon Braverman supplied a Letter of Resignation for acceptance by the Town Council. The Democratic Town Committee, with foreknowledge of the upcoming vacancy, on January 12, 2023, met and brought forward a nominee, Jonathan Trister, to fill the vacated position. The Town Council leadership met on January 17, 2023 to set the Agenda for the upcoming meeting on January 24, 2023 and the packet was created and distributed on January 20, 2023.

On January 23, 2023, Carol Anest supplied a letter of intent to seek the appointment for the vacant position. At 2:45 PM on Monday, January 23, 2023, I supplied the Letter of Intent from Mrs. Anest to the entire Town Council and the Town Attorney. Within that email I requested that the Town Attorney review the relevant sections of the Town Charter, and any Connecticut General Statutes that may be relevant to the nomination or appointment. Town Attorney Ancona supplied that Legal Opinion on the afternoon of January 24th, and copies were distributed to the Town Council that evening. Additionally, later that same day I had posed a question on the voting threshold required for passage of the appointment. Unfortunately, we both missed Section C-404 of the Charter, requiring *“..., and no ordinance, resolution or vote, ..., shall be adopted by less than five affirmative votes.”*. The determination of a simple majority vote of members present, under Robert’s Rules of Order, was incorrect, and I would like to apologize to the Council and the public for the confusion this has caused.

With the motion to appoint being considered at the January 24, 2023 meeting, and determined to have failed, based upon the required voting threshold under the Charter, the Council will need to still act to appoint a new Councilor to the vacant seat. Under the requested Legal Opinion, it has been determined that the Town Council may act to Renew the Motion to complete the appointment process. I have included the original Legal Opinion specific to Municipal Elective Office Vacancy, dated January 24, 2023. Additionally, Attorney Ancona has updated that opinion to address the voting threshold and to outline the ability of the Town Council to renew the motion. This action would be based upon the resolution that was placed before the Town Council for action, specifically the appointment of Carol Anest, as that was the action which failed. Attorney Ancona will be present during the meeting for any questions that may arise.

Included as part of the packet this evening is a Resolution to Renew the Motion and to complete the appointment of Mrs. Anest for the vacant seat.

Attachment:

- Legal Opinion of Attorney Ancona, Dated January 24, 2023, Re: Municipal Elective Office Vacancy
- Legal Opinion of Attorney Ancona, Dated February 3, 2023, Re: Municipal Elective Office Vacancy
- Resolution – Renewal of Motion and Appointment to Vacant Town Council Seat

Law Office of Benjamin Ancona Jr.

39 East Cedar Street, Suite 8
Newington, CT 06111
860.436.2960 Fax 860.785.8868
benancona@gmail.com

January 24, 2023

Via Email Only

James E. Krupienski, CCTC
Acting Town Manager
Town of Newington
200 Garfield Street
Newington, CT 06111

Re: Municipal Elective Office Vacancy

Dear Mr. Krupienski:

As you know, Section C-204 of Newington's Town Charter governs vacancies in elective offices. Section C-204 states that "[v]acancies in elective offices . . . from whatever cause arising, shall be filled by the Council for the period until the end of the vacated term." *Id.* "In filling any vacancy[,] the Council . . . shall select a person of the same political party as that of the former incumbent." *Id.* There are no state statutes or primary authority that supercede Newington's Charter and therefore, the choice is solely within the jurisdiction of the Newington Town Council.

In the situation at hand, the office that is intended to be filled is that of a retiring town councilor whose political party registration is that of democrat. Therefore, any replacement must be a registered democrat. The candidates whom you have presented are both registered democrats, so either person meets the party requirement pursuant to § C-204.

Furthermore, please note that Charter Section C-415 states that “[n]either the Mayor nor any member of the Council or Board of Education shall hold any elective, appointive office, or serve on any board or commission pursuant to Article VI as a voting member thereof . . .” *Id.* Accordingly, neither of the proposed candidates can hold multiple offices concurrently in contravention of Section C-415 should they currently do so.

In closing, the choice of replacing a resigning town councilor is wholly within the auspices and jurisdiction of the sitting town council and there is no required order for making said decision.

Respectfully submitted,

A handwritten signature in cursive script that reads "Benjamin Ancona Jr.".

Benjamin Ancona Jr.
Newington Town Attorney

Law Office of Benjamin Ancona Jr.

39 East Cedar Street, Suite 8
Newington, CT 06111
860.436.2960 Fax 860.785.8868
benancona@gmail.com

February 3, 2023

Via Email Only

James E. Krupienski, CCTC
Acting Town Manager
Town of Newington
200 Garfield Street
Newington, CT 06111

Re: Municipal Elective Office Vacancy

Dear Mr. Krupienski:

As I have previously stated, Section C-204 of Newington's Town Charter governs vacancies in elective offices. Section C-204 states that "[v]acancies in elective offices . . . from whatever cause arising, shall be filled by the Council for the period until the end of the vacated term." *Id.* "In filling any vacancy[,] the Council . . . shall select a person of the same political party as that of the former incumbent." *Id.* There are no state statutes or primary authority that supercede Newington's Charter and therefore, the choice is solely within the jurisdiction of the Newington Town Council.

During the last council meeting, the council entertained a motion to nominate a candidate to fill a vacancy in its assembly. The vote was four in the affirmative, two against and one abstention. Regrettably, I gave you an incorrect email response when I said that a simple majority pursuant to Robert's Rules would suffice for such a nomination. In fact, Section C-404 of our charter requires five affirmative votes and therefore, trumps Robert's Rules. Accordingly, the motion failed.

Currently, the council is desirous of bringing forth the same motion at its next special meeting; the council may do so pursuant to Robert's Rule # 38. Rule # 38 states that, "[w]hen an original main motion or an amendment has been adopted, or rejected, or a main motion has been postponed indefinitely, or an objection to its consideration has been sustained, it, or practically the same motion, cannot be again brought before the assembly at the same session, except by a motion to reconsider or to rescind the vote." *Id.* That being said, however, "[] it may be introduced again at **any future** session." *Id.* (emphasis added). Rule # 38 also addresses bodies that have regular sessions "as often at least as quarterly" which our council does. *Id.* When such considerations described in paragraph two of Rule # 38 are implicated, said rule proscribes taking up the same motion at the next regular session and an intervening meeting must take place. *Id.* To bar such a reconsideration at the very next meeting, Rule #38 dictates that the motion cannot be reconsidered at the next proximate meeting only "if it was postponed to that next session; or laid on the table; or adopted, or rejected, or postponed indefinitely, and the motion to reconsider was made and not acted on at the previous session." *Id.* As such, these considerations are not implicated and therefore, the motion may be revisited at the very next session.

Accordingly, the council may entertain the same motion at its very next meeting, but again, any such appointment requires five affirmative votes.

In closing, I again apologize for my error and I hope this additional opinion is enlightening.

Respectfully submitted,



Benjamin Ancona Jr.
Newington Town Attorney

Carol A. Anest
30 Harding Avenue
Newington, CT 06111
860.666.4708 (h)
860.490.6561 (c)

January 23, 2023

James Krupienski, Acting Town Manager
Town of Newington
200 Garfield Street
Newington, CT 06111

Dear James:

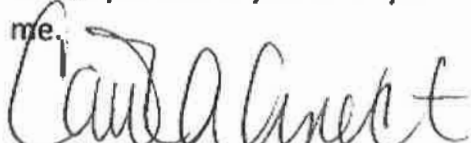
I was reviewing the Town Council agenda for the 1/24/2023 meeting and read about the resignation from Councilor Sharon Braverman. I would like to thank her for her many years of service to the town as a member of the Board of Education and Town Council.

I am very much interested and would like to be considered to fill this position through the end of her current term, November 14, 2023. Under Newington's Charter, it is the council that appoints and votes on the replacement of a vacant council position.

I have the experience and knowledge to fill this position. Elected to three terms to the council from 2015 through 2021, two terms as Minority Leader and one term as Majority Leader. I chaired and served on numerous Council sub committees and also served on the previous Town Manager Search Committee. I have extensive knowledge of the town budget as well as the Council Rules and Procedures. I have worked with a majority of the department heads, serving as liaison to most of the boards and commissions. I have and always will put the residents of our town first.

I would ask that you circulate this letter to the Mayor and the Councilors for their consideration.

Thank you and if you or anyone has any questions, please do not hesitate to contact me.


Carol A. Anest

Town Clerk

2023 JAN 23 PM 1:45

RECEIVED FOR RECORD
TOWN OF NEWINGTON, CT

AGENDA ITEM: 5.A

DATE: 2/6/2023

RESOLUTION NO. 2023-

RESOLVED:

The Newington Town Council moves to Renew the Motion taken up during the January 24, 2023 Regular Town Council meeting for the Appointment of Carol Anest for the vacant Town Council seat; and

NOW BE IT FURTHER RESOLVED:

That the Newington Town Council hereby makes the following appointment:

Newington Town Council

9 members
2-year term
Party Max.: 6

Name	Address	Party	Term	Replaces
Carol Anest	30 Harding Avenue	D	2/6/2023- 11/14/2023	Resignation of Sharon Braverman

MOTION BY: _____

SECONDED BY: _____

VOTE: _____