

SELECTING A CANDIDATE TO FILL A VACANT SEAT ON COUNCIL FOR THE REMAINING TERM OF OFFICE

Attached following this summary is a copy of the borough code section that is the official means by which a borough must fill a vacancy in elected office. Forest Hills Council procedure established in 2004 sets an arbitrary deadline for the receipt of a letter of interest and biography or resume for those applying for a vacant seat. Because the borough code is the only legal method of accomplishing this task and does not set specific procedures for selecting someone to fill a vacancy, council's action does not prohibit other residents from coming before council to submit an application for the position after the deadline nor does it prohibit other members of council, the Mayor or other citizens from recommending additional candidates whether they meet the deadline or not.

Council asks applicants who have submitted documents in advance or others who may come before it to make a no more than 5 minute presentation supporting their candidacy at the time and date determined.

Council may take whatever action it may choose during a voting meeting. That may include:

- Nominating one of the applicants via a motion to fill the vacancy. A motion nominating a candidate should include only one name. A subsequent motion may be made nominating another candidate if the first motion fails.
- Approving a motion recommending that council consider none of the applicants
- Taking no stand on any of the candidates.

Should council fail to select someone at a voting meeting, other applicants may come forward or a member of council, the mayor or a citizen of the borough may recommend for nomination another applicant. Nominees may also remain active in the process unless they choose to withdraw their names. A new applicant must come forward to indicate their interest, preferably by submitting a letter with a resume or biography and by making a brief presentation to council if a special meeting is scheduled prior to the end of the 30 day period.

It is council's choice as to how to proceed and may accept other applicants, reject some or all or nominate no one. Should council fail to select a candidate within 30 days of the date in which the seat became vacant the borough code requires that the vacancy board attempt to fill the position during the subsequent 15 days. A person appointed to fill a vacancy must stand for election at the next municipal election if they wish to remain in the seat.

Specifics can be found in section 901 of the Borough Code, (attached in part). A sample legal ad is also attached as an illustration.

BOROUGH CODE
ARTICLE IX
VACANCIES IN OFFICE

Section 901. Filling Vacancies in Elective Borough Offices. - *If any vacancy shall occur in the office of the mayor, member of council, auditor, controller, or tax collector, by death, resignation, termination of residency from the borough, or from a ward in the case of a ward office, or by failure to take the required oath or to give bond as provided by law or ordinance, provide the affidavit required under section 801, or in any other manner whatsoever, the borough council shall fill the vacancy within thirty days by appointing, by resolution, a registered elector of the borough, or of the ward in case of a ward office, to hold the office, if the term thereof continues so long, until the first Monday in January after the first municipal election occurring more than sixty days after the vacancy occurs, at which election an eligible person shall be elected to the office for the remainder of the term.* Except as provided in Section 801(b), ***no person shall be appointed to fill a vacancy in an elected borough or ward office unless the person has resided within the borough, or within the ward in the case of a ward office, continuously for at least one year immediately prior to the person's appointment.***

The person appointed shall give bond if required by law or ordinance.

In cases where the person elected to the office shall fail to give any bond required, provide the affidavit required under section 801 or to take the required oath, the borough council, before making the appointment, shall declare the office vacant.

If the council of any borough shall refuse, fail or neglect, or be unable, for any reason whatsoever, to fill any vacancy within thirty days after the vacancy happens, as provided in this section, then the vacancy shall be filled within fifteen additional days by the vacancy board. The board shall consist of the borough council exclusive of the mayor, and one registered elector of the borough who shall be appointed by the borough council at the council's first meeting each calendar year or as soon thereafter as practical and who shall act as chair of the vacancy board. The board shall appoint a registered elector of the borough, or ward in the case of a ward office, to hold the office, if the term thereof continues so long, until the first Monday in January after the first municipal election occurring more than sixty days after the vacancy occurs, at which election an eligible person shall be elected to the office for the remainder of the term.

If the vacancy is not filled by the vacancy board within fifteen days, the chair shall, or in the case of a vacancy in the chair, the remaining members of the vacancy board shall petition the court of common pleas to fill the vacancy by the appointment of a registered elector of the borough (or ward in the case of a ward), to hold the office, if the term thereof continues so long, until the first Monday in January after the first municipal election occurring more than sixty days after the vacancy occurs, at which election an eligible person shall be elected to the office for the remainder of the term. In the case where there are vacancies in more than a majority of

the offices of council, the court of common pleas shall fill the vacancies upon presentation of petition signed by not less than fifteen registered electors of the borough.

ELECTIONS OF OFFICERS

Section 801. Electors Only to be Eligible; Incompatibility.--(a) Except as provided in subsection (b), only registered electors of the borough shall be eligible to elective borough offices. Before being sworn in to office, ***each elected borough officer shall present a signed affidavit to the borough secretary that states that the officer resides in the borough from which elected and has resided in the borough continuously for at least one year immediately before the officer's election.*** A school director shall not be eligible to an elective borough office. No individual shall at the same time hold more than one elective borough office.