

RESOLUTION

RESOLUTION NO. **14**
SERIES OF 2021

INTRODUCED BY COUNCILMEMBERS
Smith, DeMott

A RESOLUTION ORDERING A RECALL ELECTION ON JULY 20, 2021

WHEREAS, on April 28, 2021, the City Clerk filed a Certificate of Sufficiency (attached as Exhibit A), which determined that sufficient valid signatures were gathered to trigger a recall election for Mayor Herb Atchison and Councillor Jon Voelz pursuant to the requirements of Westminster City Charter (“Charter”) Section 3.18 and Westminster Municipal Code (“W.M.C.”) Section 7-1-10; and

WHEREAS, Charter Section 3.18, and W.M.C. Section 7-1-10 both require that, upon the filing of a Certificate of Sufficiency for a recall, “the council, if the officer sought to be removed does not resign within five days thereafter, shall order an election by resolution, which shall contain the time periods for candidates to file their nomination petitions to succeed the person sought to be recalled. Such election shall be held on a Tuesday fixed by the council not less than 45 nor more than 60 days from the date that the City Clerk's certificate was filed”; and

WHEREAS, on Monday May 3, 2021, within five days of the filing of the Certificate of Sufficiency, Mayor Herb Atchison submitted his written resignation (attached as Exhibit B) to the City Council; and

WHEREAS, with the timely resignation of Mayor Herb Atchison, a recall election is needed only for Councillor Jon Voelz; and

WHEREAS, the City has consulted with the Colorado Secretary of State’s Office, and both the City and Secretary of State agree that the Uniformed and Overseas Citizens Absentee Voting Act, enacted in Colorado as the Uniformed Military and Overseas Voters Act, Article 8.3 of Title 1 of the Colorado Revised Statutes (“C.R.S.”), enacted into law by the Colorado General Assembly in 2016 after Charter Section 3.18 and W.M.C. Section 7-1-10 were last modified, applies to this election; and

WHEREAS, the Uniformed Military and Overseas Voters Act, including specifically but not limited to C.R.S. Section 1-8.3-110, requires that ballots be transmitted to military and overseas voters no later than forty-five days before the election to in order to safeguard the voting rights of military and overseas voters; and

WHEREAS, the City Council is required by the Charter Section 3.18, W.M.C. Section 7-1-10, as well as practical necessity to set reasonable time periods for candidates to file nomination petitions in order to appear on the ballot as candidates to succeed the person sought to be recalled; and

WHEREAS, the City Council finds that a 10-day period for the nomination of candidates to succeed the person sought to be recalled is necessary to provide fairness and opportunity to such candidates; and

WHEREAS, a certain amount of time is needed to program, print and mail the large number of ballots after the candidates to succeed the person sought to be recalled is set; and

WHEREAS, the City Council finds that a 14-day period for the printing of ballots after candidates are set and ballot content is finalized is reasonable and necessary; and

WHEREAS, notwithstanding the requirements of Charter Section 3.18, W.M.C. Section 7-1-10 that the recall election occur within 60 days of the filing of the Certificate of Sufficiency, in order to comply with the Uniformed Military and Overseas Voters Act, in order to safeguard the voting rights of Westminster Citizens serving in the armed forces or otherwise overseas, in order to provide fairness and opportunity to potential successor candidates, and in order to actually program, print and mail the ballots for the election, the City Council must set the election on a Tuesday 83 days after the filing of the Certificate of Sufficiency.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WESTMINSTER:

1. The Westminster City Council hereby orders a special election for the conduct of a recall election for Councillor John Voelz on Tuesday **July 20, 2021**.
2. The election shall be conducted by the City Clerk as a mail ballot election in accordance with Section 7-1-7(B), W.M.C.
3. The Westminster City Council hereby delegates to the City Clerk the authority and responsibility to take such actions as are necessary to conduct this election, including but not limited to the appointing of election judges as permitted by Section 31-10-401, C.R.S.
4. The Westminster City Council hereby establishes **May 20, 2021** as the deadline for candidates to file their nomination petitions to succeed the person sought to be recalled.

Passed and adopted this 10th day of May, 2021.

Anita Seitz

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Michelle Barber

City Clerk

By: *David Frankel*

Office of the City Attorney