

CITY OF
JOHN DAY

Councilors,

Below represents the opinion of the City Attorney and is to help guide your discussion.

1. The recall election removes Mayor Rookstool for her remaining term. The mayoral position is now vacant.
2. The vacant position must be filled in accordance with state statute or local charter/ordinance. Section 19(1) of the 1993 City of John Day Charter provides, in pertinent part, that an office of a member of the council becomes “vacant” upon the incumbent’s recall from office. Section 20 of the charter provides, in pertinent part, that a vacancy on the council “shall be filled by appointment by a majority of the council.”
3. Section 1-9-1A of the John Day City Code provides, in pertinent part, that the council may provide for the calling of special elections at such times and for such purposes as may be decided by the council. As you and the council are aware, an argument could be made that the council may call a special election to fill the vacant position. However, calling a special election in this instance would be inconsistent with the charter – the charter controls if a conflict between the charter and code occurs.
4. The council has the following options:
 - (a) The council may appoint a current councilor to serve as mayor. However, to do so the appointed councilor must resign from his or her current council position. This will result in a vacancy of the councilor’s position. The council may appoint someone to fill the vacated council position.
 - (b) The council may appoint someone from the public to serve as mayor.
5. The mayor appointee’s term of office runs from the time of appointment (and qualification) until expiration of the predecessor’s term (i.e., the appointee will serve for the remainder of Mayor Rookstool’s term).