

RESOLUTION NO. 9

SERIES 2018

A RESOLUTION AMENDING THE TOWN COUNCIL "PROCEDURES AND RULES OF ORDER" CONCERNING THE PROCEDURE TO CONDUCT AN ELECTION TO FILL A VACANCY ON THE TOWN COUNCIL AND THE PROCEDURE TO CONDUCT AN ELECTION TO FILL POSITIONS ON TOWN BOARDS AND COMMISSIONS

WHEREAS, Section 5.1 of the Breckenridge Town Charter provides that the Town Council shall determine the rules of procedures governing its meetings; and

WHEREAS, the Town Council has previously adopted the "Council Procedures and Rules of Order" ("Rules") to establish written procedures for conducting Town Council meetings; and

WHEREAS, Section 4.8(b) of the Town Charter provides in pertinent party that:

(b) A council seat . . . shall become vacant whenever he is recalled, dies, becomes incapacitated, resigns, refuses to serve, is convicted of a felony, or ceases to be a resident of the Town or ward, if elected by ward. A Council seat . . . shall further become vacant upon failure to attend three (3) consecutive regular Council meetings unless Council for good cause votes to retain him.

; and

WHEREAS, Section 4.8(c) of the Town Charter provides in pertinent part as follows:

(c) Within sixty (60) days after a vacancy occurs, the remaining members of the Council shall choose, by majority vote, a duly qualified person to fill such vacancy.

; and

WHEREAS, from time to time the Town Council is required to conduct elections to fill positions on Town board and commissions; and

WHEREAS, Section 9.2 of the Rules provides clarification of the process to be followed by the Town Council when conducting an election to fill a vacancy on the Town Council; and

WHEREAS, Section 9.3(B) of the Rules provides clarification of the process to be followed by the Town Council when conducting an election to fill positions on Town boards and commissions; and

WHEREAS, Section 24-6-402(2)(d)(IV), C.R.S., which is part of the Colorado Open Meetings Act, provides that, with certain exceptions not relevant here, a local public body may not take formal action by a secret ballot; and

WHEREAS, Section 24-6-402(2)(d)(IV), C.R.S., defines secret ballot as "a vote cast in such a way that the identity of the person voting or the position taken in such vote is withheld from the public"; and

WHEREAS, the Town Council finds and determines that Section 9.2 of the Rules (concerning a Town Council election to fill a vacancy on the Council) should be amended to allow the public to obtain the information required by Section 24-6-402(2)(d)(IV), C.R.S., upon request; and

WHEREAS, the Town Council further finds and determines that Section 9.3(B) of the Rules (concerning a Town Council election to fill positions on Town boards and commissions) should be amended to allow the public to obtain the information required by Section 24-6-402(2)(d)(IV), C.R.S., upon request; and

WHEREAS, Section 12.1 of the Rules provides that the Rules may be amended by the vote of two thirds of the Town Council; and

WHEREAS, Section 12.1 of the Rules further provides that all amendments to the Rules shall be made by resolution; and

WHEREAS, this resolution was submitted to each member of the Council at least two weeks in advance of the Council meeting at which the adoption of this resolution was to be considered.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO, as follows:

Section 1. Rule 9.2 of the Council Procedures and Rules of Order is amended so as to read in its entirety as follows:

9.2 Election To Fill Vacancy On Council

Elections to fill a vacancy on the Council will be held by ballot. "Ballot" means a vote cast in such a way that the identity of the person voting and the position taken in such vote is subject to disclosure to the public upon request. When there are multiple candidates for a vacancy, Council may elect to vote for their top 3 candidates, each council person's vote for their number one choice would be worth 3 points, number two choice would be worth 2 points, and their number 3 choice would be worth 1 point. After each Council person votes, the person with the highest total of points would be declared elected. If there are only two candidates for a vacancy, there the number one choice would be worth two points and the number two choice would be worth one point.

Section 2. Rule 9.3(B) of the Council Procedures and Rules of Order is amended so as to read in its entirety as follows:

9.3 Election For Mayor Pro Tem And For Board And Commission Members

B. Elections to fill positions on Town boards and commissions will be held by ballot. "Ballot" means a vote cast in such a way that the identity of the person voting and the position taken in such vote is subject to disclosure to the public upon request. After the votes are cast, the Town Manager will collect and count the votes. The Town Manager will then announce the results. The affirmative vote of a majority of the entire Councilmembers in office shall be required to fill all positions on Town boards and commissions. If any of the nominees receives the vote of the majority of the entire Councilmembers in office on the first ballot, he or she shall be declared elected without further Council action. If none of the nominees receives such a majority vote at the end of the first balloting, the candidate receiving the fewest number of votes will be dropped as a candidate unless the elimination of such name (or names in cases of a tie vote) would leave only one candidate for the office. This process will continue until one candidate receives the majority vote of the entire Councilmembers in office.

Section 3. This resolution is effective upon adoption.

RESOLUTION APPROVED AND ADOPTED this 8th day of May, 2018.

TOWN OF BRECKENRIDGE

By: _____/s/_____
Eric S. Mamula, Mayor

ATTEST:

_____/s/_____
Helen Cospolich
Town Clerk

APPROVED IN FORM

_____/s/_____
Town Attorney Date