During the May 18, 2022, Borough Council Meeting, Councilperson Elliot’s resignation from Borough Council was accepted as of May 31, 2022. I was asked what the procedure is for filling her vacant seat and what is the length of the term that the appointee would have. This memo is intended to answer both of those questions.

The filling of a vacancy in the Borough Council created by a resignation is set forth in Chapter 9 of the Borough Code located 8 Pa.C.S.A. 901 et seq.. A vacancy shall not be created by a resignation until the date that the resignation is accepted by a majority vote of a quorum of council at a public meeting or the effective date of the tendered resignation, whichever is later. Since Councilwoman Elliot’s resignation was accepted on May 18, 2022, but her resignation is not effective until May 31, 2022, her seat does not become vacant until May 31, 2022. The Borough Council has 30 days from the date of the vacancy to fill the vacancy. There is no procedure specified in the Borough Code for filling a vacant seat. Historically, the Borough has made any vacancy in the Borough Council known to the public and accepted applications or letters of interest for the position. The Borough Council has then set up interviews of the potential candidates and voted on a replacement out of that pool, prior to the end of the 30 day time limit.

The candidate selected to fill the vacancy is appointed to the seat until he first Monday in January after the first municipal election occurring more than 60 days after the vacancy occurs. Municipal Elections are defined as “the election which the Constitution of this Commonwealth requires to be held in odd-numbered years”. Therefore, Councilperson Elliot’s successor and anyone appointed to Borough Council after September 3, 2021, will need to be re-elected during the November 2023 election to retain their seat and fill out the unexpired term of the person that they succeeded. If the appointed Councilperson desire the seat, they should also, follow the process to have their name appear on the ballot during the 2023 primary election. In order to determine when petitions should be started and concluded and how many names are needed on a petition, I encourage potential candidates to check with the Berks County Board of Elections in January of 2023.