Janice O'Connell

From:	Robert Troy <rst@troywallassociates.com>
Sent:	Tuesday, June 23, 2020 1:05 PM
To:	Janice O'Connell
Cc:	Ronald Bergstrom; mpatflynn@gmail.com; Ron Beaty; Jack Yunits Jr.
Subject:	Section 2-10 - Barnstable County Charter

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Memo

TO: JANICE O'CONNELL, CLERK, ASSEMBLY OF DELEGATES

FROM: ROBERT S. TROY, COUNTY COUNSEL

DATE: JUNE 23, 2020

RE: BARNSTABLE COUNTY CHARTER – SECTION 2-10

This will respond to your request for my Opinion as County Counsel regarding the applicability of Section 2-10 of the Barnstable County Charter to a vacancy in the Assembly of Delegates because of the resignation of the Delegate from Falmouth. The facts, as I understand them, are as follows:

On May 19, 2020, the Delegate from Falmouth was elected to the Massachusetts State Senate. On May 21, 2020, the Delegate from Falmouth submitted her resignation from the Assembly of Delegates to the Assembly Clerk. On the same day, the Assembly Clerk notified the Clerk of the Town of Falmouth of the vacancy in accordance with paragraph two of Section 2-10 of the Charter.

You inquire as to interpretation of the first paragraph of Section 2-10 regarding the term "vacancy." This paragraph is a prerequisite to the remaining requirements of Section 2-10. The pertinent language is: "If a vacancy shall occur in the office of assembly of delegates with more than six months remaining of the term for which delegates are elected, a successor shall be chosen in accordance with the following procedure[.]"

I interpret this language to mean that if there is a vacancy with less than six months remaining in the term of the delegate who vacates his or her seat, then the seat remains vacant for the remainder of the term. In the factual circumstances here, the vacancy was legally effective on May 21, 2020 when the Delegate from Falmouth submitted her resignation. Inasmuch as the term for which the Delegate was elected had more than six months remaining on May 21, 2020, the provisions of Section

2-10 are deemed operative and the Clerk of the Assembly lawfully notified the Clerk of the Town of Falmouth. The remaining provisions of Section 2-10 therefore govern the filling of the vacancy of the term of the Delegate from Falmouth. If you have any additional questions, please do not hesitate to inquire.

Thank you.

RST:geo
Cc: Suzanne McAuliffe, Speaker