

## MEMORANDUM

**TO: CITY COUNCIL** **DATE: APRIL 17, 2009**  
**FROM: JON SITKIN** **COPY: GARY TOMSIC**  
**SUBJECT: 2009 GENERAL ELECTION/WARD ALIGNMENT/ASSIGNMENT**

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### ISSUES

- (1) Is there an issue with the alignment of the Council wards and positions that result from the recent redistricting; and, if so,
- (2) What re-alignment and/or supplemental elections are necessary, if any, as a result of the redistricting?

### SHORT ANSWER

The Council's recent redistricting raised an issue related to the alignment of the wards which each Council member represents, and which positions are open for election this fall.

The net effect is all existing Council members retain their terms as elected; however, the re-alignment of the Council positions is required. Council members are required to have their positions realigned to reflect the wards where each Council member lives. This is required to retain a balanced and proportional representation amongst the wards, and to retain the staggering of the terms for the two positions in each ward. The effect is that Council member Overstreet will be required to have his ward re-aligned to Ward 2, Position 4 contemporaneously with the newly elected Council members following the election this fall. Ward 2, Position 4 will not be on the ballot this fall, but will be a vacant position in 2011 and on the ballot at that time to fill the last two years of the 4 year term. Similarly, Ward 3, Position 5 will have been vacated with the re-alignment. As a result, Ward 3, Position 5 will be on the ballot this fall to fill the last two years of the unexpired term resulting from the re-alignment of Council member Overstreet's term.

We will be preparing an ordinance to affect the realignment of Council member Overstreet's position, and to set the additional elections for the to-be vacant positions: (a) Ward 2-Position 4 in 2011 for a two year term followed thereafter by four year terms, and (b) Ward 3-Position 5 in 2009 for a two year term followed thereafter by four year terms.

### DISCUSSION

As a result of the re-districting, two Council members no longer reside in the ward to which they were elected to represent. While this does not create any issues presently, it does need to be addressed prior to the next election cycle, and any imbalances in terms of the representation of the wards must be addressed prior to the next election. What follows is a review of the law related to this matter, and

a series of tables to assist in tracking our recommendation on reassigning Council members' wards to ensure continued balance of the representation of the wards.

RCW 35A.12.180 reads in part, as follows:

No change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections: PROVIDED, that if this results in one ward being represented by more councilmembers than the number to which it is entitled those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of those positions being vacant.

Presently, the ward that each Council member was elected to, and the year the term expires, is as follows:

**TABLE 1**

<b>Ward/Position</b>	<b>Elected Council Member at Time of Election</b>	<b>Term Expires</b>
Ward 2 (Position 3)	Scott Dodd	2011
Ward 2 (Position 4)	Harry Robinson	2009
Ward 3 (Position 5)	Jason Overstreet	2011
Ward 3 (Position 6)	Paul Greenough	2009

Due to the redistricting, Council member Robinson now lives in Ward 2, instead of Ward 3, and Council member Overstreet now lives in Ward 3, instead of Ward 2. Table 2 below represents the current ward alignment after redistricting of each Council member based upon their residence.

**TABLE 2**

<b>Council Member</b>	<b>AFTER Redistricting – Ward Representation Based on Residence</b>	<b>Term Expires</b>
Scott Dodd	Ward 2	2011
Harry Robinson	Ward 3	2009
Jason Overstreet	Ward 2	2011
Paul Greenough	Ward 3	2009

RCW 35A.12.180 provides that a sitting Council member can not have their term prematurely expire as a result of redistricting. Thus, while Council member Robinson's term (elected from Ward 2) expires this year, Council member Overstreet's (elected from Ward 3) term does not expire until 2011. Council member Overstreet will continue to sit on Council and represent Ward 3, although he now resides in Ward 2. However, Ward 2, Position 4 (Council member Robinson's position) is open for election this fall. Due to the 2009 expiration of the term for the position presently held by Council member Robinson from Ward 2, an unbalanced Council will result as of the 2009 election based on the actual residential location of each Council member.

The 2009 election for Council member positions based upon the alignment of Council members and wards as presently aligned will result in Ward 2 having three residents on the City Council. Ward 2 would be disproportionally represented on the Council. See *Table 3, below*.

**TABLE 3**

<b>Ward Representation Based on Residence Location after 2009 Election</b>	<b>Term Expires</b>	<b>AFTER Redistricting – Ward Representation Based on Residence</b>
Scott Dodd (Position 3)	2011	Ward 2
New Council Member (Position 4)	2013	Ward 2
Jason Overstreet (Position 5)	2011	Ward 2
New Council Member (Position 6)	2013	Ward 3

RCW 35A.12.180, cited above, contains an exception to the rule that a Council member continues to serve a ward to which the Council member was elected; however, that exception does not shorten the term of an elected Council member. The exception in RCW 35A.12.180 requires that the Council member with the shortest term be reassigned to the vacant position. In this case, the vacant position is Ward 2 (Position 4), the position being vacated by Council member Robinson upon the expiration of his present term. Accordingly, pursuant to the statute, Council member Jason Overstreet is to be re-assigned to Ward 2 (Position 4).

Council member Overstreet's term would continue to expire in 2011, even though he was assigned to Ward 2 (Position 4), a term which would otherwise expire in 2009. With Council member Overstreet's term expiring in 2011 the last two years of the four year term for Ward 2 (Position 4), is vacant. Thus, in 2011 an election must be held at the November General election to fill the last two years of Ward 2 (Position 4)'s four year term. At the conclusion of those two years, i.e. in 2013, and every election thereafter, the individual elected to Ward 2 (Position 4) would serve a standard four year term.

Similarly, Council member Overstreet will have vacated Ward 3 (Position 5) with two years remaining in that regular term. The last two years of the current four year term for Ward 3 (Position 5) would be filled at the general election held this fall. The individual elected to this position would serve the remainder of this two year term. This position would be open for election again in 2011, but for the regular four year term. The individual elected to Ward 3 (Position 5) in 2011, and every year thereafter, would serve a standard four year term.

With this reassignment, the re-aligned Council positions and the length of the terms would be as follows:

**TABLE 4**

<b>Ward/Position</b>	<b>Council Member</b>	<b>Term Expires</b>	<b>Length of Next Term</b>	<b>Next Elections</b>
Ward 2 – Position 3	Scott Dodd	2011	4 years	2015
Ward 2 – Position 4	Jason Overstreet	2011	2 years	2013/2017
Ward 3 – Position 5	New Council Member	2011	4 years	2015
Ward 3 – Position 6	New Council Member	2013	4 years	2017

The net effect is to re-align the Council positions to the wards where each Council member lives, retain a balanced and proportional representation amongst the wards, and retain the staggering of the terms for the two positions in each ward.

We will be preparing an ordinance to affect the realignment of Council member Overstreet's position, and to set the additional elections for the to-be vacant positions: (a) Ward 2 – Position 4 in 2011 for a two year term, and (b) Ward 3 – Position 5 in 2009 for a two year term.

**ISSUE: The City's At-Large Position has been Numbered in each Election as Position 7, Although the City Code identifies the At-Large Position as Position 4.**

The City Code identifies the At-Large Council Position as Position 4. However, since the 1980s, the At-Large Council Position has been referred to as Position 7 in all elections. It does appear that this is a scrivener's error. This can be remedied in the same ordinance.

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