

OFFICE OF THE CITY CLERK



PRESS RELEASE

FOR IMMEDIATE RELEASE

October 4, 2024

Contact: Davina Donahue

Flint City Clerk

Phone: (810) 766-7413

RECALL ELECTION – CITY COUNCIL MEMBER WARD 3 (Partial Term Ending November 2026)

3rd Ward Flint City Councilman Quincy Murphy passed away on September 29, 2024, resulting in a Vacancy in the Office of Council Member.

Councilman Murphy was the target of a recall petition, and a Recall Election was scheduled to be conducted in the City of Flint as a part of the November 5, 2024 General Election.

Pursuant to Flint City Charter §2-412, RECALL ELECTIONS, "Any elected official may be recalled from office by the electors of his or her electoral district in the manner provided by State Law."

At the request of the Flint City Clerk, the Michigan Department of State – Bureau of Elections has advised the Office of the City Clerk regarding "...the conduct of a recall election when the target of the recall no longer holds the position."

Because the November 5, 2024 General Election ballots had been printed before Councilman Murphy's passing, this Recall Election will still appear on these ballots. However, the position of the Bureau of Elections is "...that votes cast in that contest not be counted or canvassed."

Please see the attached letter from Jonathan Brater, Director of Elections, BOE, concerning this Recall Election.

Per Flint City Charter, the City Council shall appoint a person to the Office of the 3rd Ward, as well as schedule a special primary election and special election as soon as possible to fill the office for the balance of the unexpired term.

The Flint City Council will be conducting interviews to appoint an individual to fill the vacancy in the Office of the 3rd Ward, as well as setting dates for these special elections.

[ATTACHMENT]

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MUNICIPAL CENTER

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STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 3, 2024

Davina Donahue, Flint City Clerk
1101 S. Saginaw Street
Flint, MI 48502
By email

Dear Clerk Donahue:

It is the Bureau of Elections' (BOE or Bureau) understanding that the target of a recall petition in Flint has passed away, resulting in a vacancy in the office. The Bureau sends its condolences to the community of Flint for this loss.

You have asked the Bureau for an opinion regarding the conduct of a recall election when the target of the recall no longer holds the position.

Under the Michigan Election Law (MEL), a recall petition must meet certain format requirements, state factually and clearly each reason for the recall, and be in a form prescribed by the secretary of state. MCL 168.951a. Critically, the MEL also provides that a recall petition is filed against an "elective officer[,]" not against the office. MCL 168.951. See also MCL 168.952b, 168.955, 168.958. The recall petition itself indicates that all signers "petition for the calling of an election to recall [Name of Officer]." A recall election is different from other elections. While other elections seek to fill an office, a recall election targets a specific individual; it follows, therefore, that when the individual no longer holds the position, an election targeting that individual would be moot.

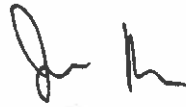
The MEL provides that "If an officer whose recall is sought resigns after the calling of a recall primary election, recall general election, recall election, or special recall election, the election shall not be held." MCL 168.977. While the MEL is silent as to whether an election must be held when the target of the election passes away, in our opinion the situation is analogous to the situation where the target resigns, and that the election is not held. Because ballots have already been printed, it is the Bureau's position that votes cast in that contest not be counted or canvassed. The Flint city charter governs the vacancy in the office of a council member and is

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the appropriate authority for this situation. Flint Charter, § 2-410. You should consult your city or county legal counsel for advice in connection with this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Brater', written in a cursive style.

Jonathan Brater
Director of Elections

c: Dominique Clemons, Genesee County Clerk
Heather Meingast, Department of Attorney General