

A special meeting of the Board of Aldermen was held Tuesday, May 14, 2019, at 7:00 p.m. in the Aldermanic Chamber.

President Lori Wilshire presided; City Clerk Patricia Piecuch recorded.

Prayer was offered by City Clerk Patricia Piecuch; Alderwoman-at-Large Shoshanna Kelly led in the Pledge to the Flag.

The roll call was taken with 10 members of the Board of Aldermen present; Alderman Gidge, Alderwoman Kelly, Alderwoman Melizzi-Golja Alderman Clemons and Alderman Laws were recorded absent.

His Honor, Mayor James W. Donchess and Corporation Counsel Steven A. Bolton were also in attendance.

PUBLIC HEARING

R-18-073, Amended

PROPOSING AN AMENDMENT TO THE CITY CHARTER RELATIVE TO FILLING VACANCIES ON ELECTED BOARDS BY MAJORITY VOTE OF THE REMAINING MEMBERS OF THAT BOARD

President Wilshire

I did hear from Alderman Laws, he had a family emergency. Alderman Gidge will not be joining us this evening. Tonight we have a public hearing on Resolution 18-083 Amended proposing an amendment to the City Charter relative to filling vacancies on elected boards by a majority vote of the remaining members of that Board. We are going to open it up for public comment, public testimony I'm sorry, testimony in favor first.

Testimony in Favor

Kimberly McCarthy 1921 Kimberly Drive in Merrimack. I am here tonight to speak in support of R-18-073 on behalf of somebody who couldn't be here; my dad the late Alderman Brian McCarthy. Since his name is still on the Resolution I thought it seemed fair that he had a voice in this conversation. I know my dad supported moving away from the Special Election format and returning to the appointment by the Boards for the remainder of the term.

City elections turnouts have often been low, are often low and even lower for special elections and this comes at the cost to the tax payers of Nashua and it has been time consuming for the Ward Moderators and Election Officials. So this amendment does not give more power to City Hall and it allows tax payers to remain represented for as much time as possible. While the vacancy left by my dad's passing didn't result in any ties or close controversial votes, that may not always be the case. His seat was vacant for just over 4 months while the current special election process ran its course.

The amendments for the Charter would allow a vacancy to be filled within a matter of weeks rather than having several months for that representation. As I said, I know my dad supported this legislation early on and I think he would be agreeable to the changes made since it was introduced. We had a discussion on it, on the issue last year and he said there was plenty of time to work on it. And I heard that same comment this past April when it was up in front of the Board of Aldermen, that the Board had plenty of time. Yet the Board seems to be here tight against the deadline for being able to get it on the November ballot.

I am here tonight because you don't always get the time and opportunity you think you will. And none of us can guarantee that we will be here tomorrow. So allowing the Boards of Public Works, Fire Commissioners, Aldermen and Education to fill their own vacancies will save both time and money for the tax payers and allow for a more efficient process. So I ask that you vote to move R-18-073 forward. Thank you.

President Wilshire

Thank you. Anyone else giving testimony in favor?

Judy Blachek, 560 South Main Street. I am here as Ward 7 Clerk and I just want to say I totally approve of this amendment. I believe saving the City a lot of money and everyone's time and effort is just the way to go and I hope you will support this measure.

Steven Elliott 256 Pine Street, I am in favor of this because it creates the incentive for people on these boards to make more vacancies, which means that a lot of evil things could possibly happen. If you want this stuff passed, I hope it happens. Thank you.

Testimony in Opposition

Paula Johnson Good evening, my name is Paula Johnson. I'm afraid to touch this, every time I do it falls apart. Back in September 2004 Resolution O-4-126 and Alderman Wilshire you were on the Board at that point in time. The bill was sponsored by Alderman David Deane by David Lozeau; David Deane was a co-sponsor, myself and Robert Dion. And what we did was we felt that whenever there was, and Attorney Bolton you were on the Board back then too. And we felt that when there was a vacancy, we didn't appreciate the fact that somebody could just come in, give a resume, and there could be cronyism and somebody gets on the Board. And it wasn't right so when we wrote this, Alderman Lozeau said "why don't we do it with the next highest vote getter". The person went out, they campaign, they knocked on doors. If they didn't make it; let the next one in succession be able to obtain that seat.

And I agree with that, back then in 2004 and I agree with it now. Alderman LaRose came in and he was the one who made this amendment that what would be, that the next person we'd have an election. But the intent of all of us was that we wanted to make it fair and even and make the playing field fair. If you go out and work and you might not make it the first round and God Forbid somebody has to leave for whatever reason, that the next person should have that opportunity. And you can go down the line, and if somebody doesn't want it as you go down the line, then you take the resume and then you talk about it.

But that's what the intention was all along and I hope that you would go back to 2004 and why we did this, because we knew that when somebody left there was that hole to fill in any of these Boards and I hope that you reconsider our Resolution 04-126 back in 2004. It was sensible legislation the way it was written to begin with. It got all bound up and adding more and more stuff and this is the easiest way, the fairest way for the next person to be the Alderman, Board of Public Works, whatever it has to be. Thank you.

Fred Teeboom 24 Cheyenne. First of all it is customary, in fact there is an Ordinance, before you have a public hearing to have an explanation of what the public hearing is about. And that didn't happen. It this mic on. Being a public hearing I have a question that's also in the ordinance. So I will address that question to whoever can provide the answer. Let's take an example because I tried to read this thing and it is pretty awkwardly written.

If you have 3 years of a 4-year term remaining and the vacancy is filled by appointment, that's the scenario, that's a question is then the election to appoint for 1 year until the next election at which point it will be an election for the 2 years remaining or is it an appointment for the entire 3 years remaining at which point there is an election. That's my question. What is the answer?

President Wilshire

If there is a 3-year term and there is 1 year left, the person gets appointed and serves the rest of that term. If there is a vacancy a year in and it is an at-large seat and there are 3 years left in the term, that person will only serve until the next municipal election. They won't fill out the rest of the 3 years of the term, only until the next municipal election.

Mr. Teeboom Ok that's what I thought it said but I just want to make sure. Now let me make my comment in opposition. Now I was part of the Special Election last time, and it was not an easy election for one thing the schools don't let out so there's hardly any parking until the teachers leave in these schools around 3:00 there is

maybe one or two spots. I have seen people circle around trying to vote and they can't vote. In fact, on that point I will probably submit a complaint to the Secretary of State about obstruction of voting.

Nevertheless I do think Special Elections are expensive and unnecessary. Special Elections as Paula pointed out came about because of cronyism. Cronyism in School Boards and some people get elected, they step down soon after their election because they really didn't intend to serve 2 years or 4 years and then somebody else got appointed that the Board liked. For awhile there was a practice in the City to appoint the person with the next highest vote. That was the person that lost the election but was the next highest vote getter. That was practiced in the School Board until somebody showed up, was the next highest vote getter that the school didn't like, namely me and then they got away from the practice.

So that's why this charter change came about to stop cronyism and hold elections. Nevertheless, what I recommend is some change to your legislation. What I recommend is to reinstitute as a charter amendment namely that if there is a vacancy the first person that can fill that vacancy is the person that ran in the previous election and was the next highest vote getter. It is only fair. Now if the next highest vote getter isn't available any longer or doesn't want the position any longer, then you can have the Board make the appointment, but only following an advertisement for the vacancy so it isn't an inside deal of making this appointment. You understand that? So the next highest vote getter is allowed to fill this appointment. That is my recommendation. Thank you.

Justin O'Donnell Good evening Madam President, members of the Board of Aldermen, my name is Justin O'Donnell and I live at 355 Main Street. I am opposed to that legislation, not in spirit, I do understand the costs of special elections are a burden to the tax payers and the management of the City, but rather as a purpose of representation. And I do disagree with the two previous speakers that the next highest vote getter should get the job, because in the previous election the majority of the voters in the district disapproved of them to do the job in the first place. What I would ideally love to see the special elections happen if it weren't for the cost, there are some Boards that I think should not be filled by an internal vote, namely this one, the Board of Aldermen. My recommended change that I would recommend and I would fully support this legislation is if the other Boards were allowed to solicit applications and make recommendations for the Board of Aldermen to fill those vacancies until the expiration of the current term, so long as this Board, that Board that holds the Legislative and Executive Power in this City and where the rules derive from is continued to be elected by the people you serve. Thank you.

John Lyle Bluestone Drive, Ward 8, Moderator. As some of you may know I sort of started this whole campaign against the special elections after the election of proposed with for the replacement of Bob Hallowell because of the cost and effort put in for a low turnout election that was demeaning of both the citizens who so many couldn't show up, the fact that we had the schools open, which was always a problem. And the fact that it was just a bad deal. So I proposed an alternative and I have sent all of you my proposed alternative to this.

But let me give you a very tangible example of why I think the proposal that you have is defective. It goes back to the resignation shortly after the 2017 municipal election of Bob Hallowell from the Board of Education. When he resigned, the question, it was unclear from the reading of the Resolution which board would appoint his successor; the board that was in place that he resigned or the one that had just been elected. The other thing is we have an election every November in this City. Why do we have to wait for the end of the municipal term to have the election; why not have it at the following November? I mean we have the election, we have the mechanism in place, why wait? I mean this is an important step, it is an expensive step and I think that the Legislation that we have in front of us is just not appropriate. It goes back to cronyism that some of the previous people talked about; that the City rejected this approach some years ago and put in a new approach. But what we need is to meld the idea of appointments with an election using the Board of Aldermen as a way of assuring that there is minimal if any cronyism involved. Thank you.

Testimony in Favor

Andrew Olding 8 Royal Crest Drive. So the idea of adding or appointing does sound iffy to me but I do like this because obviously the special elections do cost a lot of money. I would like to make a recommendation for an amendment to this where particularly on this Board if the vacancy is an at-large, I think it's perfectly fine to fill it, if the vacancy is a Ward, I think you should still have a special election because at that point in time, only the at-large are the people who actually represent that Ward at any given time. And so the Ward should be able to choose its own representation. If it's an at-large it is easier because you all represent, collectively, all of Nashua and that's cleaner to me. And just doing a special election on a Ward I don't think is going to cost the \$30,000.00 or whatever the last special election cost us. I don't know exactly how much it cost but I figure like \$5,000.00, \$6,000.000.

President Wilshire

About \$30,000.00 about \$35,000.00 Is there anyone else who wants to give testimony in favor of R-18-073? Anyone else want to give opposition to R-18-073? Ok one more time, testimony in favor?

Testimony in Favor - None

Testimony in Opposition - None

**MOTION BY ALDERMAN O'BRIEN FOR THE CITY CLERK TO SEND THIS PROPOSED CHARTER AMENDMENT TO THE SECRETARY OF STATE, THE ATTORNEY GENERAL, AND THE COMMISSIONER OF THE DEPARTMENT OF REVENUE ADMINISTRATION FOR APPROVAL
MOTION CARRIED**

ADJOURNMENT

**MOTION BY ALDERMAN O'BRIEN TO ADJOURN
MOTION CARRIED**

The meeting was declared adjourned at 7:19 p.m.

Attest: Patricia Piecuch, City Clerk

To: Board of Aldermen, Mayor Donchess,

My testimony is both to speak AGAINST both the current system for filling vacancies on the Board of Alderman, Board of Education, Board of Public Works, and Fire Commissioners and the replacement process proposed in Resolution R-18-073 Amended.

My name is John Lisle, and I have been the Moderator for Ward 8 for the past almost 6 years. I have served now through three (3) special elections to fill vacancies on the Board of Aldermen and Board of Education. In my opinion, the process we have now is expensive, marginally democratic, and wasteful.

Before last year's Special Election to fill a vacancy on the Board of Education I wrote a letter to the editor of the Nashua Telegraph concerning the expense to the City of having that election. I also talked to many of the Aldermen and the Mayor about changing the process, but they seemed to have had no urgency to make a change. However, with the unexpected passing of Brian McCarthy and the subsequent need for yet another Special Election, the Board seems now to be willing to consider making a change.

The process Nashua has now is not effective based on three criteria:

First, the mechanism of holding a special election means that the office will not be filled for up to 5 months. And, if the vacancy occurs 6 months or less from the next election, the office would go vacant until after the November election.

Second, the city will have to go the serious expense of holding the election. The direct costs attributed to holding a special election can be as much as \$36,000. In addition, there will be indirect costs in terms of extra work that needs to be done by city employees in the City Clerk's office, DPW staff, and the School department staff to handle the needs and inconvenience of the election. And this does not consider the disruption of the lives of the Ward election officials who will be inconvenienced and may lose pay from their regular work or disrupt personal travel plans to serve the City.

Third, the elections are always extremely low turnout elections. This is in part due to voter apathy about municipal elections and the difficulty in today's media environment about publicizing that the election was happening. Even with the extensive publicity in the Nashua Telegraph of this month's election and the several candidate forums, the "man of the street" either did not know the election was taking place or was not interested in participating. These minimal turnout elections are a poor representation of the will of the City.

Let me share some actual numbers with you.

Ward 8 had an almost embarrassingly predictable 6.4% turnout. With 471 votes cast alongside 6 write-ins, we averaged just over 33 votes per hour. We also registered just 2 new voters during the day and processed one name change. In the 2018 BOE race, we registered 7 new voters and the 2015 BOA race we had 464 voters and registered 12 new voters. Ward 8 has the largest number of registered voters of any Ward in Nashua with over 7400 registered voters.

To put this in perspective, during last November's midterm election, we processed 442 ballots in the first hour! And registered 35 new voters that same hour. And even with an extremely busy election day last November, our turnout was just over 50%.

For both elections, we did this with the same nine (9) Ward election officials and two (2) Ward Deputy Registrars. In November, our Ward needed additional staff, For the March special election, we only needed that level of staff as we needed to fill all of roles required by State and City law.

In my letter to the editor, I spoke against the current system, and I am still opposed to it.

I proposed at that time what I consider to be a more effective approach. That being that the Mayor appoint an interim replacement to fill any vacancy on the various elective Boards and that the Aldermen confirm that selection. And further that a replacement to fill any unexpired part of the term be elected at the next November election, as Nashua holds a general election every November.

Mr. Teeboom, in a comment to my letter, objected to that proposal on the grounds of cronyism. I agree with his concern which was why I proposed that any interim appointment be confirmed by the Board of Aldermen to mitigate cronyism concerns.

The Proposal R-18-073 Amended is cronyism on steroids by reverting Nashua to a previous process that was replaced as it invited serious cronyism. To revert is to take a step backwards. The City needs a process that is timely, cost effective, and rejects cronyism.

Let me share an extreme example.

Based on R-18-073 Amended, if a new member of the Board of Education were to quit immediately after being sworn in, the remaining 8 members of the BoE (assuming the BoE, now evenly numbered, could reach a timely consensus...) could appoint a Member who would serve until the next Municipal election, almost 2 years in the future.

Clearly, that should be unacceptable to all of you.

My proposal is this:

- 1. Within 30 days of a vacancy on any subject Board, the Mayor would nominate a candidate to fill the position. The subject Board with a vacancy may forward to the Mayor within 2 weeks of such vacancy the name(s) of their proposed candidate(s) to fill the vacancy. The Mayor would not be bound to nominate a candidate proposed by the Board.**
- 2. The Board of Aldermen will vote to confirm the Nominee of the Mayor within 30 days of the nomination.**
- 3. The Nominee will serve until a permanent replacement, elected at the next November**

election, whether Municipal or State, is sworn in.

4. If the Mayor's Nominee is not confirmed, a new vacancy is declared, and the process will be repeated until a Nominee is confirmed by the Board of Aldermen.

This process solves all of the concerns about the current process of Special Election, expresses the urgency to have the Boards fully staffed, and minimizes the concern about cronyism. There is no cost to the city for a special election; a replacement on the City Board could be in place in 30-60 days, and duly elected representatives of the City are affirming any appointment being made by the specific Board or the Mayor.

Other Important Local Election Considerations.

That said, if the city is going to make a change to the City Charter involving elections, please combine it with other needed changes.

Election Closing Time.

Nashua is, I believe, the only city in New Hampshire that closes the polls at 8 p.m. The time that WMUR and other state media "advertise" as the time of the poll closing is 7 p.m. Further, on Election Day, WMUR and other media begin reporting election results while Nashua's polls continue to be open. Nashua needs to get in line with the rest of the cities in the State and close out polls at 7 p.m.

As Moderator for almost 6 years, I have been documenting the hour by hour traffic in my Ward. I have observed that over the past 4 years, the traffic between 7 and 8 pm has dwindled considerably. In last November's midterm election, the number of voters in the last hour fell from an all day average of just over 200 an hour to about 50 voters in the last hour. (Getting the exact number from the midterm are difficult because the election involved 2 ballots for each voter and 100s of absentee voters.)

At last week's election, we fell from an hourly average of just over 33 voters an hour to just 13 voters. I have been observing this trend since at least the Presidential Primary in 2016.

The City Clerk has informed me that the Election times are set by the Board of Aldermen, not in the Charter. Therefore, I recommend the closing time should be changed to 7 p.m.

Nomination of Ward Election Officers.

I would like the City to re-consider a previous Charter Amendment I proposed concerning the Ward Election Officers that was narrowly rejected by voters after an editorial in the Telegraph that misrepresented the proposal.

As the City is organized, the Moderators, Clerks, and Selectmen in each Ward are, in reality, nothing but contract employees of the City Clerk's office. They have no role or authority other than being "elected" officials of the city authorized to run the polling places on election days.

A City Ward is different from a Town in New Hampshire, although both appear to be similarly organized. The Ward Moderators, Clerks, and Selectmen only have responsibility to run the polling places for elections. The City Clerk sets the policies and procedures so that all Wards are doing it the same. This is important to protect the integrity of our elections. The Ward Moderator is in charge of their polling location in their Ward on Election Day, but must follow the lead of the City Clerk.

From my experience, I know it is brutal work that the team does out of love for the city and a desire to serve.

The reality is that too many of the 45 positions do not even have a candidate, and all too often the "elected" official wins by a write-in of 1-3 votes. I was chosen to serve in my first term by the City Clerk because the person elected by write-in vote, resigned, and I had volunteered.

The City Clerk shall attest that making sure each Ward has a full complement of election officials and Ballot Inspectors for each election is difficult.

The current process is, in my opinion, demeaning to people who just want to volunteer their time to serve the city. They have to find at least 15 people to sign and witness nominating petitions. Then the City Clerk's office has to spend time to then certify each of those petitions, and then, if the candidate falls short, they are not on the ballot. The number for these petitions required is the same as the number of nominating petitions required to run for Ward Alderman which is a much more powerful and responsible position.

I know that for the 2017 election, I worked hard to get candidates city-wide to run for these election offices and too many of them gave up because of the requirement to submit so many nominating petitions.

In contrast, if a candidate wishes to run as a State Representative, the candidate can either pay \$2 or submit 5 nominating petitions.

My request is that we make it easier for someone to run for these Ward election offices and make the requirement be the same as the requirement for becoming a State Representative.

I propose that the charter change for this be to simply say that the requirement to get on the ballot be the same as the requirement to get on the ballot as a State Representative.

Improvements for Running Elections in Nashua.

I would like to ask you to consider these realities involving election officials. I believe all of these suggestions can be implemented by the Board of Aldermen alone.

1. The number of ballot inspectors that the city allows assumes the election laws of long ago. We now have a requirement to have election staff to photograph voters who do not present a photo ID. At all partisan primaries, we have to have at least one, usually two, members of the election

staff to process voters who wish to return to Undeclared.

2. The current requirements for marking the checklist during an election require serious concentration by the people checking in voters. This requires giving the staff breaks, especially during busy elections.

3. In my six years as Moderator, the number of checklist books has increased from two (2) in all elections to a minimum of three (3) and often up to as many as eight (8) for Presidential primary and general elections. Each checklist book requires a Ballot Inspector or Selectman., all day.

4. The pay for election officials seems to suggest that they are just working on Election Day. The Selectmen and Ballot Inspectors are currently expected to go through up to 2 hours of training, up to 2 hours of pre-election ballot counting, about 2 hours of polling place setup, another hour of pre-election setup on the morning of the election, 14 hours of election, and several hours of work after the election to process the election. The Clerk and Moderator also have other pre- and post-election duties. The police officer that now is a constant fixture of the city polling places is paid much more for his or her time than any of the election officials.

I request you consider that:

* The pay for election officials be increased to recognize value of their service and the actual time they have to spend.

* The number of allowed ballot inspectors be increased by at least two (2) for all partisan primaries.

* The City Clerk be authorized to increase the number of ballot inspectors for any election based on the historical turnout projections to keep the waiting times to check-in as short as possible. In last year's mid-term election, we had to operate with only 4 books, and the a staff member from the AG's office inspecting our polling place was strongly critical of the long lines.

* The city add an additional tabulator in each ward so that at high turnout elections, we keep the lines short for voters waiting to cast their ballot. This is a problem in those elections when a machine jams or when we need to empty a full box.

* The City recognize that, if the State authorizes, as is expected, more early voting, even "no cause" absentee voting, that this will mean additional resources needed to process any election.

Thank you for considering,

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