

A special meeting of the Board of Aldermen was held Tuesday, March 12, 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; Alderman-at-Large David C. Tencza led in the Pledge to the Flag.

The roll call was taken with 12 members of the Board of Aldermen present; Alderman Gidge and Alderwoman Kelly 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

Our City Clerk will give us a preview of this.

Patricia Piecuch, City Clerk

Thank you Madam Chair. So Resolution 18-073 was introduced in the Board and was then sent to the Committee on Personnel and Administration for the Committee to vote to see whether or not it was needed. It did come back to the Board. What this is doing, this would be changing the Charter relative to Special Elections so that it go back to where it was prior to 2005. What this did, there has been two Charter changes, back in January 2006 it was changed the way we fill the vacancies and then back in November 8, 2011 it was again changed, but unfortunately there was an housekeeping error where it wasn't caught. So we did have to send back the Resolution back to Committee to amend it to show that language.

So this Public Hearing is to move this forward, once this Public Hearing is voted on then the Board will vote at the full meeting and then we will follow the proper procedures and send it to the correct agencies and then if that all comes back, the Board will vote on it and it will go on to the ballot in the November 2019 election.

President Wilshire

Thank you very much. I am going to open the floor to testimony in favor of Resolution 18-073. If you would like to speak on this Resolution, you come up to the mic, give your name and address for the record.
Testimony in favor.

Testimony in Favor

President Wilshire

Seeing none I will call for testimony in opposition.

Testimony in Opposition

Fred Teeboom My name is 24 Cheyenne Drive. Before I make some comments, I have a question on Page 2 it mentions the word qualified person. It mentions it three times, I guess the appointed person. Just exactly what is someone qualified person?

President Wilshire

My understanding or my best guess would be that it is a person that is eligible to vote in the City of Nashua and someone that lives in the City of Nashua.

Fred Teeboom Why doesn't it say that? Why does it say a registered voter in the City of Nashua.

President Wilshire

That's the way it was approved.

Fred Teeboom I don't care how it was approved.

President Wilshire

That's how it was approved.

Fred Teeboom Why doesn't it say some qualified voter in the City of Nashua instead of some qualified person. I have no idea who that is. It could be a pan handler. It could be the local janitor. I don't know who it is.

Steven Bolton, Corporation Counsel

Elsewhere in the City Charter it does define who is qualified to hold what offices. In most cases for City-wide office one merely has to be a qualified voter within the City of Nashua. To hold the position of Ward Alderman one must be a qualified voter within that Ward. That is defined elsewhere in the Charter, so the term "qualified person" refers back to those qualifications.

Fred Teeboom Well then a reference should be made to that because I've never seen it

Attorney Bolton

Well when you write it Mr. Teeboom you can write it your way but that's how it is. If you are suggesting that the Board of Aldermen make an amendment, you have every right to make that suggestion. But berating the President of this Board as to why it is written one way is not helpful.

Fred Teeboom I am not berating the President of the Board. I asked a question and I'd like to get an answer.

Attorney Bolton

And you've gotten an answer.

Fred Teeboom And the answer is unsatisfactory. I think there should be a reference to the fact what a qualified person is in this language. Now as to my comments, why was a change made in 2005? Before 2005 there used to be a tradition that a replacement in a vacancy was usually the person who ran for election and got the next highest votes. It was quite common. I recall before the Board of Education I had run one time before 2005, I think I forgot when, in the late 1990's and I come in as the next highest vote getter. Soon after

that election was completed, people had to be sworn in, somebody resigned, they moved out of the City. So I appeared and I said "Well I'm the next highest vote getter, so I should take the seat". Now the tradition suddenly changed. They didn't want me on the seat, not on the Board of Education. And then it happened again. And that's a problem, you have appointed members, ok, they become a favorite of the Board but not necessarily a favorite of the electorate. The example I gave are real examples. And that's why this shouldn't change.

Now you can argue that the Board of Public Works is not all that important, in fact there was a valid question to get rid of the Board of Public Works and that did not succeed to get the votes to get rid of the Board. The Board of Fire Commissioners, nobody quite knows what they do other than approve salaries of the Chief. The Board of Education, the Board of Aldermen are important Boards. The Board of Education got to spend more than half the money of the budget. The Board of Aldermen you are sitting on. So that should not change. The fact that there may be an expense involved, I just got through the election myself, I lost. I'm not sitting here complaining, I lost, I can complain how it happened, but I'm not complaining about why I lost.

In an election the electorate votes and this is an important Board, the Board of Aldermen, and the Board of Education is an important Board. So if anything those two Boards should not have appointed members. I'll give you another Boards, there are many other Boards that are not even on this paper. Cable Television Advisory Board; Board of Assessors, many boards that aren't even in the question and I'm not sure anybody really cares if they are appointed or elected. But the Board of Education and the Board of Aldermen, it is very important.

There is another Board that is not mentioned here at all, the Board of Police Commissioners. The Board of Police Commissioners used to be elected or appointed, I forgot which but they were not appointed by the Governor. Why are they appointed by the Governor? Because sometime, maybe 50 years ago, there was serious corruption in the City of Nashua, very serious corruption and they let an uproar, many things happened, a lot of things happened and the Governor allowed by State Law to appoint the Commissioners on the Board of Police Commissioners. There is supposed to be a question and I have not researched that lately that question is supposed to come back before the voters, do you want the Governor to appoint the Police Commissioners or do you want the voters to elect the Police Commissioners. I haven't seen that question on the ballot and I am going to research it but the Police Commissioners is not on this list either. And that is an important function.

So for all these reasons I am opposed and I should say many should be opposed. I have one further question. When it appears on the ballot, will the City publish pro and con arguments required on the Charter? Do you have an answer?

President Wilshire

I don't this is public comment.

Fred Teeboom No this is not public comment this is a public hearing, that's the question. Are you going to publish and pro and con arguments.

Attorney Bolton

I don't believe that is required under State Law, if it is required it will be done.

Fred Teeboom It is required under Charter Mr. Attorney.

Attorney Bolton

Charter has been superseded by State Law which preempts the field Mr. Teeboom.

Fred Teeboom I'm not aware that the State Law preempted that provision in the Charter.

Attorney Bolton

There are many things I am sure of which you are not aware sir.

Fred Teeboom This is local Charter questions.

Attorney Bolton

The amendment of local charters is fully covered by State Law.

Fred Teeboom I understand that, I'd like to hear an answer to pro and con, if you don't answer here Madam Chair

Attorney Bolton

I have given you your answer Mr. Teeboom.

President Wilshire

You've got your answer Mr. Teeboom.

Fred Teeboom You are not going to publish pro and con answers?

Attorney Bolton

I didn't say that, I said that if State Law requires it, it will be done.

Fred Teeboom Well I will research it.

President Wilshire

Anyone else giving testimony in opposition to Resolution 18-073?

Paula Johnson Good evening my name is Paula Johnson, I still reside here in Nashua. I'm speaking in opposition of this. Alderman Wilshire, Attorney Bolton you were on the Board back when we had R-04-216 come before us, I believe it was then Alderman LaRose, and the reason he had this legislation come before us was because of the vacancies when somebody stepped down like from School Board or any of the other Boards because he felt it was not fair that somebody could just come in with a resume versus the next highest vote getter. So this came about, then there was one that Alderman Lozeau, this one was R-04-126 it was the opposing of that First Amendment that would require the next highest vote getter get to come and get that position, which would be fair; the next highest vote getter because that would be the person who ran, worked and he missed it because somebody in front of him got the votes. It was David Lozeau, you remember him, David Lozeau, his wife used to be the Mayor also, and he was a very good Alderman, we all worked very well with David Lozeau and I was one of the co-sponsors, so was Alderman Deane back then, Alderman Dionne, because we felt that rather than having an expensive election which we know costs a lot of money for these special elections, it would be easier if the next highest vote getter was the one that would be able to take the position, do you remember that Attorney Bolton?

Attorney Bolton

I remember it well.

Ms. Johnson Yeah I know you have a very good memory. That's one of the reasons why we wrote that resolution. I don't think that somebody who didn't put their name on the ballot, knock, knock, Facebook, Twitter or anything else should waltz right in that nobody knows anything about it, that the voters in the City should be able to really take a seat. You should be able to if you want the seat go out and do what you have to do for an election. Let the voters see what you represent and who you are to be out there. Because my other concern is that you are picking you call up and you say "hey we got an open position why don't you put your name in, I'll put in a good word for you". It's like a job, it's not a job here, this is talking about the tax payers, the money and what it costs in the City. And if you want this, go out and knock on the doors and do what you have to do to become an elected official. And I don't watch this very often anymore because I just get sick and tired of seeing how my money is being spent. But I want to say something to you Corporation Counsel Bolton, I don't care if you like what Mr. Teeboom says or not, there's no room for rudeness and you get paid with our salary and don't even answer me back because I am not going to tolerate this and you were wrong and you owe him an apology. We are the ... don't even say anything, we are the tax payers of the City and we have the right to ask these questions and don't be rude on an answer back, thank you.

President Wilshire

Anyone else wanting to give testimony in opposition?

John Lisle My name is John Lisle, 68 Blue Stone Drive, Nashua. I am the moderator of Ward 8 and have been for the last 6 years. I am speaking in opposition to this proposal for two reasons. One, I believe that it is effectively cronyism on steroids, because you have an elected Board picking the person who is going to replace for a vacancy. But we've had three special elections in the last four years now all of which have had minimal turnout, they've been expensive to hold, they are extremely wasteful of the resources that we have in our City, so I believe neither the existing proposal that you have in front of you nor the existing plan or process that we have are effective. I feel sort of the grandfather of this particular proposal because after the special election to replace a Board of Education person last year I wrote a letter to the editor of the Telegraph and got a lot of positive response to my proposal, I also had negative response from Mr. Teeboom because the proposal that I came with reflected, he felt a degree of cronyism. I believe the proposal that I put forward for the replacement of a vacancy minimizes the cronyism and saves the City significant money and gets a new person in place in a timely fashion. Now I have delivered to the Board a detailed testimony on this that I am willing to take questions on.

President Wilshire

Seeing none, thank you. Anyone else wishing to give testimony in opposition to Resolution 18-073.

Timothy Sennett Hi my name is Timothy Sennett, I'm a resident of Nashua, 62 Underhill Street. I hope you will forgive me for not stepping forward, this is actually my first public hearing and I wasn't quite sure where my comments were appropriate. I am favor of re-evaluating the method in which we fill vacancies on the elected Boards. I don't feel that is necessarily needs to be a matter of either / or. Either we hold a special election or the Board appoints somebody. The indecisive side of me says that there is a method that fulfills both. I think back to the election that we just held last week to fill the unfinished term of Alderman McCarthy. By the time we were able to hold that election this past week, Alderman Clemons is already likely thinking about re-election should he choose to serve further. He's already gone through the process to get his name on the ballot and he is going to do so again presumably this summer. For such a short period of time, I feel like that might be a situation where the Board may be able to step in and appoint somebody to fill that role. For something last year, where Robert Howell stepped down from the Board of Education, he gave us plenty of notice, he had two years of an unfinished four year term. In that case I feel an election was appropriate, two years is a long time to appoint somebody to fill a role, I feel that is an appropriate situation where the people have their say, whether or not they choose to come out. I hope that this is maybe something that could be considered, that maybe rather than going forward with just an either / or black or white proposal, something could be done to take in both sides of consideration. Thank you.

President Wilshire

Thank you. Anyone else wanting to give testimony in opposition.

David Lisle Good evening members of the Board, President Wilshire, my name is David Lisle I am a resident of Ward 8, I am a former State Representative for the NH General Court. Similar to my father's proposal I believe that proposing an appointment by the Mayor to be confirmed by the Board of Aldermen would provide significant check to the balance of the system and that keeping with that, having them only serve until the next regularly scheduled election would provide a cost saving measure to special elections and allow the person should they wish to continue in the position be able to be properly vetted by the City or the residents of the City and at the same time would also provide again cost-saving measure of reducing the amount of special elections and would allow the person who runs in that election to serve out the balance of the term after the election at the next regular election. Thank you.

President Wilshire

Thank you. Is there anyone else wishing to give testimony in opposition to Resolution 18-073. Again I will call for Testimony of Favor of Resolution 18-073. Seeing none, we will call the public hearing closed.

Testimony in Favor

ADJOURNMENT

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

The meeting was declared adjourned at 7:25 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,

John B. Lisle, Moderator, Ward 8
68 Bluestone Drive, Nashua, New Hampshire 03060
603-888-3333
603-324-9110 (cell)
jlisle@gmail.com