

South Portland City Council
Position Paper of the City Manager

Subject:

ORDER #33-16/17 – Setting the date of the public hearing on proposed amendments to Sections 1101 and 1103 of the City Charter. Passage requires majority vote.

Position:

This item is brought forward to address a Charter issue that arose recently related to the citizen initiative petition process: there is no specific time period set forth in the Charter for the circulation of citizen initiative petitions. This issue is addressed in the proposed amendment to Sec. 1101 of the Charter. Minor housekeeping changes are addressed in the proposed amendment to Sec. 1103 of the Charter.

This proposed order starts the process of sending these proposed Charter amendments to the voters on November 8, 2016. Passage of this order would set September 7, 2016 as the public hearing date on the Charter amendments, ensuring they will be ready for the November general election ballot.

A proposed change to the Charter relating to these two issues would be considered a charter amendment (as opposed to a charter revision) and may be made pursuant to the procedures contained in 30-A M.R.S.A. §§ 2104 and 2105. The statute also prescribes the form of the question to be voted upon. See 30-A M.R.S.A. § 2105(2).

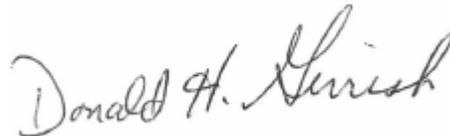
Section 2104 of Title 30-A provides that the City Council must conduct a public hearing on the proposed Charter amendments at least 30 days before the matter is placed before the electorate for a vote. Notice of the public hearing must be published in a newspaper of general circulation within the municipality at least 7 days before the hearing. Within 7 days after the hearing, the City Council may order the proposed amendments be placed on a ballot at the next regular municipal election held at least 30 days after the order is passed (*e.g.*, the November 8, 2016 election); or the City Council may order a special election to be held at least 30 days from the date of the order. Section 2105(3)(B) of Title 30-A provides that at least two weeks before the election, the City Council must have the proposed amendments (and any summary

thereof) printed, make copies available to the voters in the City Clerk's office and post the amendments (and any summary thereof) in the same manner that proposed ordinances are posted.

The proposed amendments are subject to a minimum voter turnout requirement: if a majority approves the proposed Charter amendments and the total of votes cast (both for and against) is at least 30% of the total of votes cast in the last gubernatorial election, the Charter amendments take effect. (If the minimum voter turnout is not met, the Charter amendments are not effective even if they pass by majority vote.) Charter amendments take effect on the date determined by the City Council, but not later than the first day of the next succeeding municipal year. See 30-A M.R.S.A. § 2105(4)(B).

Requested Action:

This item is in order for City Council action.

A handwritten signature in cursive script that reads "Donald H. Gurish". The signature is written in dark ink and is positioned above a horizontal line.

Interim City Manager



CITY OF SOUTH PORTLAND

THOMAS E. BLAKE
Mayor

DON GERRISH
Interim City Manager

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

EMILY F. CARRINGTON
City Clerk

IN CITY COUNCIL

ORDER #33-16/17

District One
CLAUDE V. Z. MORGAN

District Two
PATRICIA A. SMITH

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

ORDERED, that a public hearing on the attached proposed amendments to Sections 1101 and 1103 of the South Portland City Charter is hereby set for the Council meeting of September 7, 2016 at 7:00 p.m. in Council Chambers, South Portland City Hall; and

BE IT FURTHER ORDERED, that the City Clerk be and hereby is ordered to publish a notice of the hearing, including the text of the proposed amendments and a brief explanation, in a newspaper having general circulation in the City of South Portland at least seven (7) days before the public hearing.

Fiscal Note: Less than \$1,000

Dated: August 15, 2016

PROPOSED CHARTER AMENDMENTS

Shall the City of South Portland approve the proposed Charter amendments printed below?

[Note: Proposed deletions are ~~struck through~~; additions are underlined.]

[Sec.] 1101. Power of initiative.

The electors of the City of South Portland shall have power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, and to adopt or reject the same at the polls, such power being known as the initiative. Such initiated ordinance may be submitted to the city council by a petition signed by at least 5% of the qualified electors of the City of South Portland at the last regular municipal election. The petition form shall be prepared by the city clerk consistent with Sec. 1103. The petition may be circulated for up to forty-five (45) calendar days from the date of the city clerk's issuance of the petition and must be returned to the city clerk no later than forty-five (45) calendar days from the issuance date. The issuance and return dates shall be noted by the clerk on each blank form.

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[Sec.] 1103. Form of petitions.

The petitions used to invoke the initiative or the referendum shall be substantially in the following form:

PETITION TO THE SOUTH PORTLAND CITY COUNCIL

For the Submission to the People of the Question

Shall the proposed ordinance, a copy of which is [hereto attached] [printed on the petition], be adopted? We, the undersigned voters of the City of South Portland, residing respectively at the addresses placed opposite our names, hereby petition the city council to submit the foregoing question to the voters of the City of South Portland.

NAMES	RESIDENCES	DATES
_____	_____	_____
_____	_____	_____
_____	_____	_____

NAME _____ STREET AND NUMBER _____
being duly sworn deposes and says that he is the circulator of the foregoing petition containing _____ signatures and that the signatures appended thereto were made in his presence and are the signatures of the persons whose names

they purport to be.

Signed _____

Subscribed and sworn to before me, this _____ day of _____
19_____.

~~Justice of the Peace~~ [or] Notary Public

The effective date of these amendments is November 9, 2016.