

South Portland City Council
Position Paper of the City Manager

Subject:

ORDER #162-13/14 – Public hearing on proposed amendments to Sections 424, 703 and 1001-1004 of the City Charter and action to submit the amendments to the voters on November 4, 2014. Passage requires majority vote.

Position:

This item is brought forward to address two Charter issues: (i) eliminating district representation on the Board of Assessment Review (Section 424) and Civil Service Commission (Section 703); and (ii) changing election wardens and ward clerks from elected officials to appointed officials (Sections 1001-1004). On May 19, 2014, the City Council set the public hearing on the proposed amendments for June 16, 2014. This proposed order completes the process of sending these proposed Charter amendments to the voters on November 4, 2014 at the conclusion of the public hearing. Passage of this order will send the proposed amendments to the voters for consideration at 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 4, 2014 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:

At the conclusion of the public hearing, passage of Order #162-13/14.


City Manager



CITY OF SOUTH PORTLAND

GERARD A. JALBERT
Mayor

JAMES H. GAILEY
City Manager

SUSAN M. MOONEY
City Clerk

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

District One
MICHAEL R. POCK

District Two
PATRICIA A. SMITH

District Three
MELISSA E. LINSKOTT

District Four
LINDA C. COHEN

District Five
GERARD A. JALBERT

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

**IN CITY COUNCIL
ORDER #162-13/14**

ORDERED, that the City Clerk be and hereby is directed to place the attached amendments to Article IV, Section 424; Article VII, Section 703; and Article X, Sections 1001-1004 of the South Portland City Charter on the November 4, 2014 ballot; and

BE IT FURTHER ORDERED, that, because it is not practical to print the proposed amendments on the ballot and a summary will not misrepresent the subject matter of the proposed amendments, the City Clerk be and hereby is directed to prepare a summary of the proposed amendments in accordance with 30-A M.R.S.A. § 2105(3)(C) and to include the summary on the ballot instead of the full text of the proposed amendments; and

BE IT FURTHER ORDERED, that, the City Clerk be and hereby is directed to, at least 2 weeks before the election, (1) have the proposed amendments and the summary of the amendments prepared under this section printed; (2) make copies available to the voters in the City Clerk's office; and (3) post the amendments and the summary of the amendments in the same manner that proposed ordinances are posted.

Fiscal Note: Less than \$1,000

Dated: June 16, 2014

Proposed Charter Amendments

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

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

[Sec.] 424. Civil service commission.

There shall be a civil service commission consisting of 7 members, all of whom shall be South Portland residents, ~~one from each voting district and two at large~~, who shall be appointed by the city council for overlapping terms of 5 years and shall serve without compensation. There shall be no more than 3 members from any one voting district. They shall control the selection for appointment, promotion, layoff, dismissal or reinstatement as defined by the civil service ordinance. Anyone receiving compensation from the City of South Portland shall not be eligible for membership on this commission.

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[Sec.] 703. Board of assessment review; appointment; vacancies.

There shall be a board of assessment review to consist of 7 members, all of whom shall be South Portland residents not otherwise connected with city government, ~~one member from each voting district of the city and two at large~~, who shall be appointed by the city council for a term of 3 years. There shall be no more than 3 members from any one voting district. Compensation, if any, to such members shall be determined by the city council. Vacancies in the membership of each board shall be filled by appointment by the city council for the unexpired term.

The effective date of these amendments is November 5, 2014.

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

[Sec.] 1001. Establishment of five voting districts.

Within 30 days after the voters of the city have adopted this charter, as provided in section 1301, the city council shall by ordinance divide the city in 5 voting districts. Districts shall be as equal in population as may be and shall be compact and contiguous. ~~There shall be one, at least, voting place established in each of the 5 districts.~~ Once established, district boundaries may not be revised until after the next decennial Federal Census of population. In the year following each Federal Census of population the council shall review the district boundaries, and by ordinance revise said boundaries to accord with population changes, so that each district as revised will accord with the above stipulations as to equality of population, continuity and compactness. The city council shall from time to time establish voting places for the various voting districts by council order.

Nothing hereinabove contained shall be in any way construed so as to affect the qualifications, tenure or terms of office of the present members of the city council or school board.

[Sec.] 1002. Date of elections and procedure to determine results.

Effective in 1989, the regular municipal elections under this charter shall be held annually on the Tuesday following the first Monday of November. At these annual elections the qualified voters of the city shall ballot within their regular districts and at their respective voting places for members of the city council and members of the board of education and the candidates for these offices shall be duly qualified under the nomination regulations contained herein: The said annual municipal election being held for the purpose of replacing by a city-wide vote the members of the city council and the members of the board of education whose terms automatically expire for the current municipal year within which that election is held, and to fill the unexpired term of any councilman or member of the board of education whose office is then vacant but whose term of office would not then have normally expired. ~~In addition, the qualified voters of the several voting places of the 5 districts shall ballot for the following offices for each district: One warden, one ward clerk.~~

All votes cast for the several offices shall be counted, sorted, declared and registered in open meeting as required by law. The ward clerk shall ~~forthwith deliver to each person elected warden or ward clerk a certificate of his election and shall~~ forthwith deliver to the city clerk a certified copy of the record of such election.

After such elections, the then City Clerk shall examine not longer than 24 hours after such elections, the records of the several voting places, certified as aforesaid and shall determine the successful candidates according to the laws of the State of Maine and shall cause the persons who shall have been elected councilmen, and members of the board of education, ~~wardens and ward clerks~~ to be notified in writing of their election. If it appears that no person has been elected in any district to the office of councilman or to the office of ~~a~~ member of the board of education or if any person refuse to accept any of the above offices to which he has been elected, then warrants shall be issued forthwith for another election to fill ~~any~~the vacancy in the office of councilman and the city council shall act to fill any vacancy in the office of member of the board of education.

In order to accomplish the change of date of municipal election year, there will be no election scheduled in May of 1989; those officials elected in the municipal election in 1986 shall serve a term to expire the first Monday in December following a full term for each such office. Those elected officials serving an unexpired term at the time of change of municipal election year shall have their terms extended approximately 6 months to expire on the first Monday in December, effective 1989.

[Sec.] 1003. Warden and ward clerk; eligibility, tenure, qualifications, powers and duties; vacancies.

Effective November 5, 2014, the city council shall appoint a warden and ward clerk, in addition to the regular ballot clerks, for each voting place, but wardens and ward clerks elected prior to November 4, 2014 shall continue to serve until the expiration of their respective terms. No elected official of the City shall serve as warden, ward clerk or ballot clerk. The warden and ward clerk ~~so appointed chosen as provided in the foregoing section~~ shall be South Portland residents ~~of the district for which they are elected~~ and they shall ~~take office~~center upon ~~their duties on the first Monday following their appointment~~election and hold their offices three years therefrom and until others are chosen and qualified in their places. The warden and ward clerk shall be sworn to the faithful performance of their duties by a person qualified under the statutes of the State to administer oaths, and a certificate of such oath shall be entered by the clerk on the records of said ward. The warden shall preside at all meetings of his voting district with the powers of moderators of town meetings and if at any meeting the warden shall not be present, the clerk of the voting district shall call the meeting to order and preside until a warden pro tempore shall be chosen. The warden shall have all the rights and powers now held by the wardens of existing districts. If neither the warden nor ward clerk is present, any legal voter in the district may preside until a clerk pro tempore shall be chosen and qualified.

Immediately following the election of a clerk pro tempore a warden pro

~~tempore shall be chosen. The clerk shall record all the proceedings and certify the votes given and deliver to his successor in office all such records and journals in his possession or under his control, together with all documents and papers held by him in his capacity as clerk.~~

The ward clerk shall have and perform all rights and duties now held and performed by the ward clerks of existing districts so far as consistent with this charter. ~~All voting district meetings shall be notified and called by the city council in the manner provided by the laws of this State for notifying and calling town meetings by the selectmen of the several towns.~~

[Sec.] 1004. Nominations.

The nominations of all candidates for elective offices provided for in this charter shall be by petition. The petition for a candidate for the city council or board of education shall be signed by not less than 100 nor more than 300 of the qualified voters of the city. ~~The petition of candidates for wardens, ward clerks shall be signed by not more than 100 nor less than 30 qualified voters of that district within which they are registered as voters.~~ No voter shall sign petitions for more than one candidate for each office to be filled at the election and should any voter sign more than one such petition his signature shall be counted only upon the petition first filed and shall be held to be void upon all other petitions.

The effective date of these amendments is November 5, 2014.