



## RESOLUTION

### PROPOSING AN AMENDMENT TO THE CITY CHARTER RELATIVE TO FILLING VACANCIES IN THE BOARD OF ALDERMEN, BOARD OF PUBLIC WORKS, BOARD OF FIRE COMMISSIONERS, AND BOARD OF EDUCATION

### *CITY OF NASHUA*

*In the Year Two Thousand and Eleven*

**RESOLVED** by the Board of Aldermen of the City of Nashua that pursuant to RSA 49-B:5, the following amendment to the Nashua City Charter is deemed necessary and shall be submitted to the voters by placing it on the ballot at the next regular city election in the manner required by NH RSA 49-B with the following summary:

**Shall the municipality approve the charter amendment summarized below?**

This amendment would provide that a vacancies in the board of aldermen, board of public works, board of fire commissioners, and board of education with at least six months and one day remaining in the unexpired term would not always have to be filled through a special election, but if the timing is appropriate, could be filled by the candidate who receives the most votes at the regular municipal election for the next term of office which is then vacant and who is not an incumbent.

Amend the City Charter by adding the new underlined language as follows:

**§ 44. Vacancy in office of aldermen** .

Vacancies occurring in the office of alderman [aldermen] from any cause shall be filled as follows: If there is at least six (6) months and one (1) day remaining in the unexpired term, the vacancy shall be filled by a special election held on a date determined by the Board of Aldermen which shall not be earlier than forty (40) days and not later than one hundred eighty (180) days after the vacancy occurs. All nominations for the office of aldermen shall be handled in the same manner as nominations for the office of aldermen at a regularly scheduled election with the exception that petitions and acceptances of nominations shall be presented to the city clerk not earlier than forty (40) days nor later than thirty (30) days before the election. Provided, however, that if the board of aldermen determines that the

vacancy shall be filled on the date of the next regularly scheduled municipal election, the vacancy shall not be filled by a special election. Instead, the candidate who receives the most votes at the regular municipal election for the next term of the office which is then vacant, and who is not then an incumbent member on the board, shall be sworn in to complete the unexpired term as soon as the election results are final. If the vacancy occurs within six (6) months or less of the end of the unexpired term, the vacancy shall not be filled before the next regularly scheduled municipal election. The candidate who receives the most votes at the regular municipal election for the next term of the office which is then vacant, and who is not then an incumbent member on the board, shall be sworn in to complete the unexpired term as soon as the election results are final.

### **Board of Public Works**

#### **§ 59. How chosen: tenure of office**

The board of public works shall be composed of the mayor and four members to be chosen by the qualified voters of the city at large, voting in their respective wards. At the first general municipal election to be holden under this act [charter], there shall be elected four members of the board of public works: the two candidates receiving the two highest preferences shall serve for three years, and the two candidates receiving the next highest preferences shall serve for one year, and at each subsequent general municipal election there shall be elected two members for the full term of four years, and the members so chosen shall hold their respective offices from the first secular day of January next following their election for the terms above specified, and until their successors are chosen and qualified. Vacancies shall be filled as follows: If there is at least six (6) months and one (1) day remaining in the unexpired term, the vacancy shall be filled by a special election held on a date determined by the Board of Aldermen which shall not be earlier than forty (40) days and not later than one hundred eighty (180) days after the vacancy occurs. All nominations for the board of public works shall be handled in the same manner as nominations for the board of public works at a regularly scheduled election with the exception that petitions and acceptances of nominations shall be presented to the city clerk not earlier than forty (40) days nor later than thirty (30) days before the election. Provided, however, that if the board of aldermen determines that the vacancy shall be filled on the date of the next regularly scheduled municipal election, the vacancy shall not be filled by a special election. Instead, the candidate who receives the most votes at the regular municipal election for the next term of the office which is then vacant, and who is not then an incumbent member on the board, shall be sworn in to complete the unexpired term as soon as the election results are final. If the vacancy occurs within six (6) months or less of the end of the unexpired term, the vacancy shall not be filled before the next regularly scheduled municipal election. The candidate who receives the most votes at the regular municipal election for the next term of the office which is then vacant, and who is not then an incumbent member on the board, shall be sworn in to complete the unexpired term as soon as the election results are final.

**§ 73. Fire commissioners, how chosen**

The Board of Fire Commissioners shall continue to be composed of three members, one of whom shall be chosen at large at each general municipal election to hold office from the inauguration day in January next following his election; provided, however, that effective with inauguration day in 1978, the board shall be composed of five members to be chosen by the qualified voters of the city at large, voting in their respective wards. At the general municipal election to be held in 1977, there shall be elected three members of the fire commission; the candidate receiving the highest preference shall serve for four years; and the two candidates receiving the next highest preference shall each serve for two years. At the general municipal election to be held in 1979 there shall be elected three members of the fire commission; the three candidates receiving the highest preference shall each serve for four years. At the general municipal election to be held in 1981 there shall be elected two members of the fire commission; the two candidates receiving the highest preference shall each serve for four years. At each subsequent general municipal election three or two members of the fire commission shall alternatively be elected for a full four-year term, in order to maintain a board of five members. The members so chosen shall hold their respective offices from the inauguration day in January next following their election for the term above specified, and until their successors are chosen and qualified. The board shall exercise all the powers and perform all the duties that the laws and ordinances now prescribe, or that may hereafter be prescribed by law and the City Ordinances. Vacancies shall be filled as follows: If there is at least six (6) months and one (1) day remaining in the unexpired term, the vacancy shall be filled by a special election on a date determined by the Board of Aldermen which shall not be earlier than forty (40) days and not later than one hundred eighty (180) days after the vacancy occurs. All nominations for the Board of Fire Commissioners shall be handled in the same manner as nominations for the Board of Fire Commissioners at a regularly scheduled election with the exception that petitions and acceptances of nominations shall be presented to the city clerk not earlier than forty (40) days nor later than thirty (30) days before the election. Provided, however, that if the board of aldermen determines that the vacancy shall be filled on the date of the next regularly scheduled municipal election, the vacancy shall not be filled by a special election. Instead, the candidate who receives the most votes at the regular municipal election for the next term of the office which is then vacant, and who is not then an incumbent member on the board, shall be sworn in to complete the unexpired term as soon as the election results are final. If the vacancy occurs within six (6) months or less of the end of the unexpired term, the vacancy shall not be filled before the next regularly scheduled municipal election. The candidate who receives the most votes at the regular municipal election for the next term of the office which is then vacant, and who is not then an incumbent member on the board, shall be sworn in to complete the unexpired term as soon as the election results are final.

**§ 75. Board of education: How chosen**

Any person, qualified to vote in the affairs of the City of Nashua, may vote at all elections for the choice of a board of education of said city, and be a candidate for and be chosen to such membership upon receiving the necessary votes required for election upon the

## RESOLUTION

R-11-139

board, provided that no person shall serve as a member of the board of education who is not a duly qualified voter of the city. Any duly qualified voter may also sign an initiative petition such as provided for in this charter in case of any measure pertaining to the affairs under the board's administration, which it, after this charter takes effect, may lawfully pass, and vote upon its submission to a vote of the qualified voters of the city for adoption or rejection at a general or special municipal election when the measure is by this charter to be voted upon.

The board of education shall continue to be composed of twelve members, four of whom shall be elected at large at each general municipal election to hold office from the following January first; provided, however, that effective with the terms of those members which commence January 1, 1972, the term of office of members shall be four years and, provided further, that effective with the election in November 1975, five candidates shall be elected to the board and the membership of the board shall be reduced to nine effective January 1, 1976. Subsequently, four or five candidates shall be elected to the board at each general municipal election in order to maintain a board of nine members. Vacancies shall be filled as follows: If there is at least six (6) months and one (1) day remaining in the unexpired term, the vacancy shall be filled by a special election held on a date determined by the board of aldermen which shall not be earlier than forty (40) days and not later than one hundred eighty (180) days after the vacancy occurs. All nominations for the board of education shall be handled in the same manner as nominations for the board of education at a regularly scheduled election with the exception that petitions and acceptances of nominations shall be presented to the city clerk not earlier than forty (40) days nor later than thirty (30) days before the election. Provided, however, that if the board of aldermen determines that the vacancy shall be filled on the date of the next regularly scheduled municipal election, the vacancy shall not be filled by a special election. Instead, the candidate who receives the most votes at the regular municipal election for the next term of the office which is then vacant, and who is not then an incumbent member on the board, shall be sworn in to complete the unexpired term as soon as the election results are final. If the vacancy occurs within six (6) months or less of the end of the unexpired term, the vacancy shall not be filled before the next regularly scheduled municipal election. The candidate who receives the most votes at the regular municipal election for the next term of the office which is then vacant, and who is not then an incumbent member on the board, shall be sworn in to complete the unexpired term as soon as the election results are final.

These amendments shall be effective upon passage by the voters.

**LEGISLATIVE YEAR 2011**

**RESOLUTION:** R-2011-139

**PURPOSE:** Proposing an amendment to the City Charter relative to filling vacancies in the board of aldermen, board of public works, board of fire commissioners, and board of education

**SPONSOR(S):** Alderman-at-Large Ben Clemons

**COMMITTEE ASSIGNMENT:**

**FISCAL NOTE:** The City Clerk estimates the cost associated with a charter amendment as less than \$50 for a regular municipal or state election.

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**ANALYSIS**

This amendment would provide that a vacancy in the board of aldermen, board of public works, board of fire commissioners, and board of education with at least six months and one day remaining in the unexpired term would not always have to be filled through a special election, but if the timing is appropriate, could be filled by the candidate who receives the most votes at the regular municipal election for the next term of office which is then vacant and who is not an incumbent.

The procedure for charter amendments is set forth in RSA 49-B:5. The board of aldermen must hold an initial vote to determine if the amendment is "necessary". If the amendment is determined to be necessary, the board of aldermen must, within ten (10) days, order that notice be given for a public hearing on the amendment. Notice of the public hearing must be published in a newspaper of general circulation at least seven (7) days prior to the scheduled hearing. The notice must contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the board of aldermen or a committee.

Within seven (7) days after the public hearing, the board of aldermen must vote to decide whether the amendment will be placed on the ballot at the next regular municipal election or state biennial election if it is held not less than sixty (60) days after the vote or at a special election held not less than sixty (60) days after the vote. The board of aldermen must also order that copies of the proposed amendment and a summary thereof be made available to the public in the clerk's office at least two (2) weeks prior to the election. Copies of the proposed amendment and the summary must also be posted in the same manner as proposed ordinances.

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**Approved as to form:** Office of Corporation Counsel

By: Dowling Clarke

Date: July 12, 2011

**RESOLUTION R-11-139**  
**PROPOSING AN AMENDMENT TO THE**  
**CITY CHARTER RELATIVE TO FILLING**  
**VACANCIES IN THE BOARD OF**  
**ALDERMEN, BOARD OF PUBLIC**  
**WORKS, BOARD OF FIRE**  
**COMMISSIONERS, AND BOARD OF**  
**EDUCATION**

**IN THE BOARD OF ALDERMEN**

1<sup>ST</sup> READING JULY 12, 2011

Referred to:  
**PERSONNEL AND ADMINISTRATIVE AFFAIRS**  
**COMMITTEE AND PUBLIC HEARING ON**  
**WEDNESDAY, AUGUST 3, 2011 IMMEDIATELY**  
**FOLLOWING THE FINANCE COMMITTEE**  
**MEETING SCHEDULED FOR 7:00 PM IN**  
**THE ALDERMANIC CHAMBER**

2<sup>nd</sup> Reading AUGUST 9, 2011

3<sup>rd</sup> Reading \_\_\_\_\_

4<sup>th</sup> Reading \_\_\_\_\_

Other Action \_\_\_\_\_

Passed AUGUST 9, 2011

Indefinitely Postponed \_\_\_\_\_

Defeated \_\_\_\_\_

Attest: Patricia O'Connell  
City Clerk

Eric J. McLean  
President

Approved Maude Brian  
Mayor's Signature

August 12, 2011  
Date

Endorsed by  
Michael J. Tabacsko CLEMONS  
John J. Craffey TABACSKO  
Katherine Vitale CRAFFEY  
Melizza Golja VITALE  
David Sheehan MELIZZI-GOLJA  
Ben S. McCarthy SHEEHAN  
MCCARTHY

Vetoed: \_\_\_\_\_

Veto Sustained: \_\_\_\_\_

Veto Overridden: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
President