

**SPECIAL MEETING  
BOARD OF MAYOR AND ALDERMEN  
(Called by the Mayor)**

**June 25, 2002**

**6:00 PM**

Mayor Baines called the meeting to order.

The Clerk called the roll.

Present: Aldermen Wihby, Gatsas, Guinta, Sysyn, Osborne, Pinard, O'Neil,  
Lopez, Shea, DeVries, Garrity, Smith, Thibault

Absent: Alderman Forest

Mayor Baines stated before we move to the agenda item I would like a moment of personal privilege to thank Wayne Robinson. Many of you may or may not have heard that Friday is Wayne's last day in my office. He will be flying off to the Manchester Airport. I would like to say a couple of things about Wayne. First of all he has been just an incredible public servant. He has worked very, very well with both Boards. I know that you will agree he is apolitical. He just tried to do the best job he could do every day. He was a tireless worker on behalf of the City. He has become a very good personal friend of mine as well and I am very pleased that he has had this opportunity. I wish to express a very heart felt thanks to Wayne for all he has done for the City and we wish he and his wife well and good luck in his new challenge. Seth Wall, who was an intern in my office approximately a year ago will be joining my staff on Monday as my budget assistant.

Alderman Wihby stated I just want to echo your sentiments. Being on the opposite side, being a Republican, Wayne has always come through and given us anything that we have asked for. I know that in the past that position was political and it was good having somebody that you could talk to and that you knew you could get some answers from. I want to thank him on behalf of all he has done for me, your Honor.

Mayor Baines responded I appreciate that very much and that is what I have asked my staff to be at all times. If there are political things to do I ask them to leave that to me. They are to serve the public and the Board of Mayor and Aldermen and they have done that very well.

Communication from Deputy City Clerk Johnson advising the Board of potential costs relating to upcoming elections, and suggesting the Board consider a change in the date of the special election to consider the question:

“Shall a Charter commission be established for the sole purpose of revising the municipal charter or establishing a new municipal charter?”

Deputy Clerk Johnson stated we had submitted this letter to the Board. Originally the Board did vote to put the question on the ballot on September 10, which is the regular primary date and we will definitely be having a primary on that date. However, there was a question raised by some people because if you do that the special election required, if the yes votes passed, would be required in November. You cannot hold your second part, which is electing all of the Commission members concurrent with the general election if you on your primary day hold...the number of days just don't work. The suggestion has been that the Board might want to consider sending the Charter question to ballot in a special election – the yes/no vote question, on September 3 rather than on September 10 so that your number of days in between would then match for your November general election in terms of sending to ballot a listing of the candidates that wish to be part of the Charter Commission. It is certainly a policy decision of the Board. In any event if you send this question out and it does pass you will have to have another election this year within between 56 and 60 days thereafter and the end result of that is no matter what you do you need a special election. It was not budgeted for this year. That was another factor that we wanted to make you aware of and then given the redistricting situation that was going on at the State we felt that we should advise the Board as to potential costs coming up with that as well.

Mayor Baines asked what are we looking at for potential costs for all of these special elections. What is the estimate that we are looking at?

Deputy Clerk Johnson answered worse case scenario we asked the Board if you do the Charter question as well and you have two special State elections, worse case scenario would be about \$110,000 that we are asking you to set aside.

Mayor Baines asked so we would be taking \$110,000 out of about \$180,000 in contingency.

Clerk Bernier replied that is the worse case scenario.

Deputy Clerk Johnson stated at this point we are anticipating that there will be at least a special election in September. It depends really on two things. One is what the House does and then the Senate and the Governor does with whatever the House acts on this Thursday. The other is whether or not the Legislature will change a law. If they change one specific law there is a potential that all of the primaries could be held on September 10. According to the Secretary of State as of late this afternoon some of it is really going to have to wait until

we know what the Legislature does on Thursday and depending on what happens there we will have a better answer.

Mayor Baines asked so we would have voters going to the polls on September 3 and going back to the polls on September 10. Is that correct?

Deputy Clerk Johnson answered yes. If you did the Charter question you would have the Charter question on September 3 if you did this as a special election. Then on September 10 the voters would go back to the polls for the primary election for the Governor and Congressional races and potentially the Senate and House Districts but we won't know that for sure for a little bit. There was a ruling by the Supreme Court. The Senate Districts have been set. There are some issues with Manchester. It is my understanding that the Secretary of State is going to attempt to resolve some of those issues with the Court because it is not just Manchester but Nashua and some other communities have issues as well. If that is all resolved and if the Legislature does change the law then potentially the Senate race anyway could be held on September 10.

Clerk Bernier stated I think what we need to do is wait to see what happens on Thursday. I am not really sure, as Carol indicated, what direction the House or the Senate or the Governor is going to take. If you need to...again this is a policy decision of this Board, if you want to have a Charter question on the ballot then we really need to have the election on September 3. For example, you couldn't put that question on September 10 because the Charter clearly indicates the number of days that you can have an election.

Mayor Baines asked how was it handled the last time in 1996.

Clerk Bernier answered we paralleled with the Presidential election in February of 1996.

Mayor Baines asked so the general election for members of the Charter Commission coincided with the Presidential election or the question coincided with it.

Deputy Clerk Johnson answered the question.

Mayor Baines stated we could be looking at a lot of elections here and I am concerned about the number of times we are asking people to go to the polls.

Deputy Clerk Johnson stated the only other thing I would note is in terms of this Charter question right now you have ordered it for September 10. If you want to do it on September 3 or if there is a potential that the Board wants to do it on September 3 they would need to act on that today. You could order it and in essence have two orders hanging there until we know what is going on with the State and then rescind them later but because of the timeline

in the State law in order to get it on as a September 3 special election you would have to act on that tonight or order it tonight.

Mayor Baines replied one option we could talk about is postponing the whole Charter issue for a year also.

Deputy Clerk Johnson responded yes you could do that.

Alderman Shea asked if you had an election on September 3 the cost would be what.

Clerk Bernier answered approximately \$35,000.

Alderman Wihby stated if you leave it the way it is, it is \$35,000 or actually a little more. Your Honor, we decided that we wanted to look at the Charter and you agreed yourself that it should be looked at and I think we should move forward with setting the date of September 3. It only makes sense. At the time that we set this we thought we were going to have it the same as the primary and the general and we worked with the House and the Senate to see if they would change the rules and allow that period that we wanted. We were off by three days I guess. They wouldn't bring that question up because there were other municipalities and towns that had other problems so that didn't happen. The way it stands now and the way we voted on this is that it is going to be on September 10 and it is going to be the week after the general. It is going to cost \$35,000 or more then. My feeling is that it is more important to elect the people at a general election than it is just asking them a question in a primary. If you go ahead on September 3 it is just a yes or no. It is probably a paper ballot. It is going to take less time and less people are going to come but where you want the people to show up is at the general election where they are going to be actually electing people to go forward and do our Charter. Nobody likes to spend any extra money but if it means holding off a little longer on filling positions or whatever, this could be a big tax saver. We heard from the taxpayer group...I was reading the newspaper the other day and they said we should look at tax caps. Even if we just had an 8% tax cap this year we would have saved \$1 million and that is a ridiculous number. So, your Honor, we could make this money up very easily if we go forward. We shouldn't put it off for two or three years because then it is going to end up in an off year so it actually will take three years to finish. We should move forward with it, your Honor, and have it on September 3 and then on the general election have it where you would actually vote for the candidates.

Alderman O'Neil asked if we have the Charter question on September 3 and then the primary on September 10, based on the information today when could the House primary be held.

Deputy Clerk Johnson answered it could be held on September 10 or it could end up on September 24. We won't know that for a little while.

Alderman O'Neil stated so worse case scenario we could theoretically have elections on September 3, September 10 and September 24. Then what happens in November?

Clerk Bernier replied it would be the general election.

Alderman O'Neil asked all three of those would roll into the one general election.

Deputy Clerk Johnson answered it depends on whether the Legislature changes another piece of law related to absentee ballots.

Alderman O'Neil asked give me the worst scenario.

Clerk Bernier answered the worst scenario is five elections.

Alderman O'Neil asked what is the date of the normal general election in November.

Deputy Clerk Johnson answered November 5.

Alderman O'Neil asked worst case scenario if a change doesn't happen what is the date of the general election just for the House.

Deputy Clerk Johnson answered we haven't had that conversation with the Secretary of State because he is hopeful that he will be able to get the law changed.

Alderman O'Neil asked but it would not be November 5.

Deputy Clerk Johnson answered if they don't change the law they would have to move that out potentially a couple of weeks as well.

Clerk Bernier replied they need to address some State statutes on elections.

Alderman O'Neil asked do we have any of this in writing from the Secretary of State.

Deputy Clerk Johnson answered no. The Secretary of State has been dealing with what has been going on at the State House on a daily basis. We have had a couple of conversations with him. I spoke to him as recently as about 4 PM today.

Alderman O'Neil stated I will throw this out to the Clerk. It may not be a fair question but Leo you are generally pretty good at predicting turnouts. What are we really looking at for a September 3 Charter question? What is the turnout going to be, 5%?

Clerk Bernier replied 8% or 10% maybe.

Alderman O'Neil asked and what would you expect for a normal primary for State and Federal elections.

Clerk Bernier answered there is a lot of activity this year so it is going to be high for the September 10<sup>th</sup> primary. I would have to say you will be in the vicinity of probably 28% to 32%.

Alderman O'Neil asked and a special House election would bring somewhere from 5% to 8%.

Clerk Bernier answered I would agree.

Alderman O'Neil asked what would we figure for a normal general election.

Clerk Bernier answered this November you are going to hit a high 55% or 60%. There are a lot of races.

Alderman O'Neil asked what about a special general election for House members.

Clerk Bernier answered you will drop right back down to 20%.

Alderman Gatsas stated I would assume by Thursday we are going to have a pretty good picture of where we are going. If they are going to pass legislation to allow for the House of Representatives to be elected in November they are going to have to change the timeframe in between. If they are going to present that I think we probably could amend it...

Deputy Clerk Johnson interjected it is more than just that that is at stake. As I understand it on Thursday there are a couple of issues. One is that the Senate has been redistricted as you are aware. The court has ruled on that. On the House side, the House will need to act to come up with their own redistricting plan and there is a bill for Thursday, as I understand it. In addition to that, there is another bill that would need to pass to change the filing periods or they are going to attempt to change the filing period status for the House and Senate races. Then if those bills pass the House you still have to have the Senate and Governor act on those as well.

Alderman Wihby stated I talked to Bill Gardner myself and I think what they are trying to do is...what he said was that in the primary race for instance in the House if there are three representatives in a ward running there are not really a lot of times where there are four representatives running. Once they fill three they usually don't have a lot of contested races so his figuring was that if you look at history it is like 8% of the districts wouldn't have to even come to a vote. If that is the case he said as long as they pass this relatively soon, even

in July, everything would still be set for the September primary and the November general election because he could then do paper ballots and again they will pass this law saying we are only going to do them where there are contested races and do them on paper ballots so he needs less time to print everything and less elections because there are not contested races and he doesn't see a lot of races being held in the State. He thinks he could relatively get this through and still do a September and November date for the House and Senate.

Alderman Gatsas stated I believe the dates for filing have already been set for the Senate. They start on Wednesday and conclude the following Friday. Those have already been set by the court. I don't think that anything they are doing on Thursday in the House is going to have anything to do with the filing dates for the Senate but if they are going to set filing dates for the House and they are going to set election dates, obviously those dates have to be changed which allows us within the City to change those same dates. Chances are we probably could have an election based on the same criteria as the House members for the Charter amendment. I don't know if we are really going to get into five different elections. I think you are probably talking three because I am sure that the small communities are not going to be able to do three elections even though we are looking at one more in there. I would say that we should move forward with looking at the Charter changes. I think, your Honor, that you will agree that there are things that even with the hard work that some of the people on this Board did on that Charter Commission that I think if you sat here first and then sat on that Commission, including Alderman Lopez, there are probably changes that you would have made. There is nothing that says that we need to sit here for the next five years and say it is a ten-year effort. The \$34,000 I think with some of the Charter changes that the two of you would suggest we could probably save that in the very first year. I think the worst case scenario is we may be looking at a special election on September 3. I think we should leave that avenue open and consider the changes that may be made on Thursday so the special election won't have to happen and it can coincide with the State Representatives race, which would happen sometime in September and then a general for the election of the people in November.

Alderman Lopez asked why is it so important to go to September 3 and not September 10 and then have the election of the individuals for the Charter Commission.

Alderman Wihby answered if you did the election on September 10 you couldn't have the choosing of people for the Commission until the week after the general election.

Alderman Lopez replied I understand that.

Alderman Wihby asked well wouldn't you say that you would rather have more people voting the people in office than voting yes or no.

Alderman Lopez answered I think changing the Charter is a very serious thing and I think I would like to have more people vote yes or no as to whether they want to change the Charter. If you go on September 3 I think you will get about 8% turnout.

Alderman Wihby stated I don't understand if anybody is against the Charter. I mean this Board voted unanimously and the Mayor went along with it and everybody was in favor of looking at changing the Charter. If that is so who is going to be out there voting no?

Mayor Baines replied the vote was to put it on the ballot.

Alderman Wihby responded well nobody had a problem with putting it on the ballot.

Alderman Lopez stated well have to have more people vote yes or no.

Mayor Baines stated that is one opinion.

Alderman O'Neil asked if we elect a Charter Commission this fall what would be their timeframe for work and when do they have to report back. Their recommendation would have to be put on a ballot at some point so when would that be?

Mayor Baines stated it is a nine-month process.

Alderman O'Neil asked so it would be on the ballot in November of 2003.

Clerk Bernier answered yes.

Mayor Baines asked why wouldn't it be in September.

Clerk Bernier asked the final results. It is non-partisan.

Alderman O'Neil asked so in the fall of 2002 a Charter Commission gets elected and then what.

Clerk Bernier answered they do their work for nine months and will submit revisions to this Board as well as to the public.

Alderman O'Neil asked so when would it go on the ballot to be voted on.

Clerk Bernier answered because we are non-partisan now you can have it in September or November.

Mayor Baines asked so it would be a Board decision.

Clerk Bernier answered correct.

Alderman O'Neil asked so it would be the fall of 2003.

Clerk Bernier answered that is correct.

Alderman O'Neil asked and the window is they only have that nine-month period to work.

Clerk Bernier replied that is correct.

Alderman Wihby moved to transfer \$34,000 out of contingency to hold a special election on September 3.

Mr. Clougherty stated I would just like to point out that we can't move the money now because we are not in the fiscal year yet.

Mayor Baines stated the motion would be to put the Charter Commission question on the ballot at a special election to be held on September 3.

Alderman Wihby moved to order the Charter Commission question to the ballot at a special election to be held on September 3. Alderman Gatsas duly seconded the motion.

Alderman O'Neil stated I think it is an awful lot of money to get less than 10% of the voters out. I don't know what we are actually going to gain. We can make changes in saving money in government without changing the Charter. I would like Alderman Wihby to tell me what items we cannot change just by a vote of the 15 members of the Board of Mayor and Aldermen?

Alderman Wihby replied everything that is in the Charter you cannot change. The budget process you can't change and that number.

Alderman O'Neil asked what number.

Alderman Wihby answered the way the budget is set-up and the system and the timing and all of that. It can't be changed.

Alderman O'Neil asked you don't believe that this system is better than the old system we had.

Alderman Wihby answered absolutely not. I can see the system being set-up the way it is now maybe with the Mayor's number falling and maybe a cap set in so the Mayor's number

can fall back in but it can't be higher than 3% or 5% or pick a number. Some sort of a cap should be established so that the Aldermen...you can't tell me that this Board wasn't forced to vote for a 9% increase. I sat in that back room and Aldermen told me that they weren't going to go for a 9% increase and they did because they felt it was better than a 12% increase. If there was some sort of a cap there...even if it was 7% we would have saved \$2 million but some number that it fell back on so that we would not have that big an increase. It is all decided by one person, the Mayor. It takes 10 votes out of the 14 and it is kind of impossible to get that. I just feel that there is a better way of doing it. I think now that we have tried it this way...I guess when I looked at it I thought well maybe it is a little better but now that we tried it this way I don't think it worked. There are a lot of things that are in that Charter that you can change and you can well make up the \$35,000.

Alderman O'Neil asked but what would a Charter change have done to lower the tax rate this year.

Alderman Wihby replied if we had it the old way we might have been able to compromise and get a 3%, 4% or 5%.

Alderman O'Neil responded the only way we were going to compromise, Alderman, was to lay-off cops, firefighters and highway workers. That was the only way it was going to get down. We shouldn't be misleading the public on that.

Mayor Baines asked can we go back to whether you want to change the date or not and call for a vote. We have already decided that it is going to the ballot and if we wanted to change that we would have to have a motion to postpone it or what have you but this is just to change the date. Any further discussion before I call for a vote?

Alderman Garrity stated I think it is imperative that the question go on the ballot. I think a big concern is the spending cap. Nashua has some great high schools and they are building a new high school and they are doing it with a spending cap. I think it is imperative that the people of Manchester and the voters of Manchester and the taxpayers of Manchester have a vote on this. I think for \$34,000 it is a bargain. I think we should let the people decide and let them have a voice.

Mayor Baines replied I don't think anybody is disputing that. To answer your question about Nashua, the difference is an expanding tax base of \$80-\$85 million. That is the difference in Nashua.

Alderman Thibault asked can you explain to me if we had it on September 10 instead of September 3 what would happen. Would we have to have a special election after the general election?

Deputy Clerk Johnson answered yes. If, on September 10, the question went on the ballot and the voters said yes we want to pass this question the Board would have to meet within 5 days of that and order it to a special election either on November 12 or 19 by law.

Alderman Thibault asked so what would be the problem with that.

Alderman Wihby answered my feeling is that when you are going to pick the actual people for the Commission that should be done when you are going to get the most votes and that would be on the general election, not the week after when you are only going to have 5% or 8%. That is where you are going to have 100 people and only 5% of them are going to pick the people. I think it is better to have the election on the general election where you are going to have most of the votes to pick the actual people that are going to do it. I think the question is going to pass easily enough. The concern is who the people are.

Alderman Gatsas stated I think that obviously the motion that Alderman Wihby is making is that September 3 is the date as long as it can't be changed so that date can fall on either the September 24 date on the ballot for the House and then go to the general election for the election of the people.

Deputy Clerk Johnson replied no. The provisions of Charter change are set by law and it is a different set of laws than relating to the House and Senate races or general elections or State bi-annual elections as they term them and that requires that there be at least 56 days and no more than 63 days basically. If you count out the number of days between the elections you can't possibly do it at the general election if you do it any time after September 3. That is your last date.

Alderman Gatsas asked if a piece of legislation is coming before the Senate or the House and we can amend that 56-63 days...

Deputy Clerk Johnson interjected we have already asked that once and they refused.

Alderman Gatsas stated well Carol how about if you let me finish because I understand that you spend a lot of time in Concord and I respect your opinion but obviously it was refused because there were other elements tied to that and not just Manchester's position so in Committee of Conference it wasn't going to happen because of the Pembroke Library and the Allentown vote. It had a lot to do with different situations than Manchester. I am saying that the legislation could come forward and it could be changed so if we have that ability to change that 56 day window we can do it in the Legislature so we are not paying more money in City elections.

Alderman Lopez stated I just want to clarify something. Under the State law since I served on the Charter Commission before and Alderman Wihby this relates to when you tried to

change something in the Charter to send it and it was voted down before. There are provisions to change things in the Charter and to send it directly to the voters by this Board so depending on what you are really talking about changing or you want a complete review of the whole revised Charter, that is what you are talking about. I don't subscribe to that philosophy. I think there are some things that need to be changed and if we could figure out what we really want changed in the Charter...if you are saying go back to the old way I surely would not support that but if you are saying that there are three or four different items that this Board could agree upon and send it to the people to change the Charter that could be done and there are some items that should be done.

Mayor Baines stated the only thing we are talking about is the date and I am going to call for a vote. I will request a roll call vote.

Alderman Wihby asked if we vote no we are not saving any money because the election is still going to be the following week.

Mayor Baines replied right it will be the following November. If you vote no then some member of the Board could move not to send the question, which would be a separate issue. Let's just vote to see if the Board wants to change the date.

Aldermen Wihby, Gatsas, Guinta, Sysyn, Osborne, Pinard, O'Neil, Lopez, Shea, DeVries, Garrity, Smith, and Thibault voted yea. Alderman Forest was absent. The motion carried.

Clerk Bernier stated I think we also need a motion to rescind the previous vote because it was ordered for the September 10 election.

Deputy Clerk Johnson stated it is my understanding that the Board has ordered the question to the ballot for September 3. You still have the September 10 there technically.

On motion of Alderman Wihby, duly seconded by Alderman Thibault, it was voted to rescind the previous motion to order the question to the ballot on September 10.

This being a special meeting of the Board, no further business was presented, and on motion of Alderman Smith, duly seconded by Alderman Shea, it was voted to adjourn.

A True Record. Attest.

City Clerk