**WESTBROOK COMMITTEE OF THE WHOLE
COMMITTEE OF THE WHOLE AGENDA
MONDAY, JUNE 21, 2021 AT 8:00 PM
WESTBROOK PERFORMING ARTS CENTER
471 STROUDWATER ST.**

MEETING INFORMATION

Note that this Special City Council Meeting will begin at approximately 8:00pm, immediately following the Special City Council meeting.

I.   ROLL CALL

II.   RANKED CHOICE VOTING FOR MUNICIPAL OFFICES

Memo provided by Angela Holmes, Asst. City Administrator/City Clerk

III.   ADJOURNMENT

CITY OF WESTBROOK, MAINE

2 York Street, Westbrook, ME 04092

COMMITTEE REFERRAL FORM

REFERRAL TITLE: **Approving Referendum for Charter Amendment to Establish Ranked Choice Voting for Municipal Offices**

REQUESTED BY: **Councilor David Morse**

DATE CREATED: **May 19, 2021**

COMMITTEE: **Committee of the Whole**

Description of referral:

This is a request for a referendum question to be placed upon the November 2, 2021 ballot which would amend the Charter to establish Ranked Choice Voting for municipal offices (Mayor, City Council, School Committee)

Angela Holmes
Asst. City Administrator/City Clerk
2 York Street
Westbrook, Maine 04092
Phone: 207-591-8131
Fax: 207-854-0635

TO: Honorable City Council Members
FROM: Angela Holmes, Asst. City Administrator/City Clerk
DATE: June 16, 2021 - **UPDATED**
RE: Implementing Ranked Choice Voting at Municipal Elections

Last year, Councilor David Morse outlined a desire to send a referendum question to voters concerning a Charter change to implement Ranked Choice Voting (RCV) at municipal elections. At the time, I asked him to hold on any Committee referral until after the November 3, 2020 Presidential Election, so that I could conduct research on this matter. The referral is now before you, and this memo is intended to provide information to take into consideration during discussions on this matter.

The questions that warrant discussion are as follows:

- Given past election trends, what is the likelihood that RCV would be used in future municipal elections?
- Would a Charter commission be required for this Charter amendment?
- Would this apply to all municipal candidates appearing on a ballot (including Mayor, City Council, School Committee, Wardens, Ward Clerks, Portland Water District Representative), or some portion of that list?
- What are the logistical requirements to implement RCV?
- What are the costs associated with implementing RCV?
- When would the implementation take place, if adopted by voters?
- What are the referendum adoption requirements?
- What other items should be considered?

Language
For clarity, it is important to note that use of the term "RCV" incorporates two elements: (1) the "front end" process that voters use to rank candidates in order of preference, and (2) the "back end" process of runoff tabulation rounds. Note that the runoff tabulation rounds are only necessary when certain conditions are met – i.e., when there are three or more candidates *and* when no candidate has won by more than 50% of the votes (at least 50% + 1 additional vote). It is possible for voters to vote using the RCV method of ranking candidates without triggering the need for runoff tabulation rounds, namely, if a candidate garners more than 50% of the votes at initial tally.

Past Election Results

The first question to consider is the likelihood and frequency of use for RCV runoff tabulation rounds in future municipal elections, given past election trends. Included below is an outline of past elections, noting where three or more candidates were in a race, which race was affected, and the ranking percentage. I have also added notes indicating whether or not RCV runoff tabulation rounds would have been needed, had RCV been an option at that time.

Note that until recent years, certain At-Large positions had a "vote for two" option; data from elections occurring 2012 or earlier are not included.

Election	Race	#Candidates	%VoteRanking	Notes
11/5/2013	Mayor	3	1st – 53.2% 2nd – 34.9% 3rd – 12.0%	RCV runoff tabulation rounds would **not** be needed. 1st place candidate won by 53.2% (more than 50% + 1 vote).
	Council, Ward 4	3	1st – 48.7% 2nd – 40.1% 3rd – 11.3%	RCV runoff tabulation rounds **would** be needed.
11/14/2015	Council, Ward 3	3	1st – 64.3% 2nd – 18.4% 3rd – 17.3%	RCV runoff tabulation rounds **not** be needed. 1st place candidate won by 64.3% (more than 50% + 1 vote).
11/8/2016	Mayor	4	1st – 35.8% 2nd – 34.8% 3rd – 24.3% 4th – 5.0%	RCV runoff tabulation rounds **would** be needed.
	Council, At-Large	3	1st – 50.6% 2nd – 25.3% 3rd – 24.1%	RCV runoff tabulation rounds would **not** be needed. 1st place candidate won by 50.6% (more than 50% + 1 vote).
11/5/2019	Mayor	4	1st – 30.9% 2nd – 28.4% 3rd – 26.8% 4th – 14.0%	RCV runoff tabulation rounds **would** be needed.
	Council, At-Large	3	1st – 42.3% 2nd – 38.9% 3rd – 18.8%	RCV runoff tabulation rounds **would** be needed.

If the desire of the Council and voters of Westbrook is that all elected municipal officials win by *majority* (the candidate supported by more than 50% - the majority – of the voters) and not simply *plurality* (the greatest number of votes, but not necessarily the majority), and if past data is an indicator of future trends, then it appears as if RCV runoff tabulation rounds would have been utilized if the option were made available, in some years at least.

Charter Commission

I consulted with City Solicitor Natalie Burns on whether or not a Charter Commission would be required to incorporate RCV for municipal elections. Her opinion is that a change to the Charter to establish RCV could be accomplished through a simple Charter amendment, provided that the

amendment is limited in scope and does not include other matters. This modification would change the manner of election of City officials but would not modify the form of government itself.

Applicability

If the City Council wishes to send this RCV question to referendum, it would be prudent to include the positions of Mayor, City Council and School Committee within the scope of applicability. I recommend excluding the Portland Water District Representative position (elected every six years). The positions of Warden and Ward Clerk as outlined in the Charter were modified in 2019 through referendum, which made these positions appointed instead of elected.

Implementation Logistics

To obtain information concerning implementation logistics and cost, I consulted with Deputy Secretary of State Julie Flynn, Portland City Clerk Katherine Jones, and the State's election systems vendor Election Systems & Software (ES&S). It is important to note that we would want to use whatever vendor the State of Maine uses for their RCV races for continuity. The State has recently extended its contract with the vendor through June 2022 but will be going out to bid in the future for a new contract. The process (and pricing) described below reflects the process followed by ES&S and would be subject to change if the State vendor changes.

Concerning ballot coding, the format of the ballots themselves would likely need to change, due to increased content. Races would appear in the same order, but the layout would likely need to appear in landscape (horizontal) rather than portrait (vertical) to accommodate the rankings. If referendum questions appear on the ballot, it may be necessary to print plurality contests on one side of the ballot and RCV contests on the opposite side. In addition, if there are several races in which three or more candidates are running, the ballot itself may be several pages long, which would in turn affect the price.

On Election night, we would require two additional computer units to conduct the tabulations, available through the vendor ES&S. The data from each of the individual tabulators (ballot machines) would be compiled through one of the two units, and the resulting database would be transferred to the second unit to run the RCV iterations.

In addition, the testing requirements for election equipment would be more involved than in other elections, and would likely require increased staff time, especially in the first year of implementation.

Costs

As noted above, the costs provided herein pertain to products and services provided by ES&S. These are quotes only, provided in early 2021, and would be subject to change depending upon Westbrook's implementation of RCV, and is also dependent upon whether ES&S remains the State's election systems vendor in the future.

For Westbrook, it is estimated that the introduction of RCV would cost an additional $20,000 - $25,000 per election for the rental of the computer units in years that have municipal candidate elections.

Additional funds, approximately $1,000 - $3,000, would likely need to be included for additional printing costs associated with multiple ballot pages. In addition, both the State of Maine and the City of Portland have a representative from the vendor on site for elections where RCV is used. It would be advisable to engage vendor support in Westbrook for this purpose as well. The costs of having a vendor representative on site are unknown.

Note that since the Charter change of 2012, municipal elections generally take place two out of every three years. Additional funds would need to be included in budgets for years in which municipal candidate elections take place, and we would need to anticipate this extreme volatility during budget cycles. An additional factor to note is that we would need to budget for RCV needs without knowing if a race would generate the three or more candidates needed to actually use the RCV method. If RCV were approved for an At-Large Councilor's race (for example), and the race only generated two candidates, standard plurality tabulation methods (and costs) would apply.

Timing
If the Committee discusses this matter and agrees to refer the question to Council for consideration, City Council would need to vote on whether or not to include the referendum question on the November 2021 ballot soon. The earliest day that candidates may take out nomination petition papers for the November 2nd election is 120 days prior to the election, which falls on July 5th (the observed Independence Day holiday), and papers would be due by September 3rd (60 days prior to the election, 30-A M.R.S.A. § 2528(5)). This deadline would also apply to the inclusion of any referendum question being added to the ballot. This provides time for the ballots to be printed before absentee voting starts, 30 days before the election.

City Council would need to adopt an Order to send this question to referendum, with a public hearing occurring at least 10 days prior to the final vote. If this question were approved by voters, RCV could be used at the November 2022 municipal election. Funds for election equipment would need to be included in the FY 2022-2023 for this purpose.

Referendum Adoption Requirements
Title 30-A M.R.S.A. § 2104(4) states that the total number of votes cast on either side of a Charter change referendum must be equal to at least 30% of the total votes cast in the City at the last gubernatorial election (or 2,584 votes). The projected turnout for the November 2, 2021 election (a State Referendum + Municipal Candidate election) is 25.4%, which based upon our current voter population equates to approximately 3,776 voters.

Based on this information, I believe the projected turnout would accommodate this inclusion of this question on the November ballot.

Other Items for Consideration
Based upon the feedback from the Secretary of State's Office and from the Portland City Clerk's Office, the implementation of RCV now works very smoothly. However, it does require greater staff time and dedication, which may result in some temporary modification to the other duties performed in the City

Clerk's Office around election season. However, in the past we have been able to accommodate such modifications through greater use of seasonal election staff and the Customer Service Representatives in the Finance Department, and minor adjustments to the non-election services offered by the City Clerk's Office and anticipate that we would be able to do the same in the future.

It is also important to note that additional time may be required to tabulate RCV rankings on election night. However, while this process may take up to several days at the State level, we anticipate that election results would still be available on election night. Since Westbrook consolidated polling locations, and since absentee ballot processing occurs within the Community Center, all of the ballot tabulators are located under one roof, eliminating any delays which may occur at the State or in Portland due to the transportation of the tabulator memory drives containing results.

Another item for consideration relates to elections where Westbrook voters may be asked to select more than one candidate. The recent Charter Commission election in Portland called for voters to select two At-Large Commission members, consistent with a provision in 30-A M.R.S.A. Sec 2103(1), which states that the number of voting members must be the same as the number of municipal officers and that the voting members must be elected "in the same manner" as the municipal officers. This being the case, Portland voters were asked to vote for two At-Large candidates according to RCV tabulation methods – of course, it is impossible for two candidates to both receive more than 50% of the votes. It was determined that the City of Portland could use a nuanced approach to RCV tabulation to account for this anomaly, but it took significant effort to arrive at this solution, as their Charter was silent upon this issue. If the City of Westbrook were to move forward with RCV, it would be advisable to incorporate the option for proportional representation RCV tabulation (Cambridge Method) or some other RCV option which would accommodate vote-for-two elections if and when the situation should arise.

An additional element for consideration is voter education. If a Charter change were adopted by voters, we would want to engage in a voter education campaign about the modification. However, given the State's existing use of RCV for certain races, I anticipate that the transition to using this voting method at the municipal level would occur fairly effortlessly.