



**WESTBROOK CITY COUNCIL  
COMMITTEE OF THE WHOLE MEETING AGENDA  
MONDAY AUGUST 31, 2020 AT 6:00 PM  
WESTBROOK PERFORMING ARTS CENTER, 471 STROUDWATER ST.**



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City Council's Committee of the Whole will meet at the Westbrook Performing Arts Center at 6:00pm to consider the following items:

1. Charter Amendment Referendum – Increasing Appropriation & Expenditure Threshold
2. Charter Amendment Referendum – Municipal Candidate Nomination Process



# CITY OF WESTBROOK, MAINE

2 York Street, Westbrook, ME 04092

## COMMITTEE REFERRAL FORM

**REFERRAL TITLE:** Charter Amendments – Appropriation/Expenditure Threshold & Ballot Access

**REQUESTED BY:** Mayor Michael T. Foley

**DATE CREATED:** July 31, 2020

**COMMITTEE:** Committee of the Whole

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**Description of referral:**

See attached

**Name, address and telephone number of citizen(s) to contact for additional information:**

Mayor Michael T. Foley  
207-591-8110  
[mayor@westbrook.me.us](mailto:mayor@westbrook.me.us)



MAYOR'S OFFICE



**Mayor Michael T. Foley**

2 York Street

Westbrook, Maine 04092

Phone: 207-591-8110

Fax: 877-688-9553

**TO: Honorable City Council Members**  
**FROM: Mayor Michael T. Foley**  
**DATE: July 31, 2020**  
**RE: Charter Amendments**

This is a request to submit two questions to voter referendum at the November 3, 2020 election. The first question would increase the threshold for appropriations and expenditures requiring Council approval, and the second questions would make the ballot accessible by petition only.

### ***Question 1 – Appropriation/Expenditure Threshold***

Section 3.1 of the Westbrook City Charter outlines the legislative authority of the City Council, and within this section lies the requirement that all appropriations or expenditures which exceed \$3,000 must receive two readings before the City Council for approval. The expenditure threshold was last amended 22 years ago, when voters approved a Charter change to increase the threshold from \$1,000 to \$3,000. While this limit was sufficient in 1998 to accommodate daily municipal operations while maintaining City Council oversight, it now hampers the effective operation of critical municipal functions.

As a work-around, City Council authorizes an Annual Vendor List for several different funds, pre-authorizing appropriations/expenditures over \$3,000 to certain vendors to streamline day-to-day operations. Without these Annual Vendor Lists, the City Council agenda would be substantially lengthened to accommodate these necessary expenditures. Any items not pre-authorized on the Annual Vendor Lists and items exceeding \$3,000 which are not part of day-to-day operations continue to be presented to Council for two readings before payment can be made. Similarly, City Council adopted an Unappropriated Funds policy which allows departments to accept and expend unappropriated funds (such as grants, donations and forfeiture funds) of less than \$3,000 without requiring Council approval, provided that a quarterly report is submitted for acceptance.

After reviewing these policies and consulting with department heads about methods to streamline operations, I am proposing an amendment to the City Charter to increase the expenditure threshold from \$3,000 to \$10,000. Appendix A outlines the proposed language amendment and the proposed ballot question. The language amendment also incorporates grammatical changes for clarity.

If approved by Council and approved by voters at referendum, other sections of the Code of Ordinances which reference the \$3,000 limit would need to be amended, as well as several financial policies. These additional amendments would be brought forward to Council upon approval of the Charter change at referendum.

### ***Question 2 – Ballot Access***

The City of Westbrook currently allows municipal candidates access to the ballot through two methods:

- Nomination by Caucus. A political party caucus may nominate a candidate to appear on a municipal ballot.
- Nomination by Petition. A person may take out nomination papers (i.e. petition) and collect a certain number of signatures from qualified voters to appear as a candidate on a municipal ballot.

The nomination petition process was added to the City Charter in 2012 by referendum vote, based upon the recommendation from the Charter Commission. The Commission stated the importance of offering citizens access to the ballot without requiring participation in the caucus process, which is unavailable to those who do not wish to be affiliated with a political party (approximately one-third of Westbrook voters). In addition, the Charter was also amended to remove political party designations from municipal ballots, based upon the recommendations of the Charter Commission and legal counsel.

While the removal of political party designations from municipal ballots has been a positive non-partisan change for Westbrook, allowing voters to choose their preferred candidates for reasons known to them as opposed to only by political party affiliation shown on the ballot, the caucus nomination system no longer effectively serves the citizens of Westbrook. We believe that the caucus nomination process is the last remnant of partisan politics in our Charter and wish to follow the trend of other municipalities throughout Maine by making the election process as non-partisan as possible. Eliminating the caucus nomination option would require all candidates to access the ballot by obtaining signatures of support from Westbrook voters via petition.

Upon surveying all Maine municipalities with populations exceeding 15,000, we found that Westbrook was the only municipality that offered direct access to the ballot by party caucus nomination. Recent Democratic and Republican caucus attendance rates demonstrate the flagging popularity of caucus participation, which often means that access to the ballot is determined by a limited number of caucus attendees, rather than through garnering general community support. To eliminate a partisan method of gaining access to the ballot and to improve neutrality in local elections, we propose a Charter amendment which would require all candidates to follow the nomination petition process, in line with all other Maine municipalities of comparable size. Appendix B outlines the proposed language amendment and the proposed ballot question.

### ***Process***

Per legal counsel, these amendments do not require the formation of a Charter Commission as they do not change the fundamental nature of the existing governmental structure and each question is limited to a single subject.

A Committee of the Whole meeting would be scheduled to review these items. If supported by the Committee of the Whole, the committee would move to refer these items to City Council for consideration. If adopted by City Council, the question would be included on the November 3, 2020 ballot. Per 30-A M.R.S.A. § 2105(4), the total number of votes cast on either side of a Charter change referendum question needs to be at least 30% of the total votes cast in the City at the last gubernatorial election (2,584 total votes cast required), with a majority vote required to approve the question. With the second question in particular, the November 3, 2020 election is ideal for a Charter change referendum question, as we are projected to have a higher voter turnout and there are no municipal seats on the ballot at that election.

If approved by voters, the amended language would go into effect immediately.

**APPENDIX A  
APPROPRIATION & EXPENDITURE THRESHOLD**

*Proposed Amendment*

**Sec. 3.1. Legislative Authority of the City Council**

The legislative powers of the City shall be vested in the City Council which shall consist of seven members, one member elected by the legal voters from each of the five wards of the City plus two at large members elected by the legal voters of the entire City. The seven City Councilors shall constitute the Municipal Officers of the City of Westbrook.

The City Council shall have power to make and establish ordinances and bylaws for the management of its fiscal, prudential and municipal affairs, as herein and by general law provided, without the sanction of any court or justice thereof; provided, however, that all bylaws, ordinances and regulations now in force in the City of Westbrook shall, until they expire by limitation, or be revised or repealed by the City Council, remain in force.

The City Council shall, so far as not inconsistent with this Charter, have and exercise all the legislative powers of municipalities, and have all the powers and be subject to all the liabilities of Municipal Officers, under the general laws of this state, including the powers given to the inhabitants of municipalities and to the Municipal Officers relating to borrowing of any kind.

The City Council shall not authorize the erection of a school building, or of any addition thereto, nor pass any appropriation for such purpose until plans for same have been approved by vote of the School Committee, and such approval has been certified in writing to the City Council by the Chair of said Committee.

The following ordinances, ~~and any orders or~~ and resolutions which involve: shall require the affirmative votes of a majority of all the members of the City Council for their final passage, which shall be by a roll call vote:

- (1) The appropriation or expenditure of money which exceeds ~~three-ten~~ thousand dollars (~~\$3,000.00~~ \$10,000.00),
- (2) The laying of an assessment,
- (3) The borrowing of money, or
- (4) The granting to any person or corporation any right in, over, or under any street or other public ground of the City, ~~shall require the affirmative votes of a majority of all the members of the City Council for its final passage, which shall be by a roll call vote.~~

Every such ordinance, order or resolution shall be read twice, with an interval of at least seventy- two (72) hours between the first and second readings, before it is in order for final passage; but if such a matter is amended after its first reading, it shall be tabled for a period of at least seventy- two (72) hours before it may be voted upon for final passage.

All other ordinances, orders or resolutions shall require a single reading and require the affirmative votes of a majority of all of the members for passage.

No sum appropriated for a specific purpose shall be expended for any other purpose, and no expenditure shall be made nor liability incurred by or in behalf of the city, until an appropriation has been duly voted by the City Council sufficient to meet such expenditure or liability, together with all the prior unpaid liabilities which are payable out of such appropriation; provided, however, that after the expiration of the financial year, and until the passage of the regular annual appropriations liabilities payable out of a regular appropriation to be contained therein may be incurred to an amount not exceeding one-third (1/3) of the total of such appropriation for the preceding year.

The City Council shall establish by ordinance the regular salaries or remuneration of the Mayor and members of the City Council, but any ordinance changing such salary or remuneration shall not take effect until the municipal year succeeding the term for which the Mayor and Council were elected.

*Proposed Referendum Question*

**Question 1.** Shall the City of Westbrook approve the Charter amendment summarized below?

Summary of amendment: To amend Section 3.1 to increase the appropriation and expenditure threshold requiring City Council approval from \$3,000.00 to \$10,000.00.

**APPENDIX B  
ACCESS TO BALLOT VIA PETITION**

*Proposed Amendment*

**Sec. 7.2. ~~Nomination by Caucus. Reserved.~~**

~~Nomination of candidates for office shall be determined at the caucus of each political party or by petition. Nomination of candidates for City Council members and School Committee members to represent the respective Wards shall be made in the ward caucus of each political party in each Ward. Nomination of candidates for Mayor and at-large City Council members and School Committee members, Ward Clerks and Wardens shall be made by the caucus as a whole. Caucuses for the purpose of nominating candidates shall be held not less than sixty (60) days prior to the day on which a municipal election is to be held. Notice of a caucus for the purpose of nominating candidates for City office shall be published in a newspaper having general circulation in the City at least three (3) and not more than seven (7) days before it is held. The procedure for calling, giving notice and voting at caucuses shall follow the provisions for municipal caucuses in Title 21-A M.R.S.A. Section 311 et seq. as may be amended. No political party designation shall be included on the ballot for any municipal office.~~

**Sec. 7.3. Nomination by Petition.**

Access to the ballot ~~may shall~~ be determined by the filing of a petition with the City Clerk. No political party designation shall be included on the ballot for any municipal office. Title 21-A Section 351 et seq. as may be amended is incorporated by reference and made a part hereof except as amended below:

**Number of Signatures:**

**Office of Mayor and At-Large Offices.** Petitions must be signed by a number of registered voters of the City equal to at least fifteen (15), but not more than twenty-five (25) from each of the five wards of the City.

**Ward Offices.** Petitions must be signed by a number of registered voters of the City equal to at least twenty-five (25), but not more than fifty (50) from the ward for which the candidate is seeking office.

**When Signed.** The petition may not be signed more than one hundred twenty (120) days prior to the election in which it is to be used.

*Proposed Referendum Question*

**Question 2.** Shall the City of Westbrook approve the Charter amendment summarized below?

Summary of amendment: To eliminate Section 7.2 of the Charter, which allows a political party caucus to nominate a candidate for municipal office, thus requiring all municipal candidates to file nomination petitions with the City Clerk after obtaining signatures of support from qualified voters and to add to Section 7.3 the existing prohibition on the inclusion of political party designation on the ballot for any municipal office.

<b>Municipality</b>	<b>Method</b>	<b>Number</b>
Auburn	Petition only	Mayor - min 100. Council & School Committee - min 25. Ward-specific positions must have signatures from that ward. At-large positions may have signatures from any ward.
Augusta	Petition only	Mayor & Chair of School Board - min 200 signatures. Council & School Board - min 100 signatures. Ward-specific positions require at least 50 signatures to be from voters of that ward.
Bangor	Petition only	Council & School Committee - min 100, max 150 signatures.
Biddeford	Petition only	Mayor - min 125. Councilor at-large - min 50. Councilor & School Committee, ward-specific - min 25. Warden/Ward Clerk - min 20.
Brunswick	Petition only	Min 100 signatures. For ward-specific positions, at least 25 sigs need to be from ward residents.
Cumberland	Petition only	Unknown
Falmouth	Petition only	Min 25, max 100 signatures
Gorham	Petition only	Min 35, max 50 signatures
Lewiston	Petition only	Mayor - min 100, max 200. Councilor & School Committee, ward-specific - min 50, max 100, all sigs must be from that ward. At-large Councilor & School Committee - min 50, max 100.
Portland	Petition only	At Large position - min 300, max 500. District position - min 75, max 150
Saco	Petition only	Mayor - min 200. Council, School Board, Warden, Ward Clerk - min 35, signatures must be from voters in that ward.
Sanford	Petition only	Mayor, Council & School Committee - min 50 signatures.
Scarborough	Petition only	Min 25, max 100 signatures
South Portland	Petition only	Min 100 signatures. All Councilors voted on at-large for ballot access purposes. Petition signers not required to live in the district of the councilor.
Waterville	Caucus & petition	Nominations may be made at caucus, but must be confirmed through petition. Mayor - min 15, max 25 from each ward. Council, BOE, Charter Commission - min 25, max 50 from the specific ward.
Windham	Petition only	Unknown