

**TOWN OF NARRAGANSETT
COUNCIL COMMUNICATION**

CC: 17
Amend No. _____

Date Prepared: October 15, 2019
Council Meeting Date: November 4, 2019

TO: The Honorable Town Council

FROM: Mark A. Davis, Esq., Town Solicitor

SUBJECT: Response to Voter Initiative (Partisan Election of Town Council and School Committee Candidates)

RECOMMENDATION:

That the Town Council receive and make a determination on the validity of a Voter Initiative to amend the Town Charter to establish procedures whereby all candidates for Town Council and School Committee would be elected on a partisan basis.

SUMMARY:

In accordance with Narragansett Town Charter section 1-4-3, I am forwarding a written opinion as to the legality of the proposed petition. The town council then makes a determination as to the validity of the petition. If the council determines that the proposed petition is invalid because it conflicts with the Federal or State Constitutions, federal or state law or recognized judicial decisions interpreting federal or state law, the said petition shall be marked "INVALID" by the town clerk. If the town council shall determine that the proposed petition is valid then the town clerk shall stamp the petition "ACCEPTED" with the time and date of acceptance noted thereupon.

It is my opinion that the subject matter of the petition to amend the Town Charter to provide for partisan elections is legally permissible and as such I recommend the Town Council find the petition to be valid.

ATTACHMENTS:

1. Solicitor's Opinion on Voter Initiative – Partisan Elections submitted by Winters B. Hames III, dated September 30, 2019



19 OCT 15 PM 3:28

OFFICE OF THE TOWN SOLICITOR

October 15, 2019

Hon. Narragansett Town Council
Town of Narragansett
25 Fifth Avenue
Narragansett, RI 02882

Via: Hand Delivery

Re: Solicitor's Opinion on Voter Initiative to Amend Town Charter Sections: 2-1-1, 4-1-1, 4-1-2 and 9-1-1 Submitted by Winters B. Hames III.

Dear Honorable Members of the Town Council:

Chapter 4 of the Narragansett Town Charter sets forth the procedures whereby the voters may, by petition, initiate legislative proposals for consideration by the Town Council and the Town electorate. The process permits the voters to enact and/or rescind Town *laws, regulations, ordinances and resolutions*.

I received a petition (see attached) from the Narragansett Town Clerk date stamped September 30, 2019 that was submitted by Winters B. Hames III (the "Petition").

The Petition, properly refers to section 1-4-6 entitled Enactment and Repeal – "Any law, resolution, ordinance, amendment or other action enacted by the initiative process shall only be repealed or amended by the initiative process."

In 1988, the voters of Narragansett approved a voter initiative to elect candidates for the Town Council and School Committee on a non-partisan basis, without placing any party mark or designation on the ballot next to the name of any candidate.

The Petition seeks to reverse the 1988 voter initiative, by modifying Articles 2-1-1, 4-1-1, 4-1-2 and 9-1-1 (formerly 8-1-1) to establish procedures whereby all candidates for Town Council and School Committee in the Town of Narragansett



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would be elected on a partisan basis, with placing any party mark or designation on the ballot next to the name of any candidate.

At present Section 2-1-1 (b) reads as follows:

“The names and addresses of the candidates for town council in any primary, general or special election shall be arranged in a vertical column under the title of the office to be filled. The order of the names on the ballot shall be determined by a lottery conducted by the board of canvassers with the first name drawn to appear at the top of the vertical column and each name drawn thereafter to be placed in the next lower position in the vertical column until all of the candidates have been listed.”

The Petition seeks to replace Section 2-1-1 (b) of the Narragansett Town Charter in its entirety with the following:

“The names of candidates for town council shall not be numbered upon the ballot nor shall positions on the town council be considered as separate offices to be filled. The names of candidates shall be arranged opposite the title of the office to be filled and in alphabetical order under their respective party labels. Independent candidates shall be listed alphabetically under a column headed “Independent”. All candidates’ names shall be placed on the ballot so that no more than one (1) name shall appear in a horizontal line with the column farthest to the right given the top most position and each preceding column to the left given the next lower position and so on until all candidates have been listed.



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The addresses of all candidates shall be given. The ballot shall be printed substantially as follow:

| | Party Symbol | Party Symbol | Party Symbol | Independent Symbol |
|--|-----------------|-----------------|-----------------|-----------------------|
| Town Council elected at large: (vote for five (5)) | x | x | x | x |
| | x | x | x | x |
| | x | x | x | x |
| | x | x | x | x |
| | x | x | x | x |
| | x | x | x | x |

The five candidates receiving the largest number of votes shall be elected.”

The petitioner requests that the ballot question read as follows:

“Shall the following amendments to the following sections of the Charter of the Town of Narragansett be approved?

Article 2-1-1 NUMBER, TERM, SELECTION
(Town Council)

Article 4-1-1 ELECTION LAWS AND CONDITIONS

Article 4-1-2 BOARD OF CANVASSERS

Article 9-1-1 MEMBERSHIP (Scholl Committee)

Approval of this question would establish procedures whereby all candidates for Town Council and School Committee in the Town of Narragansett would be elected on a partisan basis, that is, with placing any party mark or designation on the ballot next to the name of any candidate.”



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Pursuant to Chapter 4, section 1-4-3 of the Narragansett Town Charter, I, in my role as Solicitor, have fourteen (14) days from the date a petition is filed to provide the Town Council with a written opinion as to the legality of the proposed petition.

I have carefully reviewed the provisions of Chapter 4 of the Narragansett Town Charter and the Petition and it is my opinion that the Petition is legally permissible and as such I recommend the Town Council find the petition to be valid.

Sincerely,

Mark A. Davis, Esq.

Theresa C. Donovan, CMC
Narragansett Town Clerk
Town of Narragansett
25 Fifth Avenue
Narragansett, RI 02882
September 30, 2019

19 SEP 30 PM 2:22

Dear Ms. Donovan,

I, Winters B. Hames, III, being a resident of the Town of Narragansett, to hereby file this petition in compliance with Narragansett Town Charter chapter 4, voter initiative and referendum.

Sec 1-4-6 – Enactment and repeal.

“Any law, resolution, ordinance, amendment or other action enacted by the initiative process shall only be repealed or amended by the initiative process.

In the general election of 1992, there was a voter initiative that read as follow:

“Shall the following amendments to the following sections of the Charter of the Town of Narragansett be approved?

Article 2-1-1 NUMBER, TERM, SELECTION.
(Town Council)

Article 4-1-1 ELECTION LAWS AND CONDITIONS

Article 4-2-1 BOARD OF CANVASSERS

Article 8-1-1 MEMBERSHIP (School Committee)

Approval of this question would establish procedures whereby all candidates for Town Council and School Committee in the Town of Narragansett would be elected on a non-partisan basis, that is, without placing any party mark or designation on the ballot next to the name of any candidate.”

This petition was approved by the voters at that election.

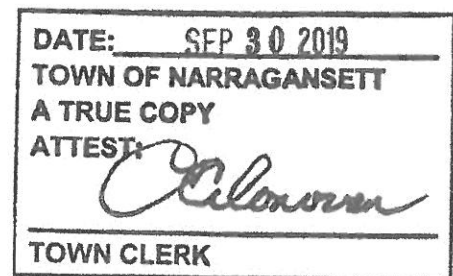
I file this petition to reverse the following sections and return them to the original language before the election of 1992.

Article 2-1-1 NUMBER, TERM AND SELECTIONS
(Town Council)

Article 4-1-1 ELECTIONS LAWS AND CONDITIONS

Article 4-2-1 BOARD OF CANVASSERS

Article 9-1-1(Changed from 8-1-1 in the Charter) SCHOOL COMMITTEE



Approval of this question would re-establish procedures listed in the previous Town Charter.

Sec 2-1-1. NUMBER, TERM AND SELECTION

b. The names of candidates for town council shall not be numbered upon the ballot nor shall positions on the town council be considered as separate offices to be filled. The names of candidates shall be arranged opposite the title of the office to be filled and in alphabetical order under their respective party labels. Independent candidates shall be listed alphabetically under a column headed "independent". All candidates' names shall be placed on the ballot so that no more than one (1) name shall appear in a horizontal line with the column farthest to the right given the top most position and each preceding column to the left given the next lower position and so on until all candidates have been listed. The addresses of all candidates shall be given. The ballot shall be printed substantially as follow:

| | Party Symbol | Party Symbol | Party Symbol | Independent |
|---|-----------------|-----------------|-----------------|-------------|
| Town Council elected at large: (vote for five (5)). | X | X | X | X |
| | X | X | X | X |
| | X | X | X | X |
| | X | X | X | X |
| | X | X | X | X |
| | X | X | X | X |

The five candidates receiving the largest number of votes shall be elected.

Reverse Article 4-1-1 Election laws and conditions

Reverse Article 4-2-1 Board of Canvassers

Revers Article 8-1-1, now 9-1-1 School Committee

The ballot question should read

"Shall the following amendments to the following sections of the Charter of the Town of Narragansett be approved?"

Article 2-1-1 NUMBER, TERM, SELECTION
(Town Council)

Article 4-1-1 ELECTION LAWS AND CONDITIONS

Article 4-2-1 BOARD OF CANVASSERS

Article 9-1-1 MEMBERSHIP (School Committee)

Approval of this question would establish procedures whereby all candidates for Town Council and School Committee in the Town of Narragansett would be elected on a partisan basis, that is, with placing any party mark or designation on the ballot next to the name of any candidate."

Winters B. Barnes, III

September 30, 2019

