

**SALEM CITY COUNCIL  
SPECIAL MEETING  
NOVEMBER 17, 2022**

A Special Meeting of the City Council was held in the City Council Chambers on Thursday, November 17, 2022, at 6:10 P.M. for the purpose of taking action on the Home Rule Petition of An Act Relative To Preliminary Election Dates And Filling Vacancies in The Office of Mayor And Councillor in the City of Salem.

Notice of this meeting was posted on November 15, 2022 at 2:07 P.M.

All Councillors were present.

Council President Patricia Morsillo presided.

Councillor Morsillo explained that since the motion to refer to the Committee of the Whole on Monday, November 14, 2022 at the City Council's Special Meeting regarding the same was not voted on this new Special Meeting was posted to be held. Also the portion on how to fill the vacancy of the Ward Councillor was eliminated. Although public testimony is not allowed during Special Meetings and exception was posted for this meeting that public testimony would be allowed since this was to be the Committee of the Whole meeting.

**#638 - AN ACT RELATIVE TO PRELIMINARY ELECTION DATES AND FILLING VACANCIES  
IN THE OFFICES OF MAYOR AND COUNCILLOR IN THE CITY OF SALEM**

The following Home Rule Petition submitted by the City Solicitor was adopted by a unanimous roll call vote of 11 yeas, 0 nays and 0 absent. A motion for Immediate Reconsideration in the hopes it does not prevail was denied.

Ordered: That a petition to the General Court, accompanied by a bill relative to preliminary election dates and the filling of vacancies in the office of mayor and councillor in the city of Salem, as set forth below, be filed with an attested copy of this Order be, and hereby is approved to the end that the following legislation be adopted, except for amendments by the Senate or House of Representatives which conform to the intent of this home rule petition:

**AN ACT RELATIVE TO PRELIMINARY ELECTION DATES AND FILLING VACANCIES IN THE  
OFFICES OF MAYOR AND COUNCILLOR IN THE CITY OF SALEM**

SECTION 1. Notwithstanding the provisions of chapter 43 of the general laws or of any general or special law to the contrary, section 1 of chapter 445 of the acts of 1960 is hereby amended by deleting the phrase "On the third Tuesday" and inserting in place thereof the following phrase:- On a Tuesday no less than six weeks but no more than eight weeks.

SECTION 2. Section 2 of chapter 445 of the acts of 1960 is hereby amended by deleting, in subsection 2 the word "unless he shall" and inserting in place thereof the words:- unless they shall.

SECTION 3. Section 3 of said chapter 445 is hereby amended by deleting the first paragraph thereof and inserting in its place the following:- Any person who is qualified to vote at any regular or special municipal election in said city for a candidate for any elective municipal office in said city, and who is a candidate for nomination thereto, shall be entitled to have their name as such candidate printed on the official ballot to be used at a preliminary election for nomination therefor; provided, that if they are a candidate to be voted for in a single ward they shall be a registered

voter in the ward wherein they are a candidate, and provided, further, that on or before five o'clock in the afternoon of the sixth Tuesday preceding such preliminary municipal election there shall be submitted to the board of registrars of voters a nomination paper prepared and issued by the city clerk, wherein the candidate sets forth in writing their candidacy, and wherein the petition is signed in person by at least twenty-five, or, in case of a candidate for the office of mayor and other offices, by at least one hundred, voters of the city qualified to vote for a candidate for the said office, whose signatures are certified as hereinafter provided.

SECTION 4. Said Section 3 of said chapter 445 is hereby further amended by deleting the words "nineteen hundred" in each of the three instances in which they appear.

SECTION 5. Said section 3 of said chapter 445 is hereby further amended by deleting in the second paragraph of the text entitled "Petition of Accompanying Statement of Candidate" the words "we believe him to" and inserting in place thereof the following:- we believe they are.

SECTION 6. Section 4 of said chapter 445 of the acts of 1960 shall be amended by deleting in the third sentence the words "regular or special municipal election" and inserting in place thereof the words:- preliminary election.

SECTION 7. Section 5 of said chapter 445 shall be amended by deleting the words "he shall post in a conspicuous place in his office" and inserting in place thereof the following words:- the city clerk shall post in a conspicuous place in their office.

SECTION 8. Section 5 of said chapter 445 shall be further amended by deleting in the first sentence the words beginning with "which shall be drawn by lot" and ending with "in their order as drawn by him" by inserting in place thereof the following:- which shall be drawn by lot by the city clerk within seventy-two hours succeeding five o'clock in the afternoon of the last day fixed for filing the nomination papers with the city clerk, and the city clerk shall cause the ballots, which shall contain said names in their order as drawn by the clerk,

SECTION 9. Said section 5 of chapter 445 is hereby further amended by deleting, in the third sentence, the words "he desires" and inserting in place thereof the following:- they desire.

SECTION 10. Said section 5 of chapter 445 is hereby further amended by deleting, in the second paragraph, the words "in the year nineteen hundred and" and inserting in place thereof the following:- they year.

SECTION 11. Said section 5 of chapter 445 is hereby further amended by deleting, in the last paragraph, the words "On the back and outside of each ballot when folded" and inserting in place thereof the following:- At the top of each ballot

SECTION 12. Section 6 of said chapter 445 is hereby amended by deleting the last clause and inserting in place thereof the following clause:- or anything showing how they were nominated or indicating their views or opinions.

SECTION 13. Section 7 of chapter 445 shall be amended by deleting the words "in his office" in the last sentence and inserting in place thereof the following words:- in their office.

SECTION 14. Section 8 of chapter 445 shall be amended by deleting in its entirety the phrase "If any person receives at a preliminary election a majority of all the votes cast for the office for nomination to which he was were a candidate, he shall be deemed and declared elected thereto;

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SPECIAL MEETING  
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provided, that at said election at least eighty per cent of the total registered vote of the city, or, in the case of a ward councilor, of the ward, shall be cast; otherwise” and capitalizing the word “the” immediately following.

SECTION 15. Section 8 of said chapter 445 shall be further amended by deleting, in the last sentence, the words “his name printed” and inserting in place thereof the following words:- their name printed.

SECTION 16. Section 9 of chapter 445 shall be amended by deleting in the first sentence the words “filed with him” and inserting in place thereof the following words:- filed with the city clerk.

SECTION 17. Notwithstanding the provisions of section 59A of chapter 43 of the general laws, or any other general or special law to the contrary, the charter of the city of Salem, on file in the office of the archivist of the commonwealth, as provided by section 12 of chapter 43B of the General Laws, is hereby amended by inserting the following heading before the first paragraph of section 59A :- A. Mayor – Vacancies in the office of Mayor.

SECTION 18. Section 59A of the charter of the city of Salem is further amended by deleting, in the third sentence of the first paragraph , the words “Until the time of the election” and capitalizing the word “the” immediately following.

SECTION 19. Section 59A of the charter of the city of Salem is hereby further amended by inserting the following new sentence at the end of the first paragraph:- Unless a councillor serving as acting mayor under this section formally resigns, the councillor shall, upon the election and qualification of a successor mayor, resume their service as a councillor in the capacity to which they were elected and shall serve for the remainder of the unexpired term.

SECTION 20. Section 59A of the charter of the city of Salem is hereby amended by inserting the following sentence at the end of the second paragraph:- Provided, however, that a councillor serving as mayor under this section shall be considered an incumbent councillor for election-related purposes.

SECTION 21. Section 59A of the charter of the city of Salem is hereby amended by inserting the following heading before the third paragraph:- B. Councillor – Vacancy arising in the office of City Councillor.

SECTION 22. Section 59A of the charter of the city of Salem is hereby further amended by inserting the following two new paragraphs at the end of section 59A:-

A councillor selected to fill an unexpired term under the provisions of this section shall not be considered an elected incumbent for election-related purposes.

When a councillor is serving as acting mayor under subsections A of this section, so as to facilitate the continued orderly administration and operations of the city, the required quantum of vote for council action shall be calculated based upon a ten-member body.

SECTION 23. This act shall take effect upon its passage.

Councillor McCarthy requested and received suspension of the rules to allow the City Solicitor to speak.

The City Solicitor stated that this Home Rule Petition (HRP) was to amend certain section of Chapter 45 of the Acts of 1960 and Section 59A. The major amendments were to allow for more time between a preliminary election and a special election. Instead of 3 weeks it would be between 6-8 weeks. Chapter 54 of the MGL section 103P has been utilized in the past for general elections but not special elections. In addition gender neutral language will be added, delete any reference to the year nineteen hundred, correct wording errors in sections 3 and 4, the State recommended amendments to replace at the top of each ballot and to strike the first sentence in section 8. Further amendments to the City Charter Section 59A included clarifying the status of a councillor serving as acting mayor post a special election and establishing the quantum of vote of council during the time a councillor is serving as acting mayor. This proposal does not change the existing process for filling the vacancy of a ward councillor.

Councillor Morsillo opened the meeting for public testimony.

David Pszenny, 21 Thomas Circle, Salem – stated since we are opening the Charter to make changes we as citizens want to exercise our rights to form our own committee to review these proposed changes and other changes to the Charter. Request that nomination papers be made available for those citizens.

The City Solicitor responded that there are different ways to amend the Charter. One way is to open the Charter. The way we are doing this is proposing changes through a Home Rule Petition, which is a special act to the state asking to make specific amendments to our Charter.

David Pszenny asked when will the papers be ready. You opened the Charter, sent it to committee as a citizen we have the right to form our own committee during a special election year. He stated he checked with the State.

The Solicitor responded we are not opening the charter and what you speak to is not in front of the city council at this time.

Councillor Morsillo responded to Mr. Pszenny by stating your question was asked and answered and there will be no more comment. You may follow up with the Solicitor tomorrow.

On the motion of Councillor McCarthy the meeting adjourned at 6:39 P.M.

ATTEST:

ILENE SIMONS  
CITY CLERK