



Strengthening a Remarkable City, Building a Community for Life

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TO: Councilor John Anton and Members of the Legislative Committee
FROM: Gary C. Wood, Corporation Counsel *GCW*
DATE: December 24, 2008
RE: **Proposals to allow: instant run-off elections; voting by non-citizens**

At your Meeting of December 14, you discussed the above two issues and requested that I provide an analysis of whether these could be accomplished through a statutory amendment or whether the State Constitution and/or the City Charter would need to be amended. Both the State Constitution (Art. II sec. 1 [Electors]) and State law (21-A M.R.S.A. sec 111) require a person to be a U.S. citizen, 18 years of age or older, and a resident of the state to vote in state elections. The same requirements are imposed by federal law for federal elections. The requirements are also currently imposed by the City Charter through its reference to state law as controlling on issues not directly addressed in the charter(see Art. IV sec 11 (State Laws Applicable.)

Under the Home Rule provision in Maine's Constitution (Art VIII, part 2, sec1), if we change the City Charter to allow residents who are non citizens to vote ,those who register would be able to vote on municipal issues, notably the election of councilors and school committee members and on municipal referenda questions.

The same conclusion is true of instant run off voting. Federal and state law currently require elections by plurality if no candidate, or option in a referendum question with 3 or more options, receives a majority.(See for example Art .IV, part 1,sec 5 of the Maine Constitution re: elections to the Maine House of Representatives).

The City Charter also has an explicit plurality election provision (see Art.IV, sec 10 [canvass of returns]). As noted above, if the City Charter is changed, we could allow the use of instant run off elections for municipal elections. Other local elections, like the election for the PWD or CBITD directors could not use instant run off elections unless they changed the Private and Special Acts that control them.

I hope this is helpful. I will be at the Legislative Committee meeting on Monday to discuss this.