

**Town of Amherst
Ranked Choice Voting Commission Meeting
September 29, 2020
Virtual Meeting
MINUTES**

Complete video is available online:

https://amherstma.zoom.us/rec/share/Sfvbb0RNNtyUHNx7xJ7BasK5hAXfu8QmoXgQupk8GR8-gTfkBpqyWTiDbNiBZ_1U.Fe23tY6uanaE-mIP

1. Call to order and declaration of a quorum.

Chair Tanya Leise declared the presence of a quorum and called the meeting to order at 2:04 pm.

Members present via Zoom: John Bryan, Jesse Crafts-Finch, Tanya Leise, Ellen Lindsey, Peggy Shannon, and Acting Town Clerk Susan Audette.

Members absent: None

Others present: Lauren Goldberg, Town Counsel for the Town of Amherst.

2. Public Comment.

None.

3. Meet with Attorney Lauren Goldberg to consult on State election regulations.

Attorney Goldberg spoke to our list of questions.

Question 1 – If the RCV ballot measure passes for state-level elections, what effect will that have on our local effort for RCV, e.g., for hand recount regulations and ballot layout? Note that Amherst local elections are multi-winner while state-level elections are single-winner, so we have a more complex situation to navigate.

Response: If the State ballot question #2 passes on 11-3-20, this will benefit us as we will have legislative support. Advised that we should run our draft by the Secretary of State now. John Bryan asked whether the fact that the Regional School Committee was not addressed in question #2 would prohibit us in any way, and Attorney Goldberg said no. We would have a special act that would allow us to deal with issues specific to the Town of Amherst.

Question 2 – Does tabulation software have to be certified by the state or only the machine? That is, can we use state-certified scanners to generate the Cast Vote Record (CVR) and then separate software to compute election results from that CVR?

Response: Discussed whether the Secretary of State had to approve the software that runs on the election equipment. Attorney Goldberg stated that no, law does not prohibit software choice. The voting machine has to be certified. However, the Secretary of State has a vested interest in the integrity of elections, so he would probably want to manage. Attorney Goldberg strongly recommended coming up with a software recommendation soon and getting feedback from the Elections Division at the State level. Suggested also finding a legislator who has a strong voice to advocate for our special act.

Question 3 – The hand recount guidelines require breaking ballots into blocks of 50. Can we first sort into sets of similar votes for contest in question? Do the blocks have to be the same for every contest?

Response: Attorney Goldberg thinks there is nothing in the law that prohibits putting ballots into sets compatible with calculating each ranked choice rounds. The State-wide instructions on recounts advises best practices only - there are no set regulations. Could do blocks of any size, but do have to account for each ballot somehow. Do not have to specify how to handle a recount in our special act. Can, instead, say that the Board of Registrars along with the Town Clerk will establish guidelines on recounts.

Question 4 – Is “counting” ballots the same as creating a CVR, or does it include calculating the results as well? In particular, would using Excel to manipulate the CVR spreadsheet count as a “hand count?”

Response: The process of entering ballots into a spreadsheet must be done by hand to ensure human intent in how each ballot is marked is correctly interpreted. Once that is done, the resulting spreadsheet could be run through software to generate the election results.

Question 5 – Can the special act include any exemptions from state law/regulations? For example, for write-in candidates, is there any way to allow the CVR to store images of write-in candidates marked on ballots? (State-certified voting machines currently have this capability, but it has to be turned off in MA). Is there a technical difference between “optional scanning” and “digital scanning?”

Response: Attorney Goldberg stated in theory, yes, but whether the Secretary of State is comfortable with this, not so sure. There is a lot of distrust of the electronic systems that take pictures. If wanting to use an image system, we would have to decide how clear it would be, the standards we'd need, where the image would be stored, retention schedule, etc.

Question 6 – Section 135b refers to hand recount as “verifying by hand.” Can we use a hand-verified CVR to re-run the multi-winner RCV software?

Response: Was already answered above.

Question 7 – Does wording of town charter restrict voter intent interpretation for case of overvote (in which more than one candidate is given the same rank on a ballot)? That is, do we have to discard the overvote candidates plus all lower ranked candidates because “a voter’s lower ranked choice is not allowed to impact the likelihood of a higher ranked choice being selected?”

Response: In the overvote situation, of two candidates receiving the same place for the same office on a ballot – there would be no way to determine voter intent. We would then have a couple of ways in which to interpret that voter’s ranking of the other candidates for that office. We will have to decide on interpretation policy and specify it in our special legislation (note that the current State statute uses the term “overvote” differently than we do in our RCV context).

Felt that this instruction should be placed on the ballot for the voter.

Attorney Goldberg also mentioned that a special act will allow us to define what we want to regardless of the Charter wording.

Attorney Goldberg then went through our special act wording, starting with Section 1 – Definitions. Since an overvote means different things to people, we should re-think what term to use. Suggested we specify what formula/method we’re using for determining threshold.

Regarding Section b – who determines the predetermined rule – we may not need to specify this in our report.

Attorney Goldberg suggested we add in transitional wording. Also stated that we could revise a special act later if something isn’t working out once implemented. Asked whether the special act can include negatories (can we prohibit the use of something) and Attorney Goldberg thought this was okay.

Regarding what process we’d use if there was a tie, Attorney Goldberg stated that State law says that in the event of a tie, no one wins. We’d have to specify what we would do in the case of a tie.

Attorney Goldberg recommended we write a letter that explains how we came up with our recommendation, sort of an executive summary. We should get this all into the State by early January. Discussed one possible title for our report – “An Act Relative to Ranked Choice Voting in the Town of Amherst” as one possibility. We should be clear on which elections ranked choice voting would be used for, i.e., would we use it for special elections.

Discussed whether we'd want to have a preliminary election and if so, would need to specify in our report, keeping in mind that we'd have to work with the existing election schedule as outlined by State law.

Lastly, Attorney Goldberg stressed the importance of speaking with a State Senator or State Representative so that we'd have a voice in the legislature once they're back in session.

4. Correct and approve minutes from previous meeting.

The minutes from September 22, 2020 were approved as amended, with Jesse Crafts-Finch abstaining.

5. Topics not reasonably anticipated by the Chair 48 hours in advance.

None.

6. Adjourn.

VOTED to adjourn at 4:00 pm on September 29, 2020.

Respectfully submitted,

Susan Audette
Acting Town Clerk