

**CITY COUNCIL MEETING**

**AGENDA ITEM VII**



CITY OF FRANKLIN  
COUNCIL AGENDA REPORT

October 1, 2012

**From:** *Holly Burbank, City Clerk/Tax Collector*

**Subject:** *Council Presence at Elections.*

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With all Elections coming under closer scrutiny by the State of New Hampshire Attorney General's Office, they are visiting each polling place on election day to make sure that each of our Wards are in compliance with State and Federal Regulations.

At the Presidential Primary in January, the Attorney General's Office sited Ward 1 for non-compliance of item #10 (Election Officials Present) on the NH Attorney General's Office Polling Place Checklist. The letter states that this must be corrected prior to the next election. (see attached)

NH Constitution, Part 2, Article 32 requires that at least two "selectman" be present on Election Day. (see attached)

We were fortunate enough that they did not come to our polling places at the NH State Primary on September 11<sup>th</sup>. I anticipate a visit from the inspector at the General Election in November.

As long as we have at least two council members at each ward, this will satisfy the AG's Office. I am hopeful that you can work this very important day into your busy schedules.

The General Election is on Tuesday, November 6<sup>th</sup> from 8am – 7pm.

**Attachments/Exhibits:** Letter from Attorney General's Office  
Attorney General Polling Place Checklist

ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY  
ATTORNEY GENERAL



ANN M. RICE  
DEPUTY ATTORNEY GENERAL

March 1, 2012

Wendy Griffith, Moderator (Ward 1)  
Town of Franklin  
316 Central Street  
Franklin, NH 03235

Re: 2012 Presidential Primary Polling Place Checklist for Franklin

Dear Ms. Griffith:

During the Presidential Primary on January 10, 2012, Sandra Petell from the Attorney General's Office inspected your polling place. This letter provides feedback from that inspection and will list anything that needs to be corrected prior to State Primary election in September 2012.

All inspectors from this office filled out checklists, which called for "yes" or "no" answers to a series of questions relating to legal requirements for all polling places. As you review the remainder of this letter, you should review the checklist as well. For your convenience, a blank copy of the checklist can be found on our website at <http://www.doj.nh.gov/election-law/documents/polling-place-checklist.pdf>.

Based on the inspection of your polling place at the 2012 Presidential Primary, the following items, with numbers corresponding to the checklist, must be addressed prior to the next election unless otherwise noted: 10 (selectmen).

Your dedication and efforts as an election official is very much appreciated. It is because of your dedication and that of other election officials in your polling place that the elections in this State continue to be a model for other states to follow. We hope that the inspection of your polling place and this feedback letter will result in more efficient future elections.

Please do not hesitate to contact me or the inspector if you have any questions regarding this letter or the checklist used for the inspection of your polling place.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Mavrogeorge".

Matthew G. Mavrogeorge  
Assistant Attorney General  
Civil Bureau

**New Hampshire Attorney General's Office  
Polling Place Checklist**

Inspector's Name: \_\_\_\_\_  
 Town/City Ward: \_\_\_\_\_  
 Polling Place Facility: \_\_\_\_\_  
 Date: \_\_\_\_\_, 2012 Time: \_\_\_\_\_ AM/PM (circle one)  
 Moderator's Name (person serving when inspected – may be pro-tem/assistant): \_\_\_\_\_

Requirement	What to Look For	#	Yes	No
<b>Exterior</b>				
Traffic	Were traffic access routes adequate to enable access to the polling place?	1.		
Accessible: Parking	Is there at least one 8-foot wide accessible van parking space marked with a proper sign? (There must be an 8-foot wide parallel access aisle next to the space.) RSA 658:9-a, I.	2.		
Parking	Was parking adequate to enable access to the polling place?	3.		
Route	Is the route from the parking area to the entry door to the polling place easily accessible (clear from snow/ice, no excessive grade/curbing, useable by a person in a wheelchair)? RSA 658:9-a	4.		
Ramp	Does the route from the parking area to the entry door include a ramp? RSA 658:9-a, IV.	5.a.		
	Does the ramp have proper handrails?	5.b.		
Accessible Entrance	Is the accessible entrance different from the main entrance?	6.a.		
	If the answer to 6.a. is yes: Are there signs directing voters to the accessible entrance? RSA 658:9-a	6.b.		
No Electioneering Zone	Is there a zone at least 10 feet wide extending from the entrance(s) to the polling place where electioneering is prohibited? RSA 659:43 II	7.		
Exterior Campaign Signs	Has the moderator adopted a policy allowing or disallowing unattended campaign signs present on the property of the polling place, outside the no-electioneering zone? (Moderators are not required to adopt policies regarding unattended signs.)	8.a.		
	If the answer to 8.a. is yes: Is the policy being applied uniformly?	8.b.		

Flag	Is an American flag on display outside the polling place? RSA 658:9 I (Required weather permitting.)	9.		
<b>Interior</b>				
<i>Identify yourself to the Moderator when entering the polling place. Before completing the inspection, introduce yourself to the Clerk, Selectmen, and Supervisors of the Checklist</i>				
Election officials present	Are the following election officials present at the polling place: Moderator (or assistant moderator), clerk (or deputy or assistant clerk), at least two supervisors of the checklist (or assistant supervisors of the checklist), at least two selectmen? NH Constitution, Part 2, Article 32	10.		
Signs	<b>Voter Instruction Card:</b> Are there 3 copies outside the guardrail, one of which is at 48" = accessible to a person in a wheelchair? RSA 658:28	11.a.		
	<b>Voter Instruction Card:</b> Is there 1 copy in each voting booth/screen? RSA 658:28	11.b.		
	<b>Sample Ballots:</b> Are there sample ballots (2 for each party in the Primary Election; 2 for the General Election) posted outside the guardrail? RSA 658:26	11.c.		
	<b>Purity of Elections Statutes:</b> Is a poster with the purity of elections statutes posted outside the guardrail? RSA 658:29	11.d.		
	<b>Assistance in Voting:</b> Is there at least one "Assistance in Voting" sign posted outside the rail? 42 U.S. C. 15482(b).	11.e.		
	<b>Voting Rights:</b> Is there at least one "Voting Rights" sign listing the AG toll free election line posted outside the rail? 42 U.S.C. 15482 (b)(E).	11.f.		
Flag	Is an American Flag displayed inside the polling place? RSA 658:9.	12.		
Lines	Voters who were registered before entering the polling place should not have to wait more than fifteen minutes to obtain a ballot and have access to a voting booth/screen. Do voters receive ballots within 15 minutes?	13.a.		
	Observe and record the waiting time to obtain a ballot:  _____ minutes	13.b.	N/A	N/A

	Eligible voters who choose to register on election day may reasonably expect a longer waiting time. Note the waiting time, if a line exists, for registering to vote:  _____ minutes	13.c.	N/A	N/A
Booths	Is there at least one State-issued booth easily accessible to elderly persons and persons with physical disabilities? RSA 658:9, III	14.a.		
	Are there at least two standard voting booths? RSA 658:9, V?	14.b.		
	Are there at least two tabletop voting screens? RSA 658:9, V	14.c.		
	Number of Registered Voters on the voter checklist in the town or ward: _____ (Ask Moderator or Supervisor of the Checklist for number of registered voters on checklist)	14.d.	N/A	N/A
	Total No. of Booths and Screens: _____	14.e.	N/A	N/A
	Are there a total of at least one booth/screen for every 150 people (in the state primary or presidential primary) and 125 people (in the general election) listed on the checklist (excluding new election day registrants)? RSA 658:9, V (b)	14.f.		
Accessible Voting System	Is the telephone/fax system for accessible voting set up and functioning? Check for a light on the fax machine and a dial tone on the phone that is used for the accessible system (not the fax phone). 42 U.S.C. 15481	15.a.		
	Is there a state inventory sticker on the fax machine?	15.b.		
	Is there a state inventory sticker on the tent booth?	15.c.		
Electioneering	Is electioneering prohibited within the polling place? RSA 659:43; RSA 659:44	16.		
Guardrail	Is there a guardrail, a wooden rail, rope, ribbon, tape, or any system separating the voting area from the public area? RSA 658:9 I	17.a.		
	Is the guardrail positioned so that no one outside the rail can approach closer than 6 feet from the voting booths and the ballot box? RSA 658:9	17.b.		

	Are persons (other than election officials, voters marking and casting ballots or individuals permitted to assist other voters) prohibited from entering within the guardrail? RSA 659:21	17.c.		
Checklist and Checking in to Vote	Does the checklist used to check in voters have bar codes? (The presence of barcodes verifies that the list was created from the statewide database)	18.a.		
	When a voter checks in to receive a ballot, does the ballot clerk repeat the voter's name out loud two times? RSA 659:13	18.b.		
	When a voter checks in, does the ballot clerk state the address of the voter listed on the checklist and ask the voter to verify it is correct? RSA 659:13	18.c.		
Ballots	Determine from the Moderator the number of ballots (excluding test ballots) received from the Secretary of State	19.a.	# _____	
	Are voters and election officials prohibited from removing ballots from within the guardrail? RSA 659:38	19.b.		
	Hand Count Towns: Does the moderator (or assistant moderator) take the ballot from the voter and deposit it in the ballot box in a manner that does not disclose how the ballot is marked? RSA 659:23 I	19.c.		
	Machine Count Towns: Does the moderator allow the voter to put his/her ballot into the ballot counting device in a manner that does not disclose how the ballot is marked? RSA 659:23, II	19.d.		
	Did the Moderator start processing absentee ballots no sooner than 1:00 PM (unless 10 voters petition to start after the polls close)? (The moderator or the moderator's designee may authorize the opening of absentee ballot return envelopes on election day prior to the time established for processing absentee ballots in RSA 659:49.) RSA 659:49, 659:49-b.	19.e.		
	Did the Moderator publicly announce the name of each absentee voter as his or her ballot is processed? RSA 659:50 IV (exception for confidential voters i.e. those that are victims of stalking, domestic violence or sexual assault)	19.f.		

Ballot Counting Devices	Is a zero tape available for inspection and in proper form? Election Procedure Manual & RSA 656:42	20.a.		
	Does the Moderator have procedures in place to empty the bin under the ballot counting device if there are more than 1200 ballots cast?	20.b.		
	Can the moderator produce Activity Logs (memory card(s), tape seals, & canvas bag), an Access Log, Upgrade Form, and the Moderator's certification that pre-election testing was conducted on each ballot counting device and each memory card used in the election and that each of these have passed the test? (Look first in the front pocket of the device's canvas bag cover.) RSA 656:42	20.c.		
	Are the following seals (two tape seals & seal on memory card post) properly in place without evidence of tampering? (See attached diagram.) RSA 656:42	20.d.		
Assistance to Voters	Does a voter who declares to the moderator under oath that they need assistance marking their ballot, receive assistance by one or both of the inspectors of elections or by a person of the voter's choice (except they cannot be assisted by their employer or union official)? The moderator must first inform the voter of the accessible voting options available. RSA 659:20	21.a.		
	Does the Moderator offer the voter the choice of selecting the person who will assist the voter? RSA 659:20	21.b.		
	If someone assists the voter, are they required to give an oath? RSA 659:20	21.c.		
Official Ballots Within the Guardrail	Has the moderator refrained from removing any official ballots from within the guardrail for any purpose, including but not limited to allowing a voter to complete a ballot outside the guardrail? RSA 659:38	22.		
Challengers Appointed by Party Committee	Does the Moderator position challengers (designated in writing by the Dem. or Rep. party) in a place to enable them to see and hear voters checking in with the ballot clerks and afford them opportunities to make a challenge? RSA 666:4 & RSA 654:7-c (5' away)	23.		
Registered voters who challenge	Is the Moderator prohibiting individuals from challenging a voter if individuals seeking to make	24.		



	challenges are not registered voters in that town/ward? (Exception for party appointed challengers.) RSA 659:27			
Challenges	Are challenges being made at the voter check-in table? Challenges are prohibited from being made at the voter registration table. (Does not apply to challenges made by election officials.) RSA 659:27	25.		
Observers (general public)	Is there a public viewing area outside the rail available for observers from campaigns and the public? RSA 659:21 & 654:7-c	26.a.		
	Are observers at least 5 feet from the registration table? RSA 654:7-c	26.b.		
	If the physical layout of the polling place makes it impractical to position observers (and challengers) in a place where they can hear the announcement of the name and address at the check-in table, has the Moderator arranged an alternative means for the observers (and challengers) to be informed of the voters' names and addresses? RSA 654:7-c	26.c.		
	Are observers at least 6 feet from the check-in table, unless the moderator expressly permits them to be closer? RSA 659:13-a	26.d.		
Voter Registration	Are people being allowed to register to vote at the polling place? RSA 654:7-a.	27.a.		
	Are people who register to vote being required to prove: (RSA 654:12)	27.b.		
	a. Their identity if the Supervisor of the Checklist does not personally know them?			
	b. Their age if their appearance leaves doubt whether the person is 18 or older?	27.c.		
	c. Their citizenship?	27.d.		
	d. Their domicile?	27.e.		
	Are those without other proof of identity, age, or citizenship offered and allowed to use a qualified voter affidavit? RSA 654:12, I	27.f.		
	Are those without other proof of domicile offered and allowed to use a domicile affidavit? RSA 654:12, I	27.g.		
Were all voter registration applications accepted? (The Supervisors of the checklist should contact the Attorney General's office before denying any registration application.)	27.h.			
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**[Art.] 32. [Biennial Meetings, How Warned, Governed, and Conducted; Return of Votes, etc.]** The meetings for the choice of governor, council and senators, shall be warned by warrant from the selectmen, and governed by a moderator, who shall, in the presence of the selectmen (whose duty it shall be to attend) in open meeting, receive the votes of all the inhabitants of such towns and wards present, and qualified to vote for senators; and shall, in said meetings, in presence of the said selectmen, and of the town or city clerk, in said meetings, sort and count the said votes, and make a public declaration thereof, with the name of every person voted for, and the number of votes for each person; and the town or city clerk shall make a fair record of the same at large, in the town book, and shall make out a fair attested copy thereof, to be by him sealed up and directed to the secretary of state, within five days following the election, with a superscription expressing the purport there of.