

BOARD OF ALDERMEN

ITEM NO. E(4)

AGENDA ITEM ABSTRACT

MEETING DATE: September 19, 2006

SUBJECT: Continued Discussion Regarding the Filling of Board Vacancies

DEPARTMENT: Town Attorney	PUBLIC HEARING: NO
ATTACHMENTS: A – Existing Section 2-2(d) of the Town Charter B – Minutes of the 4/11/06, 5/3/06 and 5/9/06 C – Memos from Town Attorney (11/04/05 and 3/7/06) D – Proposed charter amendment considered by Board at 5/3/06 E - Proposal Submitted by Alderman Coleman	FOR INFORMATION CONTACT: Mike Brough, 929-3905

PURPOSE

The Board has had a number of discussions regarding the possibility of seeking a charter amendment from the General Assembly. A charter amendment could do one of two things – it could either clarify the existing process for filling vacancies that occur at different times in the election cycle or it could change the process entirely. The purpose of this agenda item is for the Board of Aldermen to again consider requesting an amendment to the Carrboro town charter.

INFORMATION

The town charter by itself may confuse some people because it does not include or refer to G.S.160A-63, which governs the filling of vacancies. Subsection 2-2(d) of the town charter was not designed to change what is ordained in the state statutes, but rather to fill in a gap in those statutes.

Should the Board wish to consider any charter amendment addressing this issue, several possibilities exist, including the following:

1. The Board could re-affirm the existing process but clarify the Town charter by including references to Section 160A-63 and perhaps making a few additional wording changes.
2. The Board could require that, whenever a Board vacancy occurs, the unsuccessful candidate in the most recent prior election who received the highest number of votes must be appointed to fill the vacancy.
3. The Board could require that, whenever one or more Board members who has two years remaining in his or her term is a candidate for mayor (and declared their candidacy at least 90 days in advance of the election) such that it is known during the campaign that there is at least a possibility that a vacancy on the Board will be created by the election, the unsuccessful candidate in the election who received the highest number of votes be appointed to fill any vacancy that is created.

4. With option #2 or #3 listed above, the Board could also add a stipulation that by a supermajority vote (5,6,or 7 votes) the Board can choose to appoint someone else.

As noted in the November 2005 memo from the Town Attorney, “the Board’s recent history in filling vacancies is mixed in terms of the procedures followed. In 1998, the Board established a formal process whereby the vacancy was published, written applications were accepted, and the Board interviewed the candidates before making an appointment. In 1997, the Board simply voted to appoint a former member of the Board to fill the vacancy. And in 1995, the Board appointed the person who had received the fourth highest number of votes for alderman in the preceding municipal election. In short, the Board has broad discretion in deciding how to fill any vacancy that occurs.”

FISCAL IMPACT

None.

RECOMMENDATION

Town staff recommends that the Board discuss this issue and provide instructions on whether a charter amendment should be drafted and what the nature of that amendment would be. Any proposed amendment language would be brought back to the Board for final consideration before being sent to the General Assembly for them to deal with in the next legislative session.