

RESOLUTION OF THE CITY COUNCIL

No. 120

Approved March 13, 2017

WHEREAS, A petition by voters in City Council Ward 3 seeking the recall of the incumbent pursuant to Section 208 of the Home Rule Charter was filed with the City Clerk, and

WHEREAS, The City Clerk referred the petition to the board of canvassers, and

WHEREAS, On March 3, 2017, the board of canvassers certified the petition as containing the requisite number of signatures as defined in Section 208 of the Home Rule Charter to require the holding of a recall election, and

WHEREAS, Pursuant to Section 208(c) of the Home Rule Charter, the City Council shall order and fix, forthwith, a date for holding an election not less than thirty (30) nor more than sixty (60) days from the date that the board of canvassers certifies the petition as sufficient, and

WHEREAS, Section 208(c) of the Home Rule Charter provides that the election in this case will take place between April 2, 2017 and May 2, 2017; and

WHEREAS, In a letter to the members of the City Council dated Tuesday, March 7, the Board of Canvassers requested a special meeting of the City Council to schedule a special meeting by the end of the week, and

WHEREAS, The City Council did not schedule a special meeting during the week of March 6-10, and

WHEREAS, On Thursday, March 9, the Secretary of State sent a letter to the Board of Elections (copy attached as Exhibit 1) stating that (i) State law requires local boards of canvassers to certify ballot questions to the Secretary of State at least fifty (50) days in advance, and

WHEREAS, The Secretary of State's letter notes that March 13 is fifty (50) days before May 2; therefore, a vote by the City Council on March 13 (or earlier) is necessary to comply with State law requirements for an election to take place on May 2 or later, and

WHEREAS, On that basis, the Secretary of State's letter requests the Board of Elections to meet on March 13 "with the sole purpose of setting Tuesday, May 2, 2017 as the date of the special recall election in Providence's Third Ward in order to comply with both state law and the City's charter," and

WHEREAS, The Secretary of State's letter further states that the Board of Elections meeting will not be necessary "if the Providence City Council were to schedule a meeting for March 13, 2017 to address this matter,"

NOW, THEREFORE BE IT RESOLVED, That the City Council hereby fixes the date of May 2, 2017 for holding an election to determine whether to recall the incumbent in Ward 3 as provided in Section 208 of the Providence Home Rule Charter.

IN CITY COUNCIL

MAR 13 2017

READ AND PASSED

PRES.

CLERK

I HEREBY APPROVE

Mayor

Date:

3/13/17

EXHIBIT 1



State of Rhode Island and Providence Plantations
Department of State | Office of the Secretary of State
Nellie M. Gorbea, Secretary of State

March 9, 2017

Richard R. Dubois
Chairman
Rhode Island Board of Elections
50 Branch Avenue
Providence, RI 02903

Re: Providence Ward 3 Recall Petition

Dear Chairman Dubois,

I am writing in reference to a matter involving a recall petition currently before the Providence Board of Canvassers. As you may be aware, Section 208C of the Providence Home Rule Charter clearly states that once the Board of Canvassers has determined that a recall petition contains the requisite number of signatures, "the city council shall order and fix, forthwith, a date for holding an election, which date shall not be less than thirty (30) nor more than sixty (60) days from the date that the board of canvassers certified the petition as sufficient."

In the case of the petition to recall the councilman in Providence's Third Ward, the Board of Canvassers effectively certified 2,383 signatures on March 3, 2017. Therefore, per the Providence City Charter, the City Council "shall order an election held no later than sixty (60) days from the date of certification." The latest acceptable date in that scenario would be May 2, 2017. At the time of my writing this letter, the City Council has not set such a date.

Additionally, RIGL17-19-7 indicates that in the event of a special election, a local board of canvassers shall certify to the Secretary of State "not later than fifty (50) days before any special city or town election, a copy of each question to be submitted to the electors of the city or town so that suitable ballots may be prepared and furnished for the election." According to this timeline, the deadline for such certification is Monday, March 13, 2017. Therefore, in order for the City Council to comply with state law, they would have to hold a special meeting regarding this matter no later than Monday, March 13, 2017. Meanwhile, the Providence City Council's next regularly scheduled meeting is set for Thursday, March 16, 2017.

Upon careful review of the matter, I am respectfully petitioning the Board of Elections to schedule a special board meeting for Monday, March 13, 2017 with the sole purpose of setting Tuesday, May 2, 2017, as the date for the special recall election in Providence's Third Ward in order to comply with both state law and the City's charter. I believe that the Board of Elections has the authority to do this in the event that the Providence City Council fails to take timely action. If the Providence City Council were to schedule a special meeting for Monday, March 13, 2017 to address this matter, then the Board of Election's special meeting would no longer be necessary.

The people of Providence's Third Ward deserve the opportunity to determine this matter through a transparent and timely electoral process. Our office stands ready to prepare a ballot in accordance with the specific language detailed in the City Charter. There is no reason to cause any further delay.

Therefore, I respectfully ask that the Board of Elections take swift action in this matter.

Sincerely,

Nellie M. Gorbea
Secretary of State

CC: Providence City Council
Providence Board of Canvassers