



CITY OF WORCESTER, MASSACHUSETTS  
Law Department

David M. Moore  
City Solicitor

June 24, 2017

Dr. Helen A. Friel  
Assistant to the Superintendent/Clerk of the School Committee  
Worcester Public Schools

Re: *City Charter, Vote Requirements – Majority & Two-Thirds*

Dear Dr. Friel:

The question has arisen as to the number of votes required for the school committee to pass measures. My research into the city charter leads me to the conclusion that the charter requires of the school committee four votes to pass any ordinary (simple majority) measure and five votes to pass any measure which requires a two-thirds vote.

The starting point is city charter section 1-7 "Definitions" which contains the three definitions concerning the number of votes required for various city bodies, boards and commissions.

The first term is "majority vote"<sup>1</sup> and it states the general rule of law that the "majority" of a board is a quorum and that a majority of a quorum is sufficient to act.<sup>2</sup> The definition of 'majority vote' uses the phrase "multiple member body" and that term is defined so as to separate the city council and school committee from all other city boards, commissions and committees.<sup>3</sup>

Having been excluded from the general "present and voting" rule, the natural question is: what rules apply to the city council and school committee in determining how many votes are needed to pass any particular measure? Unfortunately, the city charter does not give a complete answer to that question.

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<sup>1</sup> Majority Vote - Unless otherwise specifically provided within this charter or by law, ordinance or the rules adopted by a *multiple member body*, the words "majority vote" shall mean a majority of those members present and voting of a multiple member body, provided a quorum is present. Charter §1-7(1).

<sup>2</sup> See, *Clark v. Waltham*, 328 Mass. 40, 41 (1951).

<sup>3</sup> Multiple Member Body - The words "multiple member body" shall mean any board, commission, committee, sub-committee or other body consisting of two or more members whether elected, appointed, or otherwise constituted *but not including the city council or the school committee*. Charter §1-7(o)(emphasis added).

## A. City Council

With respect to the city council, the city charter provides that the presence of six members shall constitute a quorum, but, “the affirmative vote of six members shall be required to adopt any measure.” §2-6(b).<sup>4</sup>

The charter also specifies that a two-thirds vote requires eight votes in section 2-9(a)(2) for the city council adoption of an emergency preamble enabling the adoption of an emergency ordinance.

In section 5-3, the charter provides the council with authority to make appropriations for purposes not included in the appropriations recommended by the city manager “by a vote of at least two thirds of its members.” This provision does not say “of its members *present and voting*” and therefore indicates that the two-thirds mark is measured against the full complement of the council, 11 members.

Likewise, in section 5-6, the charter requires that appropriations or loan orders made or adopted to finance the acquisition of real estate must be approved by the city council “by a two-thirds vote of all its members.” This imposes an 8 vote requirement.<sup>5</sup>

## B. School Committee

The city charter contains no explicit provision stating the number of votes necessary to pass any measure. It does provide that the election of the vice-chair of the school committee be made “by majority vote of all the members elected.” Section 4-2(c). Since the number of “members elected” is constant at seven, this provision imposes a four-vote requirement for the election of a vice-chair.

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<sup>4</sup> Section 2-6 (b) Quorum: “The presence of six members shall constitute a quorum for the transaction of business, but a smaller number may meet and adjourn from time to time. Except as otherwise provided by general law or by this charter, the affirmative vote of six members shall be required to adopt any measure. A majority vote of those members present, however, shall be sufficient to adjourn any meeting of the city council.”

<sup>5</sup> The charter does contain a definition of the words: *Full Council, Full Multiple Member Body*: “The words “full council” or “full multiple member body” shall mean the entire authorized complement of the city council, school committee or other multiple member body notwithstanding any vacancy which might exist.” Charter §1-7(g). This term appears only once in the charter, in section 3-9(a) concerning the city council’s authority to override the city manager’s designation of an acting city manager during the temporary absence of the city manager. By using the phrase “a two-thirds vote of the full council” the charter requires eight votes to revoke the manager’s designation and allow the council to appoint an acting city manager. The term “full council, full multiple member body” does not appear elsewhere in the city charter. This, admittedly, cuts against the conclusion of this opinion but, given the logic of the interpretation described herein, it may serve only as an element of the ambiguity of the city charter on this point.

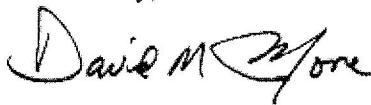
This lack of specificity may be purposeful because, unlike the city council, it is a rare occasion when a two-thirds vote of the committee is required.<sup>6</sup>

The city charter does explicitly remove the school committee from the application of the general rule (a majority of quorum is sufficient to act and a two-thirds vote requires two-thirds of the members present and voting). The charter does not explicitly say that four votes of the school committee are required to pass any measure or that a two-thirds vote requires five votes regardless of the number of members present.

It is a judgment call, but it appears to me that it is correct to read the charter as imposing the same thresholds on the school committee as it does on the city council – that a majority vote or a two-thirds vote are measured by the full number of members and not by the members present and voting. The charter clearly separates these two bodies from the general rule.<sup>7</sup> The city council and the school committee are vested with legal authority which cannot be compared to all other city boards and commissions: both bodies are elected directly by the voters; both have the power of appropriation and both have enormous power to shape public policy.

For these reasons, I believe that the city charter requires the school committee to obtain four votes to pass an ordinary measure and five votes to pass any measure which requires a two-thirds vote.

Sincerely,



David M. Moore  
City Solicitor

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<sup>6</sup> Rule 20 of the school committee rules requires a two-thirds vote in order to adopt certain motions (including a motion to amend the rules): a) amend, repeal, rescind or annul any part of the By-Laws or Rules of Order (It also requires previous notice.); b) suspend the Rules; c) move the question; d) rescind previous vote; and, e) limit or extend one's limit of debate.

<sup>7</sup> As a matter of interpretation, once the general 'present and voting' rule is explicitly excluded, what other rule would govern? It seems that the only other option is to measure a majority (either simple or two-thirds) against the total number of members regardless of the number present and voting.