City of Portland
Charter Commission Agenda

Location, Date, etc.

1. Call to Order

a. Due to the existence of an "emergency or urgent issue", the Charter Commission Committees will conduct this meeting by remote methods/technology at the Zoom link provided below, in accordance with the requirements of 1 M.R.S. section 403 -B and the Charter Commission Remote Participation Policy.

You are invited to a Zoom webinar.
When: Jan 18, 2022 06:00 PM Eastern Time (US and Canada)
Topic: Charter Commission Elections Committee

Please click the link below to join the webinar:
https://us06web.zoom.us/j/88166330697?pwd=Zk14SkpoVzRZa0ZFWXl1UFNzdDIzdz09
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Or One tap mobile :
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Dial(for higher quality, dial a number based on your current location):
US: +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656 or +1 253 215 8782 or +1 346 248 7799 or +1 720 707 2699
Webinar ID: 881 6633 0697
Passcode: 336098
International numbers available: https://us06web.zoom.us/u/kwkVA0r07

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2. Review and Approval of Minutes

   a. Approval of the draft January 10, 2022 meeting minutes

3. Workshop

   a. a. Universal Resident Voting Proposal Sponsored by Commission Washburn
      i. Public Comment on Universal Resident Voting
      b. Elections Commission Proposal Sponsored by Commissioner Chann
      i. Public Comment on Elections Commission
      c. Council Districts Proposal Sponsored by Commission Chann
      i. Public Comment on Councilo Districts

4. New Business

   a. Proportional Ranked Choice Voting
      a. Proportional Ranked Choice Voting
      b. Supporting Materials for Proportional Ranked Choice Voting

5. Adjourn

Elections Committee
Jan. 10, 2022
Public Hearing on Clean Elections

Present: Buxton, Chann, Washburn

Meeting **called to order** 6:05 p.m.

Minutes of Dec. 21 meeting **approved** unanimously.

Buxton: **Introduced** Clean Elections proposal for discussion.

Chann **introduced** public hearing.

Four members of the public **spoke** on the proposal.

Brief discussion of where the final proposal will be posted.

Washburn **moved** referring the proposal to the full commission for consideration; Buxton seconded.

Interlude while Chann drafted amendment.

> Buxton moved to amend the proposal to remove campaign contribution limits. Washburn seconded. Amendment **passed** unanimously.
>
> Washburn moved to amend the proposal to change "mayor, city council, and school board" to "municipal elected offices." Buxton seconded. Amendment **passed** unanimously.
>
> Buxton moved to amend the proposal to apply a provision on unused funds only to candidates participating in the clean elections program. Washburn seconded. Amendment **passed** unanimously.
>
> Buxton moved to amend the proposal to specify that the program shall be administered by the City Clerk, rather than by "paid staff." Washburn seconded. Amendment **passed** unanimously.
>
> Buxton amended the proposal to establish that the City Clerk is responsible for setting up a publicly searchable database of campaign finance information. Washburn seconded. Amendment **passed** unanimously.

Chann proposed amending the proposal to add a financial note estimating costs for the proposal. Buxton moved the amendment; Washburn seconded. Discussion followed. The motion **passed** with Washburn voting no.

Clean elections proposal **passed** unanimously.

Brief discussion of scheduling.

Meeting adjourned unanimously 7:58 p.m.

Proposed Amendment to the Charter

The right of all persons of legal voting age under Maine state law who are residents of Portland to vote in municipal elections and on municipal initiatives is established, regardless of citizenship status. Such voters shall hereinafter be referred to as "municipal voters".

City officials must enact implementing ordinances to create procedures to carry out this section, including but not limited to ordinances ensuring that :

- Voter registration forms allow municipal voter registration without questions about immigration or citizenship status;
- Municipal voters are identified as such on the City's voter registration rolls:
- Procedures are established to safeguard against municipal voters mistakenly being given state and federal ballots when a municipal election coincides with the date of a state or federal election;
- All municipal voters are provided with an official certification that the City allows residents to vote in municipal elections regardless of immigration or citizenship status;
- Mechanisms are in place, including but not limited to having an advisory committee comprised of both city staff, elected officials, community organizations and residents meaningfully review at established intervals whether the City needs to revise the municipal voter procedures;
- Widespread public education efforts are conducted in multiple languages to advise Portland residents about the availability of municipal voter registration;
- Portland residents have access to all information necessary, available in at least all of the home languages, updated annually, of families whose children attend Portland Public Schools, to enable them to make a knowing and intelligent choice when deciding whether or not to register as municipal voters. That information must include, at a minimum, that:
    - Municipal voters will be able to vote in municipal elections only, and not in state or federal elections;

- There are severe immigration consequences, including denial of permanent residency or naturalization to U.S. citizenship, deportation and future inadmissibility, of voting in state and federal elections should a municipal voter mistakenly be given state or federal elections ballots;
- That the City provides all municipal voters with an official written certification of their registration as a municipal voter allowed to vote in municipal elections regardless of immigration or citizenship status, that can be provided to Immigration authorities;
- That before registering as a municipal voter, it is advisable to consult an immigration lawyer, including information about how to find immigration attorneys and immigration legal aid resources;
- That the City cannot guarantee that municipal voter registration rolls will not become public or be accessed by federal immigration officials, or other agencies or individuals.

The City shall also provide public education materials and create procedures to allow municipal voters, whenever applicable, to change their voter registration to reflect that they are U.S. citizens and entitled to vote in municipal and state and federal elections.

(Insert Section) Election participation and education a priority.

The city shall ensure that all residents are able to participate and exercise their right to vote in the city's elections. To this end, the city shall ensure that information about voting and elections are, to the extent practicable, accessible in multiple languages, platforms, devices, and forms of media.

An elections commission of five (5) members shall be established and its members appointed by the city council from among the residents of the city. In appointing members of the elections committee, the city council shall ensure the body is diverse and representative of the city and includes representation of historically underrepresented communities.

In manners not inconsistent with applicable state law, the duties of the elections commission shall be to support the city clerk in conducting elections outreach, education, and community engagement, to support the office of the city clerk with regard to clean elections, to provide an annual report on voter turnout and participation, and to provide recommendations to the city clerk and city council when necessary.

The city council may, by ordinance, adopt additional regulations and guidance on the duties and responsibilities of the elections commission not inconsistent with this section.

Council Districts Proposal

Sponsored by Commissioner Marpheen Chann (At-Large)

An issue that has been raised both during the Charter Commission election and deliberations has been that of increasing the size of the City Council to ensure more representation on the Council. The proposal below is based on Burlington's (VT) model, which also reflects how State Senate and State House districts are setup in Maine (where State Senate districts overlay numerous House districts).

In looking at the existing Council, another issue that arises is what to do with the at-large seat. Currently, the at-large seats are held by councilors from diverse backgrounds: Councilor Pious Ali, Councilor April Fournier, and Councilor Roberto Rodriguez. This indicates that based on Portland's population today, the at-large seats actually increase diversity and representation of minorities on the Council. Whereas in years prior to 2010, the argument was that at-large seats dilute the influence of minorities and communities of color. In addition, the benefit to having at-large districts is to avoid the balkanization of the Council and pitting neighborhood against neighbhorhood.

The proposal here offers two avenues: Keep at-large seats or create larger districts that overlay ward/precincts that preserve the "unifying effect."

PROPOSAL:

- Twelve (12) Member Council
    - Nine (9) Ward/Precinct Councilors
    - Three (3) District/At-Large Councilors
- Redistricting
    - There are 11 voting precincts currently
    - Combine and convert existing precincts into Wards/Precinct (smaller districts) of approximately equal population
    - Overlay with either at-large or larger districts of approximately equal population
- Mayor Role
    - Serves as 13th tie-breaking vote; or
    - Keep Mayor as voting 13th member

Proportional Ranked Choice Voting Proposal

Sponsored by Commissioner Marpheen Chann (At-Large)

The purpose of this proposal is to address the issue of which ranked choice voting system is optimal in the event of an election where there are multiple candidates to be elected to one seat or constituency. Although elections for multi-winner seats do not occur often in the city of Portland, the recent Charter Commission election and the upcoming at-large school board elections, where multiple candidates are elected to one at-large constituency, are examples of when requiring a threshold of 50% is not best practice as suggested by ranked choice voting experts (see Clerk's email).

A proportion ranked choice system, rather than requiring one candidate to reach a winner-takes-all threshold of 50%, usually through multiple rounds and tabulations, puts in place a method that allows for multiple candidates to cross a lower threshold depending on the number of candidates. The result of PRCV is fairer representation in the case of multi-winner elections.

Proposal:

Section 3. Ranked choice voting; instant runoff tabulation.

(f) In the event of a multi-winner election, the City Clerk may administer a proportional ranked choice voting method similar to the guidelines above except that the threshold for a candidate to be elected shall be determined by dividing the total number of valid ballots cast by the number of positions to be elected plus one and then adding one to the resulting dividend.

July 27, 2021

Dear Members of the Charter Commission,

My name is Katherine Jones and I am the City Clerk of Portland. I am unable to attend the public hearing on July 28th, but I wanted to draw your attention to the following items regarding the City Charter:

First, Article II section 3 requires that for the Mayor, all City Councilors and School Board members, the City Clerk must do the following:

"If a candidate receives a majority, i.e., at least one more than fifty percent (50%) of the first-choice votes cast, that candidate is elected. When we first implemented Ranked Choice Voting at the time, we had only single winner contest."

This language has resulted in an issue every time we have an election involving more than one candidate that must be chosen for At Large seats (i.e. a multi-seat race). This includes positions like the Charter Commission and the School Board seats (which require a voter to vote for two).

Additionally, the Charter language requires that "if a candidate receives a majority, i.e., at least one more than fifty percent (50%) of the first-choice votes cast, that candidate is elected. In section (c) If no candidate receives a majority of first choice votes, an instant run of re-tabulation shall be promptly conducted by the city clerk and completed within five (5) business days of the elections." As a result of this language, the City had to use a Multi Pass Ranked Choice Voting method during the Charter Commission election process.

In discussing this process with Elections System and Software (the company that the City has a contract with to run Ranked Choice Voting) and Ranked Choice Voting Policy Center Policy Director, Chris Hughes, (which received many phone calls after the Charter Commission election) it was apparent that a Multi Pass Ranked Choice Voting Method may not be the best representation of the voters. Consequently, it has been recommended that the City instead re-work the language of the City Charter to allow the use of a Proportional representation process for multi seat races.

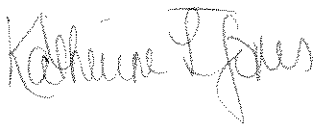
If the City were to implement this process, there is nothing different we would need to do to mark the ballots. Voters would still choose their first choice, second choice, etc. Voters can still mark as few or as many as they wish.

The difference will be in the tabulation process. Cambridge Mass is a good example of how this process works. Cambridge has used Proportional representation since 1939 for all of their multi seat elections: including their nine-seat City Council and their six-seat School Committee. Tabulation begins with everyone's first choice, just as in Portland's ranked choice voting elections now. The difference is that if we were to use Proportional Representation a candidate will need to win a certain proportion of the vote to be elected. This winning fraction of the votes is referred to as the "quota". The quota is determined by dividing the total number of valid

ballots cast by the number of positions to be elected plus one and then adding one to the resulting dividend. For example, if 25,000 valid ballots are cast for City Council, the quota will be 2,501 (25,000 divided by ten, plus 1).

If you would like to learn more about this process and potential change to the Charter language, please let me know so that I can request that Chris Hughes attend one of your future meetings in order to describe the process in more detail and answer questions.

Thank you for your consideration.



Katherine M. Jones

Portland, City Clerk

LEAGUE OF WOMEN VOTERS® OF MAINE

To: Portland Charter Commission

From: Debra McDonough

Date: October 6, 2021

Re: Election Methods

> *. . . the Representative Assembly, should be an exact Portrait, in Miniature, of the People at large, as it should think, feel, reason and act like them. . .*
>
> John Adams, letter to John Penn
> March 27, 1776

Summary: The League of Women Voters supports election methods that elect policy-making bodies that proportionally reflect the people they represent. Proportional representation can be achieved through multi-seat races, with ranked choice ballots and a tabulation process designed for multi-winner elections.

Why proportional representation?

Before choosing an election method, it is useful to articulate the values against which the options will be evaluated. Proportional representation ensures that a majority coalition (whether a formal coalition, an informal collection of individuals with similar priorities, or a transient coalition formed around a particular issue) will hold the majority of the seats on City Council, School Board, and future Charter Commissions, while ensuring that minority voices are also at the table.

Proportional RCV (aka Single Transferable Vote)

The “Single Transferable Vote” method of tabulating ranked-choice ballots measures the strength of each coalition (again, whether formal coalitions or simply collections of individuals with similar priorities) and elects a Council/Board which reflects the population across whichever parameters the voters found compelling when marking their ballots. Experts recommend electing between 3 and 7 individuals from a single slate.

Please see **Appendix A** for a vegetable-based example of this tabulation procedure.

Common election methods fail to achieve proportional representation.

Single-winner elections and “vote-for-N’ multi-winner elections both favor a majority coalition at the expense of minority representation. While we want Presidents, Governors, and Mayors to have majority support, it is not fair for a majority to capture all seats on a Council or Board.

a) Single member districts. (Currently five of nine seats on Portland’s City Council, School Board, and Charter Commission. Maine House and Senate. Federal House.)

The use of single member districts ensures geographical representation but may not reflect ideological diversity. For example, if individuals in a minority coalition are evenly distributed across the community, a majority coalition will be able to capture all of the district seats, even if the ideological split is 51-49.

We may see some variability in municipal politics, as informal majority coalitions may not field a candidate in each district. Without party affiliation as a guide, some voters will base their selection on name recognition, rather than evaluating candidate positions. Some candidates may choose not to articulate their positions in an effort to appeal more broadly.

When geography does support districts with different ideological majorities, a sizable minority of the population may find themselves with a district representative who lives nearby, but with whom they have substantial ideological disagreements.

The details of district boundaries can affect the composition of a Council or Board. We know that gerrymandering can be used to consolidate political power. We are also aware that districts can be intentionally drawn to protect specific groups (racial/ethnic/religious minorities or perhaps Portland’s island communities), but recognize that it may not be possible to draw districts that fairly reflect all constituencies.

It can be difficult to balance the value of natural boundaries with the value of equal-sized districts. For example, if there is a mismatch between district size and the population of the island communities, there may be a pocket of islanders left out of the island district or a pocket of mainland voters included in the district. These outliers are unlikely to feel well represented.

In addition, the issues addressed by municipal governments are not static, and we may find that lines carefully drawn to support a specific geographic coalition (eg: neighborhood with a historical designation) end up dividing a natural coalition on a different issue (eg: renters).

Please see **Appendix B** for an example, using the same vegetable data.

b) At-large seats elected in rotating single-winner races (Currently, three of nine seats on Portland Council, two of 9 seats on Portland School Board. Federal Senate.)

With a single winner in each race, a stable majority coalition -- even when representing a narrow majority -- is likely to capture each seat as long as the majority coalition fields a candidate and voters are able to identify each candidate's positions.

c) Multi-winner at-large seats (Currently, two of nine seats on Portland School board, four of nine seats on Portland Charter Commission. Councils and boards in many other communities.)

Multi-winner elections across much of the country (and previous multi-winner elections in Portland) are generally conducted through 'plurality bloc voting,' (aka 'Vote-for-N', where 'N' is the number of open seats.) This approach has been found to violate the Voting Rights Act because it can deliver all of the available seats to a majority coalition.

In practice, the specific slate of candidates can affect the outcome in ways that may not be intuitive. For example, if an informal majority coalition unintentionally fields more candidates than the available seats, the majority vote can be sufficiently diluted that one or more minority candidates win a seat.

In fact, a well organized minority coalition (eg. individuals who oppose the teaching of evolution in public schools) can use Plurality Bloc Voting to engineer a surprise takeover by carefully coordinating a slate of candidates matched to the number of open seats and communicating the details of the slate only to known supporters. Even if an informal majority happens to run the right number of candidates, the organized minority can count on all of the votes from their supporters as well as some votes from individuals who know the candidates but are not aware of the nature of the minority slate.

See **Appendix C** for examples, again using the same vegetable data..

(Note: The four at-large members of the current charter commission were elected using a ranked choice ballot, but as described in a memo from the Ranked Choice Voting Resource Center, the tabulation method delineated in the existing charter was designed for single-winner races. When the majority threshold of a single-winner race is applied to a multi-winner race, candidates representing minority coalitions are systematically excluded. This was the only legal option under Portland's existing charter.)

<u>Appendix A:</u> Proportional Representation: A Tale Told in Vegetables.

Imagine that we're 'electing' four vegetables to serve at a community Thanksgiving dinner. Here are the first choice votes:

250	Broccoli
220	Carrots
180	Peas
120	Beans
110	Brussels Sprouts
70	Kale
50	Sweet Potatoes

1000	

Perhaps there are three 'coalitions'. (In the context of elections, coalitions could be as formal as registered political parties, as informal as people who hold similar positions and tend to support similar candidates, or anywhere in between. If we have ranked choice ballots, we can recognize coalitions through groups of ballots which highly rank the same set of candidates. It is not necessary for candidates or voters to articulate, or even to notice, the coalitions.)

In this case:

43%	Brassicas (Broccoli, Brussels Sprouts, Kale)
30%	Legumes (Peas, Beans)
27%	Roots (Carrots, Sweet Potatoes)

If our task is to choose four, it would feel 'fair' to 'elect' two Brassicas, a Legume and a Root.

Process: Proportional RCV (aka Single Transferable Vote)

In proportional RCV, the election threshold is set at 1/(n+1), so with four 'seats' the threshold is 1/(4+1) or 20%. With 1000 ballots, it will take 200 votes to win. (If the four winning candidates each have at least 20%, there won't be enough residual votes to elect a fifth.[1] It may help to recognize that in single-winner RCV, the threshold is 1/(1+1) or 50%.)

Using the first choice votes, we see that Broccoli and Carrots have both surpassed the threshold and will be elected.

[1] The precise details of thresholds and potential ties have been resolved differently in different implementations of Proportional RCV. In this example, we've set the threshold at exactly 1/(n+1) and would assume resolving any ties in the method to which Portland is accustomed. Some implementations set the threshold at 1/(n+1) + 1. Some use fractional thresholds, others round up to a whole vote. We recommend consulting with the Ranked Choice Voting Resource Center when developing statutory language.

Round 1: Broccoli elected with 50 'extra' votes, which are distributed to the second choices of the Broccoli voters. If the coalition is tight, all the extra votes will go to Sprouts and Kale in the ratios of those second choice votes, perhaps 30.6 to Sprouts and 19.4 to Kale[2]. (The transfer of excess votes is a critical part of measuring the size of the coalition. Another way to think about this is that each Broccoli voter used 4/5 of their ballot to elect Broccoli and sent the remaining fifth to their second choice.)

After Round 1, the vote totals are:

220	Carrots
180	Peas
120	Beans
140.6	Brussels Sprouts
89.4	Kale
50	Sweet Potatoes

Round 2: Carrots elected with 20 extra votes, all of which go to Sweet Potatoes. (Again, assuming tight coalitions. In real life, we'll see more scatter. . .)

After Round 2, the vote totals are:

180	Peas
120	Beans
140.6	Brussels Sprouts
89.4	Kale
70	Sweet Potatoes

Round 3: Since no remaining candidate has met the threshold, the lowest ranking candidate is eliminated and those votes are distributed. With no remaining Root Vegetables, some of those ballots are likely exhausted, but other voters will have expressed a preference. Maybe 30 are exhausted, 35 go to the Legumes and 5 to the Brassicas.

After Round 3, the vote totals are:

197.4	Peas
137.6	Beans
143.6	Brussels Sprouts
91.4	Kale

[2] In this example, we assume that 60% of the Broccoli voters ranked Brussels Sprouts second with the remaining 40% ranking Kale second. 60% of the 35 extra votes are transferred to Brussels Sprouts and the remainder to Kale. Of course, in a real election we are likely to find that some of the Broccoli voters marked non-Brassicas as their second choice, even if the Brassicas have been actively campaigning as a coalition.

Round 4: Still no winner, so Kale is eliminated. Again assuming tight coalitions, Kale votes go to Sprouts.

After Round 4, the vote totals are:

235	Brussels Sprouts
197.4	Peas
137.6	Beans

Round 5: Brussels Sprouts leaps over the Legumes and is elected with 35 extra votes. (You'll notice that the Legume candidates split their vote more evenly than the Brassicas or the Roots. This has prevented an early round victory, but it's ok because all of the Legume coalition ballots are still on the table.) Maybe the Brassica voters chose not to rank any Legumes because they really, really don't like them. The 35 extra votes are exhausted.

After Round 5, the vote totals are:

197.4	Peas
137.6	Beans

Round 6: Beans eliminated, with votes transferred to Peas.

Round 7: Peas elected.

So. That's Broccoli, Carrots, Brussels Sprouts and Peas. Two Brassicas, a Legume and a Root, which is just what we said would feel 'fair'.

Appendix B: Four Single-Winner Districts

We're still choosing four vegetables, but now we'll vote in four geographic districts, each with 250 voters. Our population remains 43% Brassicas, 30% Legumes and 27% Roots.

If our coalitions are evenly distributed across the city and each coalition fields a candidate in each district, the vote totals in each district will be approximately:

108	Brassica candidate
75	Legume candidate
67	Root candidate

Plurality ballots elect a Brassica in each district, leaving the Legumes and Roots unrepresented. Ranked Choice ballots might change the outcome, but would not increase the diversity of the elected vegetables. For example, if the Roots tend to side with the Legumes in our Brassica/Legume animosity, RCV would elect a Legume in each district, leaving the Brassicas and Roots unrepresented. This might all feel very unfair, except that it often goes unnoticed in nonpartisan municipal elections with informal, leaky coalitions.

We might get some representation for a minority coalition if the majority doesn't field a candidate in one of the districts, or if the majority candidate was compromised in some way (perhaps arrested on a DUI in mid-October). This feels like a sloppy and unreliable way to achieve an ideologically diverse council.

If the coalitions are not evenly distributed geographically, it may be possible to draw districts 'for' each coalition, carefully drawing a district around the Roots, who otherwise will never pick up a seat. This approach might yield a diverse council, but Brassica voters in the Root district will find themselves represented by someone who lives nearby, but with whom they have ideological disagreements.

Or the Legumes-in-charge might draw the next set of districts to ensure 3 Legume districts, and one toss-up district for the Brassicas and Roots to fight over. . .

Appendix C: Vote-for-4 at-large election

Now our 1000 voters will each be able to choose their four favorite candidates, for a total of 4000 votes. Our population remains 43% (or 430) Brassicas, 30% (or 300) Legumes and 27% (or 270) Roots.

If each coalition fields exactly four candidates (and the coalitions are tight), we expect the 430 Brassica voters to select each of the four Brassica candidates, the 300 Legume voters to select each of the four Legume candidates and the 270 Root candidates, the 4000 votes would be distributed as follows:

430 Brassica A	300 Legume C
430 Brassica B	300 Legume D
430 Brassica C	270 Root A
430 Brassica D	270 Root B
300 Legume A	270 Root C
300 Legume B	270 Root D

. . . and the Brassicas take all of the seats, leaving Legumes and Roots unrepresented.

But what if there's big Brassica energy one year and 6 excellent Brassicas run? What sounds great for our Brassica friends turns out to be their undoing. 430 Brassica voters have 1720 total votes. If they split evenly over 6 strong candidates, each candidate will get 287 votes - and the Legumes will sweep the election. Pretty head-spinning for our enthusiastic — and majority coalition — Brassicas. . .

If the elections are typically pretty sleepy, with maybe six candidates running for four open seats and leaky, informal coalitions, we may regularly see an ideologically diverse council and feel like the system works. Until a couple of Legumes, who've never really thought about themselves as a coalition, notice over coffee that they haven't elected a candidate they like in a couple of cycles and that the council seems packed with Brassicas, whom they deeply dislike. They start having meetings, maybe sending out some fliers to find other like-minded individuals. They choose four personable candidates with some local name recognition and get their paperwork in early. Maybe a Brassica runs. Maybe a Root. But for the most part, everybody is just happy that somebody else has stepped up. The Legumes are already organized, due to all those meetings they've been having, so they've got volunteers to help candidates get signs on the roadways and fliers on doors. They send mailings to all known Legume-ish voters. The Legume candidates all get a vote from each Legume voter, plus a bunch of votes from Brassica and Root voters who only had one obvious affinity candidate on the ballot (and who also haven't been thinking of themselves as part of a coalition). And they saw all those signs. Maybe one of the Legume candidates coached their kid's soccer team. Maybe another is a deacon at their church. Legumes take three - or maybe all four - of the seats. Brassicas (and maybe also Roots) take notice and begin their own organizational efforts. An arms race ensues. . .