

# Town Meeting Requirements

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Selectboard Essentials  
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ATTORNEYS AT LAW

# Introduction

- Initially, Town Meeting attendance was mandatory; in turn, there was no requirement to warn voters of the business of the meeting
- Once people started to find attending meetings too burdensome (for example, in Boston in 1780, there were 11 meetings lasting 40 days), accommodations had to be made
- Use of a warrant became the norm for special and annual town meetings



# [ Open v. Representative ]

- In 2011, there were 297 Towns, of which 261 had Open Town Meeting and 36 had Representative Town Meeting
- Open vs. Representative Town Meeting
  - Who gets to attend
  - Who gets to speak
  - Number of representatives
  - Number of citizens represented
  - Length of terms
  - Existence of referendum and scope thereof (i.e., an affirmative vote, any vote, voters on certain matters)
  - Ex officio members

# [ The Warrant ]

- Pursuant to G.L. c.39, §10 (and, if applicable, special act or charter provisions), all town meetings must be called pursuant to a warrant
- The warrant must be posted by the Board of Selectmen no less than 14 days prior to a special town meeting, and no less than 7 days prior to an annual town meeting
- Can include two separate meetings, and/or a meeting and an annual election, if within 35 days of one another (G.L. c.39, §9A)
- Warrant is controlled by the Board of Selectmen, except as specifically otherwise authorized, including:
  - Articles included
  - Articles omitted
  - Order of articles



# [ The Warrant, cont. ]

- Must include the time, date and place of Town Meeting (G.L. c.39, §10)
- The Board of Selectmen may delay the date of an Annual Town Meeting, regardless of whether the date is set by special act, charter or bylaws (G.L. c.39, §9)
- Must include the “subjects to be acted upon”, i.e., the articles (G.L. c.39, §10)
- If the warrant also calls for an election, must include the date of the election, the time the polls will open and close and **the offices and questions as they will appear on the ballot** (G.L. c.41, §10, G.L. c.54, §42C, G.L. c.54, §64) – **whose job is this?**



# [ The Warrant, cont. ]

- Warrant must be posted as set forth in the Bylaws, Charter, or special act, if addressed therein; otherwise, posted in accordance with past practice
- Failure to post in accordance with the Bylaws, Charter, or special act is **fatal** to the validity of the meeting
- For such purposes, if a special act, Charter or Bylaws require newspaper notice, mailing to households of registered voters or posting on Town's website, failure to comply with the same could also be fatal, depending on the manner in which the requirement is worded

# Articles – Form

- The goal is not to provide an exact prediction of the business of the meeting, but instead simply an outline of the topics that will be discussed
- The standard used for what action is permissible, i.e., “within the scope of the article”, is whether a person reading the warrant at home would be able to anticipate that Town Meeting might take the action proposed
- What’s “within the scope” of the article is ultimately a question for the Moderator



# Articles – Form, cont.

- There's an art to drafting a warrant article, depending on the Town's goals:
  - How specific should the article be?
    - A particular project
    - A particular bylaw
    - A particular piece of capital equipment
    - A particular type of capital equipment
    - Who is authorized to contact/spend money/supervise project
  - How specific should the funding source be?
    - Include a range of options
    - Include a particular funding source
    - Include reference to "sum of money"
    - Include reference to a particular sum
    - Include reference to a particular sum, but include the word "more or less"

# [ Articles – Form, cont. ]

- **Tip: If the drafter of the article is looking to preserve flexibility, the article should be drafted generally, without specific amounts, and additional detail may be inserted in the motion**
- **Tip: If the drafter of the article is looking to limit Town Meeting’s options, the article should be drafted more specifically, including a particular proposed project or other action, funding source, and dollar amount**
- **Tip: Always use “or take any other action relative thereto” or something similar at the end of the article**



# Articles – Form

- Many articles refer to other documents, plans, text of bylaws, assessors map and parcel numbers, reports, special legislation, etc.
- No requirement in the General Laws that the actual documents appear in the warrant
- Whether to include the same is a policy decision, unless the Town's bylaws or charter requires otherwise
- **Tip: Keep in mind the “personality” of Town Meeting. If Town Meeting is unlikely to independently search out these documents, it may make more sense to include them in the warrant or as an attachment. If they are not ready at the time the warrant is posted, however there may be no choice.**

# [ Petitioned Articles ]

- G.L. c.39, §10 provides that 10 registered voters may petition to include an article on an annual town meeting, and 100 may petition for an article on a special town meeting; 200 registered voters may force a special town meeting to be called
- Charters and special acts include additional provisions concerning warrant access, allowing, for example, elected or appointed officers or boards (by a majority vote of the same), to place an article on the warrant
- Petitioned articles cannot be “withdrawn” after filing



# [ Petitioned Articles, cont. ]

- Petitioned articles cannot be “changed”; meaning, if there are legal or other problems, including misspellings, unclear references, mistakes, etc., the article must still be included on the warrant as petitioned
- Unless the article is “illegal” in that it intrinsically constitutes a threat to the public health or safety, it must appear on the warrant
- Petitioners do not get to choose where in warrant articles are included
  - **Tip: Board of Selectmen may include an article on a similar subject matter either right before or right after a petitioned article, allowing the Board to further its own objective**



# [ Petitioned Articles, cont. ]

- **Tip: In some towns, the Board of Selectmen allows petitioners to consult with counsel before submitting a petitioned article to address potential legal issues**
- **Tip: In some towns, if a petitioned article is submitted, attendance at Board of Selectmen and Finance Committee meetings concerning the same is a must**



# Timeline of a Town Meeting- Before the Meeting

- Several months before Meeting – Board of Selectmen opens warrant
  - Nothing in state law requiring that the warrant remain open for any period of time
  - Generally, however, the Board leaves warrant open for a period of time during which it adds and removes articles, including insertion of “placeholders” that may be requested by department heads
  - Note that the opening and closing of the warrant may be addressed by charter or bylaw
  - Often, if warrant closes well before the annual meeting, a Special Town Meeting will be called for same day as the Annual



# Timeline of a Town Meeting- Before the Meeting, cont.

- The Board likely includes several standard articles, as well as properly petitioned articles received timely
- Depending on particular matters at issue in the Town, articles may include:
  - Election of necessary officers
  - Ballot questions
  - Hear reports of committees and officers
  - Authorize revolving funds
  - Salaries of elected officials
  - Operating budget
  - Capital budget
  - Funding of collective bargaining agreements
  - Approval of salary and classification plans

# Timeline of a Town Meeting- Before the Meeting, cont.

- Common articles may also include:
  - Zoning and General Bylaw adoption or amendments
  - Requests for special acts of the General Court
  - Road acceptances and/or discontinuances
  - Leases
  - Authorization for contracts for more than three years
  - Transfers from stabilization
  - Land acquisitions
  - TIFS
  - Authority for members of boards to work in paid positions under such boards
  - Approval of compensating balance agreements,
  - temporary borrowing in anticipation of revenue,
  - prosecution of suits,
  - sales of surplus tangible property



# Timeline of a Town Meeting- Before the Meeting – Voter Registration

- Continuous voter registration sessions are required before all Town Meetings and Elections – the office must stay open **or** alternate arrangements must be made
  - In towns of less than 1500 voters, hours can be from 2-4 p.m. and 7-8 p.m.
  - In other towns, from 9:00 a.m. until 8:00 p.m.
- 20 days prior to an Annual Town Meeting or **any** Town Election (note that if an Annual Town Meeting and Town Election are called in the same warrant, only one registration session is needed 20 days prior to first event)
- 10 days prior to a Special Town Meeting
- This can lead to issues when a Special Town Meeting and an Annual Town Meeting are held on the same night, i.e., some of the attendees may not be qualified to vote in the Annual – **how do you handle this?**

# Timeline of a Town Meeting- Before the Meeting – The Space

- Town Meeting must be held within the geographic limits of the Town, unless the Town has a charter, special act or bylaw allowing Town Meeting to be held outside of the geographical limits of the Town
- The charter, special act or bylaw can be specific (i.e., the Regional School) or general
- Arrangements must be made with the entity with authority over use of the building (often the School Superintendent's office), hiring of chairs, audio-visual system, overflow location, etc. – **whose responsibility is this?**
- Depending on the Town, the Town Meeting warrant and back-up materials must be printed and mailed, posted, published, etc. – **whose responsibility is this?**

# Timeline of a Town Meeting – At Town Meeting – Voter Check-in

- Voter check-in
  - Tables must be staffed for voters to check in
  - Materials needed include voter lists, affirmations of current and continuous residence,
  - Electronic lists?
- Process for separating voters from non-voters
  - Cards
  - Separate seating location
  - Special Town Meeting voters
  - Other methods?
- Space issues – i.e., if the location is filled to capacity, another space needs to be used; how is this handled for voter check-in?

# Timeline of a Town Meeting – At Town Meeting – Parliamentary Procedure

- Town Meeting Time - written by Massachusetts Moderators, tailored to Town Meeting
- Robert's Rules – written for different types of parliamentary bodies, often more difficult to “adapt” to Town Meeting
- Note, however, that Town Bylaws and Charter often include provisions concerning the parliamentary procedure to be used at Town Meeting, such as putting limits on reconsideration, establishing quorums, rearranging the order of precedence for motions
- There is always some debate about how rigidly, or how liberally, a Moderator should apply the rules found in parliamentary manuals

# Timeline of a Meeting – At Town Meeting – Moderator

- Duties include (G.L. c.39, 15):
  - Regulates the proceedings
  - Decides all questions of order
  - Makes public declaration of votes
  - Declares 2/3 vote if Town has voted to do so at that meeting or has a Bylaw or Charter provision so providing
- Unless otherwise specified, seven voters may question the vote declared, and the vote must be counted
- May on own initiative continue the meeting for a period of no more than 14 days if determines that voters are being excluded (G.L. c.39, 10)



# Timeline of a Meeting – At Town Meeting – Moderator, cont.

- If the Town Clerk cannot be present, first order of business is to elect a Temporary Town Clerk – remember, this is an election!
- If Moderator cannot be present at all, Town Clerk must preside over the election of a Temporary Moderator – remember, this is an election!
- If the Moderator has a conflict, the Moderator may “designate” someone to act in the Moderator’s place unless objections are raised (they are generally not)
- Moderator may actually have a person removed if they refuse to stop talking when asked (and many Moderators will act on this authority)



# Timeline of a Meeting – At Town Meeting – Moderator, cont.

- Moderator is also responsible for counting the vote when necessary (i.e., if a motion is made for a counted vote, if the Moderator is unsure of a voice vote, if a counted vote is required by bylaw, or if 7 voters question the vote)
- In some towns, the Clerk appoints the “tellers” who help with a counted vote, in other towns, the Moderator does – all tellers must be sworn

# Timeline of a Meeting – At Town Meeting – Clerk

- Clerk is responsible for recording all votes taken – so the Clerk must know the motion that is being made
- In some towns, the Moderator requires that all motions be in writing to ensure that the record is accurate
- Clerk is responsible for creating minutes of Town Meeting, including, perhaps, a record of all persons speaking at the meeting, motions made, persons making and seconding motions, significant debate, etc.
- Clerk often helps the Moderator determine who wishes to speak and in what order
- Actual role of Clerk varies, based upon tradition and personalities, i.e., relationship with Moderator



# Timeline of a Meeting – At Town Meeting – Clerk, cont.

- Clerk administers secret ballot process; may have voting machines present and yes and no ballots, or may use paper ballots and count result by hand
- In some towns, voters check-in again; in others they do not
- In Representative Town Meeting towns, Clerk assists with roll call votes
  - **TIP – Try to discuss these issues with Moderator prior to Town Meeting; if the Moderator has a preference as to how secret ballots or roll calls will be handled, it will be easier to prepare for the same**

# Timeline of a Town Meeting – Motions and Debate

- Motions are made under each article
- Main motion is the “first” motion under the article, and may either be positive or negative
- The making of main motions is often determined by practice or bylaw, i.e., the Chair of the Finance Committee, or rotating among the members of the Board of Selectmen
- Generally only one or two motions to amend may be made, and the motions to amend are voted in the order in which they are made, and then the underlying main motion, as amended
- Motions to amend are approved by majority vote



# Timeline of a Town Meeting – Motions

- Note that a motion must be on the floor for there to be debate with respect thereto
- The question of how involved the Moderator gets in helping a speaker varies; however, a voter who wants a “change” in an article, but doesn’t propose an amendment does not give Town Meeting anything to act on
- Generally, debate under the main motion is limited in nature; similarly, when a motion to amend is made, debate is generally limited to that motion to amend

# Timeline of a Town Meeting – Motions

- Motions may also be made that are procedural in nature, such as fixing the time to act on a particular article, fixing the method of voting, to end debate, to ask for a ruling on a procedural matter, to ask for a “point of privilege”
- Certain motions have precedence over others, as indicated in Town Meeting Time, Robert’s Rules, Town Charter or Bylaws
- Motion to “move the question” or otherwise limit debate requires approval by a 2/3 vote and is not debatable
- Generally, all articles must be acted upon before meeting can be adjourned; motion to “indefinitely postpone”, table, or pass over are all motions for no action



# Timeline of a Town Meeting – Motions

- Moderator's decision as to whether a particular motion is in order, or out of order
- There is a real difference between “adjournment” and “dissolution” of a meeting
- A session of Town Meeting must be “adjourned” to a time, place and date certain
- Once all the business of the meeting has been completed, the meeting may be dissolved – often an “old-timer” whose job it is dissolve the meeting (so, if there's a new Moderator, make sure they know!)



# Timeline of a Town Meeting – Motions - Reconsideration

- Reconsideration of a vote on an article can be tricky
- Often bylaw or charter provisions limit a motion for reconsideration to the current “session”, i.e., night, of Town Meeting (although they can also be silent on the issue)
- If a motion for reconsideration or notice thereof is not provided at that session of Town Meeting, the Charter or Bylaws might limit it from being raised at a different session
- Care should be taken by proponents or opponents of an article to ensure that they know the rules relative to reconsideration



# Timeline of a Town Meeting – After the Meeting – Effect of Votes

- Open Town Meeting – votes are final upon dissolution of the meeting (another reason to have a special town meeting if town typically defers financial articles to later in fiscal year)
- Representative Town Meeting – generally a period from 7 to 21 days in which Town Meeting votes are “stayed”; during that period a “referendum petition” may be filed to ask voters of Town as a whole to weigh in on matter decided by meeting

# Timeline of a Town Meeting – After the Meeting – Effect of Votes

- No state law applicable generally to referendum petitions
- As such, must look to special act creating representative form of Town Meeting or Charter
- Like any petition, specific number of signatures required; form of petition may or may not be mandated; deadline for filing different form of petition, different deadlines
- Different topics subject to referenda (excluded topics might be the budget, votes which are self executing, such as acceptance of a law or a gift, votes on zoning bylaws)

# Timeline of a Town Meeting – After the Meeting – Effect of Votes

- Note that a key question is often the form of the referenda question
- If not addressed in special act or charter, refer to Board of Selectmen (the Board is the entity that will place the question on the ballot), or Town Counsel, or both

# Timeline of a Town Meeting – After the Meeting – Records

- Town Clerk must keep permanent record of Town Meeting
- Often, full meeting minutes or at least warrant and votes are included in Town Report
- Certified copy of votes may be needed throughout the year for filing of special legislation, a taking, a land acquisition, filing of grant requests, for eligibility for matching grants

# Timeline of a Town Meeting – After the Meeting – Bylaws

- Before a bylaw becomes effective, it must be approved by the Attorney General and posted or published
- Town Clerk is responsible for submitting such bylaws to the Attorney General within 30 days of dissolution of Town Meeting
- AG has 90 days to review; may agree with Town Counsel to extend time period
- The procedures for submission of bylaws is on the AG's website, but the Town Clerk must file a certified copy of the bylaw, request for its approval, statement of explanation, and proof of compliance with procedural requirements



# Timeline of a Town Meeting – After the Meeting – Bylaws

- If the Town publishes the bylaws in a bulletin or pamphlet, it must be posted in at least five places; and, if divided into precincts, at one or more public places in each precinct
- In the alternative, bylaws may be published in newspaper of general circulation in the Town at least twice and at least one week apart
- Publication of a zoning bylaw must also include a statement that claims of invalidity because of procedural defects in the adoption or amendment of the bylaw must be made within 90 days of the posting or second publication and location at which copies may be had

# Timeline of a Town Meeting – After the Meeting – Bylaws

- Posting and publication may be dispensed with if the bylaws are sent to every occupied dwelling in the Town
- State law does not address who is responsible for posting or publishing, but it is generally the Town Clerk that performs such functions
- Once these requirements are met, the bylaws take effect
- General Bylaws become applicable on date they take effect
- Zoning Bylaws date “back” to the date they were approved by Town Meeting



# Timeline of a Town Meeting – After the Meeting – Bylaws

- Recent amendment relative to procedural defects with respect to adoption of zoning bylaws:
  - If AG finds a defect, sends notice to Town Clerk
  - Notice must be posted for a period of not less than 14 days and be published in the newspaper
  - Notice must state that any resident, owner of real property, or any other person entitled to notice of Planning Board hearing who believes defect was misleading or prejudicial may, within 21 days of publication, file written notice so stating with reasons supporting the claim
  - If no claim, Town Clerk must file certificate with AG
  - If a claim is made, Town Clerk must send notice of same to AG, enclosing claim
  - During this time, 90-day review period is stayed; when certificate is filed, 90-day period resumes; however, if certificate is filed within 10 days of deadline, then the review period is extended to the 10<sup>th</sup> day following receipt of the certificate.

# Timeline of a Town Meeting – After the Meeting

- Only Bylaws and Charter amendments must be sent to the Attorney General for approval after Town Meeting
- Other votes do not require any additional approval from the Attorney General, including petitions for special legislation
- While a petition for special legislation as approved by Town Meeting is “effective” after the dissolution of the meeting, the legislation itself will be effective only after enactment by General Court, and, if applicable, acceptance by voters

# [ Resources ]

Attorney General's Municipal Law Unit – Forms for  
submittal of bylaws, etc.

[http://www.mass.gov/ago/government-  
resources/municipal-law/forms-for-submittals.html](http://www.mass.gov/ago/government-resources/municipal-law/forms-for-submittals.html)

Town Meeting Time

<http://www.massmoderators.org/tmt.html>

Robert's Rules of Order

<http://www.robertsrules.com/>

<http://www.rulesonline.com/>



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