

From: Mallam, Norah (ETH) <norah.mallam@state.ma.us>
Sent: Monday, August 29, 2022 4:34 PM
To: HOMELY1@COMCAST.NET
Subject: Your inquiry

Dear Mr. Lucy,

I am writing in response to your request for advice pursuant to G.L. c. 268A, the conflict of interest law. This advice is based on the facts you provided in your written request for advice and on the facts you provided to me during our telephone conversation earlier today.

You wrote the following in your written request for advice:

I AM CURRENTLY THE VICE CHAIR OF THE TRURO ZONING BOARD OF APPEALS (ZBA). I AM ALSO A MEMBER OF THE TRURO CHARTER REVIEW COMMITTEE (CRC). THE CRC HAS BEEN TASKED WITH DECIDING IF THE ZBA SHOULD BE REMAIN AN APPOINTED COMMITTEE, AS IT CURRENTLY STATES IN THE CHARTER, OR SHOULD THE CHARTER CHANGE TO MAKE THE ZBA ELECTED. BOTH COMMITTEES ARE APPOINTED CURRENTLY BY THE TRURO SELECT BOARD. I AM NOT PAID AS A MEMBER OF EITHER COMMITTEE AND THE CHARTER COMMITTEE IS ACTUALLY AN ADVISORY BOARD TO THE TRURO SELECT BOARD. THE SELECT BOARD MAKES THE FINAL DECISION AS TO WHETHER OR NOT OUR RECOMMENDATION MOVES FORWARD TO TOWN MEETING FOR INCLUSION IN THE WARRANT FOR TOWN MEETING. AS A MEMBER OF THE ZBA, AM I ALLOWED TO SIT IN ON THE DISCUSSIONS, DISCUSS THE ISSUES AT THE MEETINGS AND PARTAKE IN VOTES ON THE MATTER OR DO I NEED TO RECUSE CONSIDERING MY CURRENT MEMBERSHIP ON THE ZBA? OR IS THERE A DIFFERENT AVENUE TO PERSUE?

As a member of the Truro ZBA, you are a municipal employee for purposes of the conflict of interest law. As a municipal employee, you must take care to comply with the restrictions under G.L. c. 268A, that apply to municipal employees. See [Summary of the Conflict of Interest Law for Municipal Employees](#). If as a member of the Truro Charter Review Committee (CRC), you are a member of a charter Commission established under Article LXXXIX of the Amendments to the Constitution, then you are not a municipal employee as a member of the CRC. However, if the CRC is not a Charter Commission established under Article LXXIX of the Amendments to the Constitution, then you are a municipal employee as a member of the CRC. See G.L. c. 268A, section 1(g) below.

The conflict of interest law will not prohibit you from participating as a member of the ZBA in any discussion or recommendation regarding whether the ZBA should be an elected board rather than an appointed board, provided you are able to be fair and impartial in your participation in this matter as a member of the ZBA and provided you file a 23(b)(3) disclosure of appearance of conflict of interest where you disclose that you are also a member of the CRC. You will need to file a disclosure of appearance of conflict of interest form in order to dispel any appearance of a conflict. For example, it may appear to a reasonable person who knows that you are a member of the both the CRC and the ZBA that you may act in an unfair or biased manner when discussing this matter as a member of the ZBA. The disclosure form is a public record and must be filed with your ZBA appointing authority before you participate in this matter. See [G.L. c. 268A, section 23\(b\)\(3\) disclosure form](#) and [instructions](#). Alternatively, if you are not able to be fair and impartial in your participation in this matter as a member of the ZBA, then you are required to abstain from participating. For additional information regarding section 23 of G.L. c. 268A, please see [Advisory 05-01: Standards of Conduct](#).

Additionally, if the CRC is not a charter commission established under Article LXXXIX of the Amendments of the Constitution, then you will also need to file a 23(b)(3) disclosure form with you CRC appointing authority where you disclose that you are a member of the ZBA, before you participate as a CRC member in any discussion regarding whether the ZBA should remain an appointed board or become an elected board. Please note, if the CRC is a charter commission established under Article LXXXIX of the Amendments to the Constitution, then you do not need to file a 23(b)(3) disclosure before you participate in discussions or recommendations regarding the ZBA as a member of the CRC.

During our telephone conversation, you stated that neither the ZBA nor the CRC receive any compensation. You also stated that neither the ZBA nor the CRC are going to discuss recommending that the Town provide a stipend or compensation for ZBA members in the future. As we discussed, if this should change, and if the ZBA or CRC are going to discuss potentially providing compensation or a stipend for ZBA members in the future, then you will need to either abstain from participating in this matter as a member of the ZBA and/or CRC, or you will need to call the Ethics Commission's Attorney for advice before you participate in the matter.

This email and your request for advice are confidential by statute. This means that you may disclose this advice to anyone you wish, but the Commission will not disclose this request or any other identifying information except in the circumstances set forth in 930 CMR 3.01(8).

G.L. c. 268A, section 1(g) " **Municipal employee** ", a person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent, or consultant basis, but excluding (1) elected members of a town meeting and (2) members of a charter commission established under Article LXXXIX of the Amendments to the Constitution.

Very truly yours,

Norah K. Mallam
Staff Attorney
State Ethics Commission
One Ashburton Place, Room 619
Boston, MA 02108
617-371-9500

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G.L. c. 268A, section 1(g) " **Municipal employee** ", a person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent, or consultant basis, but excluding (1) elected members of a town meeting and (2) members of a charter commission established under Article LXXXIX of the Amendments to the Constitution.

From: Janelle M. Austin <jaustin@k-plaw.com>

Sent: Thursday, December 3, 2020 11:55 AM

To: Charter Review <CharterReview@truro-ma.gov>

Cc: Jamie Calise <JCalise@truro-ma.gov>; John Giorgio <JGiorgio@k-plaw.com>; Lauren F. Goldberg <LGoldberg@k-plaw.com>

Subject: Charter Question

Bob,

You have requested an opinion regarding the possibility of, and process for, changing certain positions from elected to appointed. You ask further about potential implications of such changes.

In our opinion, in accord with the provisions of G.L. c.43B, §§10(a) and 13, adoption or amendment of a charter (whether through the statutory or Home Rule process) may be used to change any position from elected to appointed, excluding the Select Board and the Town Meeting, and regardless of whether that same position appears in the General Laws. Whether a board or position “should” be elected or appointed is a decision for the drafter and the legislative body. There are many factors to consider. The decision to appoint or elect a board is largely a policy decision and up to the Town’s discretion.

By way of background, a charter is a document that stands on equal footing with the General Laws with respect to certain matters. General Laws c.43B, §13 contains a number of local changes in government that are deemed “consistent with law”, including, but not limited to,

the provisions of any law relating to the structure of city and town government, the creation of local offices, the term of office or mode of selection of local offices, and the distribution of powers, duties and responsibilities among local offices. Such provisions may provide: that any particular local office shall be either elected or appointed; provided, however, that in any town having a board of selectmen the members of such board shall always be elected; provided, further, that in any city or town having a school committee the members of such committee shall always be elected; and provided, further, that in any town having a form of town meeting open to all of its registered voters the town moderator shall always be elected and in every other case all of the members of the legislative body shall always be elected...

For that reason, even if a General Law dictates the manner of selection and size of a board, a charter can change that, and such change is deemed consistent with state law. General Laws c.43B, §10(a) makes clear, however, that any changes “relating in any way to the composition, mode of election or appointment, or terms of office of the legislative body, the mayor or city manager, or the board of selectmen or town manager” cannot be changed, unless such a change is a result of a recommendation from an elected charter commission or a special act of the General Court.

Whether a position (other than Select Board, Moderator and School Committee) “should” be elected or appointed therefore is not fixed by the General Laws, and the Town may wish to consider the following in making a decision as to how to proceed.

1. History of Elections for that Office – How many elections for the particular office were contested in the last 10 years, including where there was a serious write-in candidate. How many appointments to the position have been made to fill vacancies? If there have been many contested elections and relatively few appointments, it would seem that there is a high level of interest in serving in the position.
2. Running for Office – If elections are not typically contested, and the same person is elected each year, questions may be asked as to whether there is sufficient interest in the position or whether people might be concerned about running for office (i.e., the actual process and campaign).
3. Qualifications for Office - Another issue that might be implicated if elections are not typically contested is whether the holder of the office needs specific skills to properly carry out the duties of that office. For example, the positions of Town Clerk, Town Accountant and Town Treasurer require particular

skills. Often, when such positions are elected, the voters are loath to make changes, and often no one will run against them. If this is the case, and there is concern that if and when that person retires, that the next person would lack necessary skills, is there interest in planning for the future by changing the position at this time to an appointed position?

4. Supervision with respect to Personnel Matters – It may also be appropriate to consider what level of daily support or supervision the office requires. Oftentimes, when the working conditions in one office are different than in other offices, resentment and frustration can result (i.e., the employees of one office work remotely). Be reminded that the statutory duties of the board or office, and the complexity or discretionary nature of them, should not be affected by a change of position from elected to appointed. For easy examples only, consider that regardless of whether the Town Treasurer is elected or appointed, municipal finance laws still apply. Similarly, regardless of whether the Conservation Commission is elected or appointed, the Commission will still be required to apply the standards set forth in the Wetlands Protection Act and relevant regulations.
5. Conflict of Interest Issues – Be reminded that elected officials are never permitted to “waive” a financial interest in a particular matter, and must recuse themselves from such matters or violate G.L. c.268A, §19, with serious repercussions. In contrast, an appointed official or employee with a financial interest in a matter can request a waiver from their appointing authority. The appointing authority may approve such a waiver if they find e “that the interest [disclosed in writing by the appointee prior to participation] is not so substantial as to be deemed likely to affect the integrity of the services which the municipality may expect from the employee...”

If you have any further questions, or would like to discuss, please do not hesitate to contact me or Attorney Lauren Goldberg.

Very truly yours,
Janelle

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**CHARTER REVIEW COMMITTEE - MEETING AND PUBLIC HEARING MINUTES
THURSDAY, AUGUST 25, 2022**

Meeting conducted via Virtual -WebEx – recorded and available for reviewing at the following link:
<http://trurotv.truro-ma.gov/CablecastPublicSite/show/5491?channel=1>

A quorum of committee members present:

Nancy Medoff - Chair, Robert Panessiti – Vice Chair, Michael Cohen, Chris Lucy, Raphael Richter, Meg Royka.

Chair Medoff called the meeting to order at 4:15 PM and invited the public to call in and provided the necessary information to do so.

Public Comment Period – took place at the beginning of the meeting. No activity took place.

Agenda Item – Approval of minutes from the Charter Review Committee meeting from Thursday, July 21, 2022

Chair Medoff asked if there were any amendments to the minutes. Having none, a roll-call vote was taken to approve the minutes as written.

Agenda Item – Action & Continued Discussion to Section 6-4-2 and Citizen’s Petition for the Board of Health change from appointed to elected:

- Chair Medoff welcomed Tracey Rose, BOH Chair and asked Tracey to share information on the BOH. Daily duties, their charge, the makeup of the Board, obstacles, learning curve. Etc.
- Q & A session followed with members of the Board and the BOH Chair.
- BOH Chair Rose does not support a charter change from appointed to elected.
- Bob Panessiti led a discussion around the framework being used by the CRC for considering elected and appointed offices from the Edward J. Collins Jr. Center for Public Management at UMASS Boston. The town did not hire ECCPM for his presentation.
- Sixty minute discussion among the Board on the merits of elected versus appointed for The Board of Health
- Brian Boyle expressed concern regarding water quality and an appointed Board.
- Chair Medoff suggested a follow up to Brian Boyle’s concern regarding the town water quality long term, with the Water Resource Oversight Committee currently disbanded, perhaps approaching the Select Board to reinstate that Committee.
- Chair Medoff asked each Board Member to share their thoughts and indicate if any more information is needed for a vote.
- Bob Panessiti made a motion that the BOH should remain appointed versus elected. A roll-call vote was taken to approve the motion. Chair Medoff, Chris Lucy, Michael Cohen, Raphael Richter, Meg Royka all voted in favor, and Brian Boyle abstained.

Public Comment

- One town resident provided an opinion regarding the principles of democracy and the desire for more elected individuals for committees and boards versus appointed.

Agenda Item – Further discussion and brainstorm regarding public education with the Truro Charter and town government process, procedures and the charge for the Charter Review Committee

- Michael Cohen will forward the data he researched to Chair Medoff, who will then disburse to the CRC. 1. Massachusetts' Citizens Guide to Town Meetings. 2. A property tax video comparing Lawrence, MA & Arlington, MA.
- Bob Panessiti offered to research and provide the CRC with information from the Massachusetts Municipal Association (MMA) for additional data regarding this agenda item.
- Bob Panessiti recommended an additional public hearing with the Select Board to hear from the public and roll in the education component and offer a Q & A.
- Chris Lucy suggested ninety days before Town Meeting, the Select Board could explain to the Truro residents how to submit Warrant Articles.
- Chair Medoff suggested the CRC Select Board liaison for input in our next CRC meeting.

Agenda Item – New Business

- Chris Lucy suggested that 4-2-11 (Annual Public Meeting stating Goals and Objectives) be incorporated with the Planning Board.
- Michael Cohen suggested adapting this article for all Boards and Committees.

Agenda Item – Other Reports of Members

- Chair Medoff – suggested the CRC discuss the next citizen petition – ZBA elected versus appointed at next month's meeting. She will bring most recent opinion from Town Attorney to this discussion.
- Bob Panessiti – suggested getting the Cemetery Commission Chairwoman to join the discussion regarding their needs when this discussion takes place.

Agenda Item – Next Meeting Dates

- Thursday, September 22, 2022, at 4:15pm approved unanimously
- Thursday, October 20, 2022, at 4:15pm approved unanimously
- Thursday, November 17, 2022, at 4:15pm approved unanimously
- Thursday, December 15, 2022, at 4:15pm – date held only, not unanimous approval

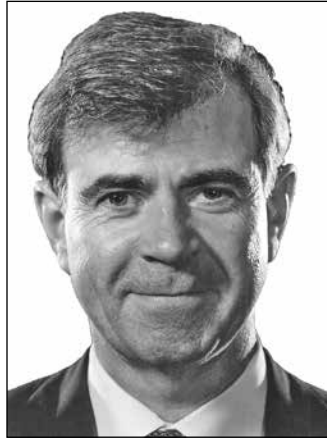
Bob Panessiti made a motion to adjourn the public meeting. Vice-Chair Medoff seconded and all approved on a roll call. The public hearing adjourned at 6:19 PM EDT.

Respectfully submitted,
Michael Cohen

Citizen's Guide to Town Meetings



Published by
William Francis Galvin
Secretary of the Commonwealth
Citizen Information Service



*An Important Message for all
Massachusetts Town Residents,*

The purest form of democratic governing is practiced in a Town Meeting. In use for over 300 years and still today, it has proven to be a valuable means for many Massachusetts taxpayers to voice their opinions and directly effect change in their communities. Here in this ancient American assembly, you can make your voice heard as you and your neighbors decide the course of the government closest to you. This booklet outlines the forms and procedures used in Massachusetts Town Meetings. As the Commonwealth's information officer, I urge you to read it and make use of it as you engage in the debates and votes that give shape to your Town Government.

William Francis Galvin

William Francis Galvin,
Secretary of the Commonwealth

TABLE OF CONTENTS

Introduction	1
Town Meeting Basics	1
Open Town Meetings and Representative Town Meetings.....	1
Annual and Special Town Meetings	3
The Warrant	5
How Town Meetings Operate.....	6
Participating in Town Meetings	7
Procedure and Motions.....	9
After the Representative Town Meeting Dissolves	10
Bibliography	12
Acknowledgments	12

INTRODUCTION

Each town has a different way of running its Town Meeting, depending on its bylaws or charter. Sometimes the customs and traditions are written down; sometimes they are not. This guide is a general outline of the Town Meeting Basics, some of the procedures may be used in one town and not another. This guide is not intended to be an all inclusive text, but a broad overview designed to encourage you to find out more and attend your own Town Meeting. If you have any questions regarding the specific procedures employed by your town, please contact your Town Clerk or Town Meeting Moderator.

TOWN MEETING BASICS

What is a Town Meeting?

A Town Meeting is both an event and an entity. As an event, it is a gathering of a town's eligible voters, and is referred to as "the Town Meeting." As an entity, it is the legislative body for towns in Massachusetts, and is referred to simply as "Town Meeting." So you may say, "I went to the Town Meeting. Town Meeting approved the budget."

Do cities have Town Meetings?

No. A city's legislative body is called a city council or a board of aldermen. Citizens do not govern a city directly.

What's the difference between cities and towns? Size?

Municipalities decide whether to have a city or town form of government. Size is one factor in the decision. Towns with less than 12,000 inhabitants cannot adopt a city form of government.

Do all towns have Town Meetings?

Most but not all towns have Town Meetings. A few towns are governed by town councils. In sum, no cities have Town Meetings and most towns do have Town Meetings.

What does Town Meeting decide?

Town Meeting decides three major things:

- It sets the salaries for the elected officials.
- It votes to appropriate money to run the town.
- It votes on the town's local statutes, which are called by-laws.

OPEN TOWN MEETINGS AND REPRESENTATIVE TOWN MEETINGS

What's an open Town Meeting?

An open Town Meeting means that all of the town's voters may vote on all matters.

What's a representative Town Meeting?

In a representative Town Meeting, also called a limited Town Meeting, all of the town's voters may vote for what are called Town Meeting Members. After the voters elect the Town Meeting Members, the Town Meeting Members conduct and vote on the rest of the Town Meeting's business.

Other than who may vote, do open Town Meetings basically operate the same way as representative Town Meetings?

Yes.

How many Town Meeting Members does a representative Town Meeting have?

Apportionment of a precinct is based on Massachusetts General Law, town charter or a special act. The total elected representative Town Meeting membership can be as few as 45 or as many as 240. The actual number of the membership is calculated in approximate proportion to the number of inhabitants in each precinct to the total number of inhabitants in the town.

How is it determined whether a town has an open Town Meeting or a representative Town Meeting?

Towns with fewer than 6,000 inhabitants must have an open Town Meeting. Towns with more than 6,000 inhabitants may adopt either form of Town Meeting at their discretion.

How are Town Meeting Members elected?

Town Meeting members are elected within precincts by ballot at the Annual Town Election. One-third of the Town Meeting Members are elected for 3 years, one-third is elected for 2 years and one-third is elected for 1 year at first election after adopting a representative Town Meeting or re-districting. Thereafter each member is elected for a 3 year term.

Are Town Meeting Members elected by party?

No, Town Meeting Members are not elected by party. Elections are nonpartisan. The party affiliation of a candidate for Town Meeting Member does not appear on the ballot distributed at the Town Meeting.

How do I run for Town Meeting Member?

Most towns hold general elections. Voters go to their usual polling places and vote for Town Meeting Members.

If you are interested in running, you need to circulate nomination papers before the Town Meeting. Consult your town clerk for more details. You cannot show up at the Town Meeting and decide then and there to run for Town Meeting Member.

What's a moderator?

Generally, a moderator's job is to run the Town Meeting. Specifically, the moderator declares the outcome of all voice votes. Some towns have detailed by-laws governing Town Meeting procedure. Other towns leave a lot of discretion to the moderator.

Moderators are usually elected at the Town Election at which voters go to their regular polling places. The term of office is one or three years. When the elected moderator is absent, a temporary moderator may be elected at the Town Meeting.

What's a selectman or selectwoman?

Selectmen are a town's executive officers. Voters elect them to the Board of Selectmen, which usually has three or five members. Selectmen are authorized to call a Town Meeting provided that they have posted a warrant. In small towns, the Board of Selectmen runs the town and supervises town workers. In larger towns, the Board of Selectmen picks and supervises a per-

son, who, in turn, runs the town and supervises town workers. Depending on the town, that person has various authority, duties, and title. That person is known as the town manager, town administrator, executive secretary, or administrative secretary.

What does the town clerk do?

At the Town Meeting, the clerk records all votes and takes minutes. Town clerks are elected or appointed. In the event of all of the selectman/selectwomen resigning, the town clerk is authorized to call a town meeting.

What is a town counsel?

The town counsel is a lawyer who either works for the town as an employee, or is a private lawyer who counts the town among his or her clients. The town counsel often prepares the warrant (the Town Meeting's agenda). During the Town Meeting, the town counsel answers legal questions that come up. He or she is appointed by the selectmen.

What are ex officio members?

Ex officio (pronounced "o-fish-ee-o") members of a representative Town Meeting are granted membership because of the office they hold. For example, a town's by-laws might state that selectmen are ex officio members of the Town Meeting. That means that selectmen do not have to run for election as Town Meeting Members; they are already members because they have been elected to the office of selectmen.

What's a select committee?

A select committee is assigned to investigate and report back to the Town Meeting on a certain subject, or to undertake a certain substantive task. The moderator frequently appoints its chairperson and members. Select committees are also called special committees.

What's a standing committee?

A standing committee is a permanent committee. A town might have standing committees for the following areas: public works, planning and zoning, recreation, and personnel. The most important standing committee is the finance committee.

What does the finance committee do?

The finance committee prepares the budget in the months before the annual Town Meeting starts. It also prepares financial articles (which are agenda items). Its recommendations are advisory. In some towns, the committee is known as the warrant committee or the advisory committee.

Depending on a town's by-laws, members of the finance committee are appointed by the selectmen or moderator, or elected by voters or the Town Meeting. In many towns, the finance committee's report is distributed to all residences.

ANNUAL AND SPECIAL TOWN MEETINGS

What's the difference between annual and special meetings?

Each town must hold an annual Town Meeting. Additional Town Meetings are called special meetings. They may be called as many times during the year as necessary.

When are Town Meetings?

Annual Town Meetings, unless otherwise provided by special law or charter, must be held in February, March, April or May. The Board of Selectman may delay the annual meeting, but it must be completed by June 30th.

What does it mean when a Town Meeting is divided into an election and a business meeting?

Most towns elect officers on one day, and begin conducting other business on a later day. Many towns wait a week or more between the election of officers and the business meeting. A few towns may elect officers as early as November of one year, and conduct the business meeting in the next year. The Town Meeting and Town Election may be called on the same warrant, but are separate events. In the past Town Meetings and Town Elections took place on the same day as a single event, but that is not the case today.

What does it mean that some towns have two business meetings?

A town may divide its business meeting into two meetings. Towns that do so hold one business meeting at the beginning of the year. The focus is primarily on the budget, finances, and taxes. The second business meeting is held in the fall. It is still part of the annual Town Meeting. The focus is on zoning, planning and by-laws.

In sum....

November: Some towns hold elections.

January, February, March, April, May, June: Some towns that held elections in November and December hold business meetings. Some towns hold both elections and business meetings.

Fall: Some towns hold second business meetings.

How do I find out when the annual meeting will take place?

Watch your local newspaper. Signs are posted around some towns. In some towns, every citizen is notified at home. Check your town's website, if it has one. And you may always call town hall, ask for the clerk's office, and ask when the annual meeting will take place.

How do I find out about special meetings?

Special meetings, by their very nature, are not held at the same time every year. Watch your local newspaper and watch for signs posted around some towns. Some towns will notify you at home. The towns with websites usually announce special meetings on-line.

Who calls special Town Meetings?

Generally, the selectmen call special Town Meetings.

May voters call a special Town Meeting?

Yes, voters may call a special Town Meeting. Two hundred registered voters or 20% of the total number of registered voters, whichever is less in number, may request a special Town Meeting. The special Town Meeting must be held no later than 45 days after the Board of Selectmen receive the request.

What's the procedure for voters calling a special Town Meeting?

The requisite number of voters must sign a written request for a special Town Meeting. The format of the written request is flexible. Voters should include their addresses after their signatures.

Voters deliver the written request to the Board of Selectmen. The Board of Selectmen must then call a special meeting within 45 days.

May a special Town Meeting be called for more than one reason?

Yes, a special Town Meeting may be called for more than one reason. For example, a special Town Meeting could be called to consider amending the zoning code and buying a new fire truck.

THE WARRANT

What's a warrant?

The warrant lists a meeting's time, place, and agenda. A warrant is also known as a warning. A Town Meeting's action is not valid unless the subject was listed on the warrant.

When is the warrant available?

A warrant is available at least 7 days before an annual meeting, and at least 14 days before a special meeting.

How do I see the warrant?

It depends on your town and its by-laws. Warrants are posted in public places, published in the local newspaper, delivered to every residence, or a combination of all three. Towns with websites may publish their warrants on-line. If a town's by-laws do not specify the manner in which a warrant can be posted, the town must vote or the Attorney General must approve the manner in which the warrant is posted.

Who makes up the warrant?

The selectmen, who "issue" it.

What are articles?

Articles are items on the warrant. Appropriations for each town function or department may be in separate articles. Or one article on the warrant may propose appropriations for all necessary town expenses.

May voters place articles on the warrant?

Yes, voters may "insert" articles in the warrant. They have to do it before selectmen "close" the warrant.

To insert an article in the warrant for an annual Town Meeting, at least 10 registered voters of the town must sign a written request. The written request of registered voters for the insertion of subjects in town meeting warrants shall not be valid unless the required number of registered voters not only sign their names but also state their residence, with street and number, if any. Voters do not have to include their addresses after their signatures, but it is a good idea.

If you want a sample of an article to use to draft your article, go to town hall and ask for a copy of the annual report, or check if your town has a website and publishes the annual report there. The annual report will have warrants from the previous year's Town Meeting, which you can use as samples. For further assistance, contact the town clerk or town counsel.

Citizens may insert an article in the warrant for a special Town Meeting. Selectmen shall insert in the warrant for every special town meeting all subjects which shall be requested by 100 registered voters or 10% of the total number of voters, whichever is lesser.

HOW TOWN MEETINGS OPERATE

What is the quorum for a Town Meeting?

In an open Town Meeting, the minimum number of voters who may conduct business is established by the individual town's by-laws. The quorum in some towns is zero; if only a single citizen appears, the Town Meeting may start and conduct business.

In a representative Town Meeting, a majority of the Town Meeting Members may conduct business.

Who may attend?

Any member of the public may attend a Town Meeting.

Who may speak?

All of a town's registered voters may speak in an open or representative Town Meeting. In a representative Town Meeting, a registered voter who is not a town meeting member has a right to speak subject to conditions prescribed by the meeting.

Non-voters may speak at the discretion of the moderator or Town Meeting.

Who may vote?

In an open Town Meeting, the town's voters may vote.

In a representative Town Meeting only Town Meeting Members may vote on business matters.

Is the warrant the agenda?

Yes, the warrant generally states the things to be voted on, but the moderator may interpret the articles liberally.

Usually, the Town Meeting considers the warrant's articles in order. However, the moderator or Town Meeting itself may change the order. Some towns decide the order of warrants by lottery.

How do I know which article the Town Meeting is considering?

The moderator summarizes each article or reads it entirely before starting debate.

How is the budget considered?

The selectmen or appointed budget committee must print and distribute information regarding appropriations at or before the annual Town Meeting. Different towns handle the budget article differently. Towns have three general ways:

First: The moderator: reads a budget item; calls for a recommendation from the finance committee on that item; calls for debate on that item; and calls for a vote on that item. Then the moderator does the same with the next budget item.

Second: The moderator reads each budget item, but doesn't stop for debate. If a voter wants to debate an item, he or she calls out, "Hold!" or a similar word, depending on the Town Meeting. The moderator will "lay aside" that item, and get back to it later. After reading all budget items, the moderator calls for a vote on all items that were not laid aside. Then the moderator takes up budget items that were laid aside. The moderator calls for debate, possible amendments, and a vote on each item.

Third: The moderator summarizes the budget article. The chairman of the finance committee moves that the Town Meeting appropriate the money recommended in the finance committee's report. Then the moderator entertains motions to amend the budget article. When the Town Meeting has voted on all amendments, the Town Meeting votes on the finance chairman's motion as originally presented or amended.

PARTICIPATING IN TOWN MEETINGS

How do I vote?

Voters in open Town Meeting vote by various methods.

Voice vote. Many Town Meeting votes are by voice. The moderator asks that all in favor (everyone voting "yes") say, "Yea" (which is pronounced "yay"). Then the moderator asks that all opposed (everyone voting "no") say, "Nay." The moderator listens and decides which side prevailed. Voters who are unfamiliar with the difference between "yea" and "nay" may find this reminder useful: "Yea" and "yes" both start with "y." "Nay" and "no" both start with "n."

Show of hands. The moderator asks that all in favor raise their hands. Then the moderator asks that all opposed raise their hands. The moderator looks at the number of hands in general and decides which side prevailed. Or hands are counted.

Roll call. Voters are called by name and answer "Yea" or "Nay."

Standing vote or rising vote. All in favor are asked to stand or rise. They are counted. Next, all voters who are opposed are asked to stand. They are counted. This form of vote is also known as dividing the meeting.

Secret ballots. When voters vote by secret ballot is determined by a town's by-laws. In some towns, the moderator can call for a secret ballot. In some towns, if a certain number of voters request it, a vote will be by secret ballot. In other towns, a vote will be by secret ballot if 25 % percent of the voters present and voting ask for it.

Does a representative Town Meeting use the same methods of voting?

Yes, a representative Town Meeting does use the same methods of voting. However, a representative Town Meeting can take a vote by secret ballot only if 2/3 of the Town Meeting Members present and voting approve it.

Are there votes that cannot be taken by voice?

Yes, there are votes that cannot be taken by voice. Suppose that a town's by-laws require that 2/3 of the voters, not a simple majority, vote to approve the budget for it to pass. Unless the voice vote is unanimous in favor of the budget, the moderator will find it hard to determine if more than 2/3 of the voters said "yea." A vote requiring a super-majority (more than a simple majority) is usually decided by a vote other than voice vote.

What if I think that the moderator did not decide correctly a voice vote or an informal show of hands?

Stand immediately and say one of the following: "I doubt it," "I doubt the vote," or "I question it." If at least six other voters stand with you, the moderator must count votes more formally. The moderator must then verify the vote by polling the voters or by dividing the meeting or by the method provided for by the municipal by-laws.

How do I speak in debate?

If you wish to speak, stand up and wait for the moderator to acknowledge you. When the moderator acknowledges you, state your name, your precinct if you know it, and your address.

Speak about the topic being discussed. Don't speak about a previous topic (unless there is a motion to rescind or reconsider).

Make your comments to the moderator, not to the Town Meeting or individual Town Meeting Members.

For example, do not say, "I have something to say to the Town Meeting," or "Mr. Smith, you said something as a Town Meeting Member that I want to respond to." Instead, say something like, "Mr. Moderator, these are my thoughts on this article."

You may attack a previous speaker's argument, but do not attack a previous speaker. For example, do not say, "The previous speaker is dead wrong." Instead, say something like, "I disagree with the argument we just heard."

Try to avoid referring to previous speakers by name. For example, try not to say, "I agree with Mr. Jones' argument." Instead, say something like, "I agree with the argument that we can afford this budget item."

Since you make your comments to the moderator, you may not directly debate or ask questions of a previous speaker. For example, do not say, "Mr. Johnson, you say that we should make another exception to the zoning law. I'm asking you: When do we draw the line and stop making exceptions?"

Instead, say something like, "Mr. Moderator, we have heard the argument that we should make just one more exception to the zoning law. But I say it's time to stop making exceptions."

PROCEDURE AND MOTIONS

Do I need to know “parliamentary” procedure to attend a Town Meeting?

No, you do not need to know “parliamentary” procedure to attend a Town Meeting. The moderator will take care of it.

Are Town Meetings run according to Roberts’ Rules of Order?

Some are; some are not. Please consult your town clerk.

Does the majority always rule?

No, the majority does not always rule. Sometimes a super-majority (more than a simple majority) is needed for votes on some specific issues. For example, authorizing selectmen to purchase or take land by eminent domain requires a 2/3 vote.

Are a town’s by-laws the final word on how the Town Meeting runs?

No, by-laws may be suspended in some circumstances. A town’s by-laws themselves explain how to suspend them. It might require a 2/3 vote or a unanimous vote to suspend a provision in the by-laws.

Are the moderator’s rulings final?

In some areas, yes, the moderator’s rulings are final. In other areas, it is unclear whether a moderator’s ruling can be appealed. It depends on the practice of the moderator and Town Meeting. In Town Meetings where a moderator’s rulings are appealed, here is the usual procedure.

A voter or Town Meeting Member makes a point of order. The moderator rules on the point of order. A voter or Town Meeting Member then says, “I appeal from the ruling of the moderator / chair.” Someone else seconds the appeal. The moderator then announces a vote on the question, “Should the decision of the moderator be reversed?”

What do the following terms mean?

<i>The term...</i>	<i>means...</i>
dismiss an article to	defeat it
postpone an article indefinitely to	defeat it
take no action on an article to	defeat it
lay the question on the table	to kill or postpone (depending on the town) a measure
table the question	to kill or postpone (depending on the town) a measure
move the previous question	to cut off debate and vote on the issue at hand

What does a motion to take from the table mean?

Tabling a motion or laying a question on the table generally means to kill it, but it does not mean to kill it finally. To take an issue from the table means to consider an issue that the Town Meeting previously tabled.

If I’m not familiar with making motions, how do I make one?

Rather than make a motion that may require the moderator to untangle and decode it, stand up and ask the moderator from the floor how to make a motion to achieve what you want to do.

How do I call for a vote?

Move the previous question, which means to call for a vote. Under the by-laws of many towns, you must make certain motions, such as those involving money, in writing.

What's the difference between reconsideration and rescission?

A vote to reconsider a previous vote temporarily postpones final action on that vote. A vote to rescind a previous vote cancels it.

What's the difference among adjourning, recessing, and dissolving?

Dissolving the Town Meeting means that it is over until the next Town Meeting, which must be called by a new warrant. If the Town Meeting has not dissolved, but is taking a break, and will resume on the same day, it has **recessed**.

“Adjourning” is an imprecise word. It is sometimes used to mean “dissolving”; sometimes “recessing”; and sometimes that one day of the Town Meeting has ended, and that the Town Meeting will resume on a later day.

What does it mean to adjourn without day?

Adjourning without day means that the Town Meeting has dissolved. Adjourning without day is also called adjourning sine day (pronounced “si-nee day” or “si-nee die”). In other words, the Town Meeting has adjourned without setting another day to reconvene. A new warrant is needed to reconvene.

AFTER THE REPRESENTATIVE TOWN MEETING DISSOLVES

Do I have control over the votes of Town Meeting Members?

Generally, yes. In some towns, the votes of representative Town Meetings do not take effect until a certain number of days after the Town Meeting expires. In other towns, only votes on certain subjects do not take effect immediately.

In all towns, votes on the following subjects do not take effect for seven days, not counting Sundays and holidays: special appropriations of \$20,000 or more; establishing, abolishing, or merging town boards or offices; establishing a term of office for town officers; changing the number of a town board's members; adopting a new by-law and amending an existing by-law.

To try to overturn decisions described in the previous paragraph, voters may circulate petitions within seven days after Town Meeting dissolved. The petition must be signed by at least 3% of the town's voters, with their names and addresses. The petition must be filed with the selectmen.

To try to overturn other decisions by a representative Town Meeting, voters should check their respective towns' by-laws yes or no. No action of a representative town meeting can be reversed unless at least 20% of the registered voters vote to do such.

Petitions to overturn representative Town Meeting decisions go to the Board of Selectmen. The Selectmen then schedule an election at which the following question appears on the ballot: “Should the town vote to approve the action of the representative Town Meeting whereby it was voted [brief description of the vote]?” Voters go to the polls and vote yes or no.

For more details, look at your town's by-laws.

Where do I find the statutes governing Town Meetings?

Go to your local library. Ask to see the Massachusetts General Laws, chapters 39 and 43A. Parts of other chapters apply to Town Meetings, but chapters 39 and 43A are the major ones. Check with your town clerk if your Town Meeting is governed by special act or town charter.

Where do I get my town's by-laws?

Call your town hall and ask the clerk's office. When you ask for the by-laws, also ask if the Massachusetts Legislature has passed any law that applies specifically to your town or if your town has accepted any specific Massachusetts General Laws.

Where do I get my town's charter?

Ask the clerk's office or check your town's website.

Can I see a video of a previous Town Meeting?

Some towns videotape their Town Meetings. If you want to get a sense of a Town Meeting before you attend, find out if a videotape exists. Contact the town clerk's office, your local library, or your local cable television company.

Is there anything else I should get?

Some towns publish policies or guidelines, similar to this primer, in print or on-line. In some towns, it is part of the warrant or of the finance committee's report. In other towns, the local newspaper publishes such a primer as a newspaper article. In still other towns, the local League of Women Voters publishes a primer.

Should I check my town's website?

Yes! Your town's website might contain the warrant, minutes of past meetings, notices of special meetings, and a primer, such as this one.

To find if your town has a website, call your town clerk, or log on to www.state.ma.us/cc

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