

# UXBRIDGE TOWN MEETING

## For the Moderator – A Guide and Checklist

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June 2011

### **PURPOSE**

The intent of this document is to provide a guide to the moderator, boards and committees (along with anyone else interested) on the rules governing Town Meeting in Uxbridge. The information in this document was collected from the following sources:

1. Massachusetts General Law (MGL)
2. The Town of Uxbridge Charter
3. The Town of Uxbridge By-laws
4. Town Meeting Times, A Handbook for Parliamentary Law<sup>1</sup>
5. “Citizen’s Guide to Town Meeting”<sup>2</sup>

### **ANNUAL TOWN MEETING**

The Annual Town Meeting shall be held on the dates fixed by by-law.<sup>3</sup>

The spring session of the Annual Town Meeting shall be held at 7:00 p.m. on the second Tuesday in May and the fall session of the Annual Town Meeting shall be held at 7:00 p.m. on the third Tuesday of November<sup>4</sup>.

### **SPECIAL TOWN MEETING**

Special town meetings may be held in the manner provided by general law.<sup>5</sup>

#### *Citizen’s Request for Special Town Meeting*

Two hundred registered voters (or 20% of the total number of registered voters, which ever 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.<sup>6</sup>

### **INITIATION OF WARRANT**

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<sup>1</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001, published by the Massachusetts Moderators Association

<sup>2</sup> “Citizen’s Guide to Town Meeting”, William Francis Galvin, Secretary of the Commonwealth

<sup>3</sup> Charter, Article 2, Section 4

<sup>4</sup> By-laws, Chapter 125, Section 2

<sup>5</sup> Charter, Article 2, Section 5

<sup>6</sup> MGL Chapter 39, Section 10

Every town meeting shall be called by a warrant issued by the board of selectmen, which shall state the time and place at which the meeting is to convene and, by separate articles, the subject matter to acted upon.<sup>7</sup>

***Massachusetts General Law Chapter 39, Section 10:***

*Every town meeting or town election, except as hereinafter provided, shall be called in pursuance of a warrant, under the hands of the selectmen, notice of which shall be given at least seven days before the annual meeting or an annual or special election and at least fourteen days before any special town meeting. The warrant shall be directed to the constables or to some other persons, who shall forthwith give notice of such meeting in the manner prescribed by the by-laws, or, if there are no by-laws, by a vote of the town, or in a manner approved by the attorney general. The warrant for all town meetings shall state the time and place of holding the meeting and the subjects to be acted upon thereat.*

A Town Meeting's action is not valid unless the subject was listed on the warrant.<sup>8</sup>

The selectmen, who are responsible for setting the date of the meeting, should ascertain whether the moderator will be available for the desired date and should provide a copy of the warrant as soon as possible, to enable the moderator to study it with care and become familiar with the articles.<sup>9</sup>

Closing the Warrant

**ARTICLES**

The board of selectmen shall receive at any time petitions addressed to it which request the submission of any matter to the town meeting and which are filed by: (1) any elected town officer, (2) any multiple member body acting by a majority of its members, (3) any ten certified voters for a regular town meeting and any one hundred certified voters for a special town meeting, or any 200 certified voters as provided by General Law.<sup>10</sup>

The board of selectmen shall include on the warrant, for an annual town meeting, the subject matter of all petitions which have been received by it 60 days prior to the date fixed by by-law for the town meeting to convene, except in emergencies.<sup>11</sup>

The board of selectmen shall include in the warrant, for such special town meeting, the subject matter of all petitions which are received at its office on or before the close of the fifth business day following publication of a special town meeting.<sup>12</sup>

*Citizen's Petition*

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<sup>7</sup> Charter, Article 2, Section 6

<sup>8</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 12

<sup>9</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 44

<sup>10</sup> Charter, Article 2, Section 7

<sup>11</sup> Charter, Article 2, Section 7

<sup>12</sup> Charter, Article 2, Section 7

Annual Town Meeting – 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.

Special Town Meeting – Citizens may insert an article in the warrant for a Special Town Meeting. The 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.)

### **Notification**

Notice of every Town Meeting shall be given by posting attested copies of the Warrant therefor at the Town Hall, DPW Administration Building and all post offices in the Town of Uxbridge, which posting shall be no less than seven days before the day fixed for said meeting, and furthermore, one copy of the Town Meeting Warrant shall be mailed to each residence in the Town, subject to annual appropriation at the Spring Annual Town Meeting, and further notice shall be given in such manner as the Selectmen may determine.<sup>13</sup>

### **Public Hearings**

#### *Finance Committee*

The Finance Committee shall then hold a public hearing at least 14 days before such Town Meeting, upon all Articles, and a notice of such public hearing shall be given by posting a copy thereof at the Town Hall and at all post offices in the Town of Uxbridge and by advertising in a newspaper having circulation in the Town.

#### *Planning Board*

No zoning ordinance or by-law or amendment thereto shall be adopted until after the planning board in a city or town, and the city council or a committee designated or appointed for the purpose by said council has each held a public hearing thereon, together or separately, at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the planning board by the city council or selectmen or if there is none, within sixty-five days after the proposed zoning ordinance or by-law is submitted to the city council or selectmen. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of said hearing.<sup>14</sup>

### **Recommendations**

#### *Finance Committee*

After due consideration of the subject matter of the Articles in any Warrant, the Finance Committee shall make a written publicized report thereon at least five days prior to any Town Meeting, and shall also make such recommendations to every Town Meeting as it deems best to serve the interests of the Town.

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<sup>13</sup> By-laws, Chapter 125, Section 4

<sup>14</sup> MGL Chapter 40A, Section 5

## Finance and Fiscal Procedures

The report of the finance committee shall be printed and copies shall be made available for distribution to every person who shall request a copy thereof at the office of the town clerk, at the public library, and at other places in the town chosen by the finance committee for the convenience of the voters. The reports shall be available at least seven days before the town meeting is to act on any article contained in the warrant for said town meeting.<sup>15</sup>

## *Planning Board*

No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by a planning board has been submitted to the town meeting or city council, or twenty-one days after said hearing has elapsed without submission of such report.<sup>16</sup>

## **Timeline**

Annual Town Meeting

Special Town Meeting

## **TOWN MEETING**

### **Warrant**

The warrant must state the time and place of holding the meetings and the subjects to be acted upon.<sup>17</sup> No action at a town meeting is valid unless the subject matter is contained in the warrant. Every action taken at the meeting must be pursuant to some article in the warrant, and must be within the scope of such article.<sup>18</sup>

### *Meeting Time and Place*

The selectmen are required to designate the place of the meeting and therefore to provide adequate space and equipment.<sup>19</sup>

The town meeting may be held in one or more places; provided, that if it is held in more than one place, the places are connected by means of a public address system and loud speakers so that the proceedings in all such places may be heard and participated in by all the voters present therein.<sup>20</sup>

### **By-laws:**

#### **§ 125-5. Quorum of voters required.**

The number of voters necessary to constitute a quorum at any Town Meeting shall be 50 voters, provided however that a number less than a quorum may from time to time adjourn the same. This section shall not apply to parts of meetings which are devoted exclusively to the election of Town officers.

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<sup>15</sup> Charter, Article 6, Section 7(d)

<sup>16</sup> MGL Chapter 40A, Section 5

<sup>17</sup> MGL Chapter 39, Section 10

<sup>18</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p 12

<sup>19</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 46

<sup>20</sup> MGL Chapter 39, Section 10

If a quorum is present the moderator should firmly declare the fact and proceed with the business of the meeting. Moderators are entitled thereafter to assume a quorum is present unless and until the presence of a quorum is doubted. When an action has been completed it is too late to make a point of order that a quorum was not present when it was done. If, at any time, the point of no quorum should be raised and established, there is nothing further that the meeting can do but adjourn to a fixed time or dissolved.<sup>21</sup>

**§ 125-6. Distribution of warrants**

Copies of the Warrant for all Town Meetings shall be made available to the voters at all Town Meetings.

**§ 125-7. Regulation of participation**

The Moderator shall appoint an adequate number of tellers who by use of the voting list shall permit only registered voters to actively participate in any Town Meeting.

**§ 125-8. Moderator**

The Moderator shall preside over all Town Meetings, regulate the proceedings thereof, decide all questions of order and make public declaration of all votes.

**§ 125-9. Town Meeting procedure**

In all matters not otherwise specifically provided herein, Town Meeting procedure shall be determined by reference to Town Meeting Time, current edition.

**§ 125-10. Order of action on Articles**

The Articles of the Warrant shall be acted upon in the order in which they appear unless otherwise determined by the vote of the meeting.

**§ 125-11. Motions in writing**

All main motions and all motions having to do with the expenditure of money shall be presented to the Moderator in writing. All other motions shall be in writing if so directed by the Moderator.

**§ 125-12. Division of question**

If a motion is susceptible of division it shall be divided and the question shall be put separately upon each part thereof, if 10 voters so request.

**§ 125-13. Priority of motions**

When a question is before the meeting, the following motions, namely: 1) To adjourn; 2) To lay on the table; 3) The previous question; 4) To postpone to a time certain; to commit; recommit or to refer; 5) To amend; 6) To postpone indefinitely; shall be received, and shall have precedence in the foregoing order, and the first three motions shall be decided without debate. On proposed amendments involving sums of money, the larger or largest amounts shall be put to question first and an affirmative vote thereon shall be a negative vote on any smaller amount.

**§ 125-14. Manner of voting**

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<sup>21</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. pp 19-20

When a question is put, the sense of the meeting shall be determined, at the Moderator's discretion, by a show of Town Meeting voter cards or the voices of the voters, and the Moderator shall declare the vote as it appears to him/her. If the Moderator is unable to decide the vote by the show of Town Meeting voter cards or the volume of the voices, as appropriate, or, if his/her decision is immediately questioned by seven or more voters rising in their places for that purpose, the Moderator shall determine the vote by ordering a standing vote and he/she shall appoint two tellers to each voter section and they shall agree on the number of yes votes cast and the number of no votes cast in their respective sections before the counts are returned. The Meeting itself may, by majority vote, upon proper motion in due order, require that the vote on any motion shall be taken by a yes and no ballot vote which may be tabulated manually or electronically.

**§ 125-15. Limit of debate**

No person shall speak for more than 10 minutes on any question unless his/her time shall be extended by the Moderator.

**§ 125-16. Reconsideration**

A motion for reconsideration, once decided, shall not be reconsidered. *To pass, a motion to reconsider must receive the same percentage of votes as required to adopt the motion being reconsidered.* No motion to adjourn, to lay on the table, or for the previous question shall be reconsidered.

**§ 125-17. Committee reports**

All committees shall report as directed by the Town. If no report is made by the committee within a year of its appointment, that committee shall be automatically discharged unless in the meantime, the Town by an express vote thereon shall have granted an extension of time to that committee.

**§ 125-18. Completion of business**

No motion, the effect of which would be to dissolve the meeting, shall be in order until every Article in the Warrant therefor has been duly considered and acted upon. This shall not preclude the postponement of consideration of any Article to an adjournment of the meeting to a stated time and place.

**§ 125-19. Vote necessary to appropriate in Special Town Meetings**

At all Special Town Meetings a two-thirds vote shall be required to pass any Article involving the raising, appropriating, or the transferring of funds.

**§ 125-20. Declaration of two-thirds vote by Moderator**

Notwithstanding the provision of §125-14 of this bylaw and in accordance with the provision of MGL c. 39, §15, when a two-thirds vote is required by statute or bylaw the Moderator may decide not to take a count and declare the vote as two-thirds unless the decision is immediately questioned by seven or more voters rising in their places for that purpose, in which case the provisions of §125-14 shall apply.

**THE CAST OF CHARACTERS**

**Moderator**

*Powers and Duties:*

- The moderator shall preside and regulate the proceedings, decide all questions of order, and make public declarations of all votes.<sup>22</sup>
- If a vote so declared is immediately questioned by seven or more voters, he shall verify it by polling the voters or by dividing the meeting unless the town has by a previous order or by-law provided another method.<sup>23</sup>
- The moderator's authority is limited to ruling on procedural matters; the moderator does not have the power to rule on the legality of motions.<sup>24</sup>
- The one instance where the moderator may rule the motion out of order occurs when the moderator is aware that the mandatory conditions precedent have not been met.<sup>25</sup>
- No person shall address a town meeting without leave of the moderator, and all persons shall, at the request of the moderator, be silent. If a person, after warning from the moderator, persists in disorderly behavior, the moderator may order him to withdraw from the meeting, and, if he does not withdraw, may order a constable or any other person to remove him and confine him in some convenient place until the meeting is adjourned.<sup>26</sup>
- Moderators may vote in an open meeting, but it is never desirable and, except in two instances, never necessary for them to do so. They may vote to break a tie and, if a motion the moderator opposes would otherwise carry by one vote, he or she may vote against it, thus creating a tie and defeating it.<sup>27</sup>
- Whenever the moderator determines that voters are being excluded from the town meeting because there is no room for them in the places provided or that voters in attendance are being deprived of the opportunity to participate therein for any reason whatsoever, he shall either, on his own motion recess the meeting for any period during the day of the meeting or, after consultation with the members of the board of selectmen then present, adjourn the same to another date, not later than fourteen days following the date of said meeting, when places and facilities sufficient to accommodate all voters attending and to enable them to participate therein shall be available.<sup>28</sup>
- If the town counsel is present at the meeting, the moderator will usually consult with him or her on difficult questions. Town counsel may state an opinion to the meeting and the moderator will generally give town counsel's opinion substantial weight. However, procedural rulings at town meetings are made by the moderator, and the moderator is not bound by town counsel's opinion.<sup>29</sup>

## **Town Clerk**

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<sup>22</sup> MGL Chapter 39, Section 15

<sup>23</sup> MGL Chapter 39, Section 15

<sup>24</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p 65

<sup>25</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p 65

<sup>26</sup> MGL Chapter 39, Section 17

<sup>27</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 25

<sup>28</sup> MGL Chapter 39, Section 10

<sup>29</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 30

The town clerk shall serve as clerk of the town meeting, record its proceedings, and perform such additional duties in connection therewith as may be provided by general law, this charter, by-law or other town meeting vote.<sup>30</sup>

Record all votes passed at town meeting as declared by the moderator.

### **The Finance Committee**

The subject matter of all proposals to be submitted to a town meeting by warrant articles shall be referred to the finance committee by the board of selectmen at the earliest practicable time following their receipt by the board of selectmen. The finance committee shall report the action it recommends to be taken on the articles contained in a town meeting warrant, in writing, together with a brief statement of the reasons for each such recommendation. Provisions for the format and distribution of such report shall be made by by-law.<sup>31</sup>

*By-laws:*

#### **§ 35-4. Duty to study warrants and to act thereon**

All articles in any Warrant for every Town Meeting shall be referred to the Finance Committee for its consideration. The Selectmen, after drawing any such Warrant, shall transmit a copy by e-mail to the Committee Chairman and other Committee members, and by registered mail or by delivery in hand to each member of the Finance Committee. The Finance Committee shall then hold a public hearing at least 14 days before such Town Meeting, upon all Articles, and a notice of such public hearing shall be given by posting a copy thereof at the Town Hall and at all post offices in the Town of Uxbridge and by advertising in a newspaper having circulation in the Town. After due consideration of the subject matter of the Articles in any Warrant, the Finance Committee shall make a written publicized report thereon at least five days prior to any Town Meeting, and shall also make such recommendations to every Town Meeting as it deems best to serve the interests of the Town.

### **The Planning Board**

No zoning ordinance or by-law or amendment thereto shall be adopted until after the planning board in a city or town, and the city council or a committee designated or appointed for the purpose by said council has each held a public hearing thereon, together or separately, at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the planning board by the city council or selectmen or if there is none, within sixty-five days after the proposed zoning ordinance or by-law is submitted to the city council or selectmen. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous

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<sup>30</sup> Charter, Article 2, Section 9

<sup>31</sup> Charter, Article 2, Section 3

place in the city or town hall for a period of not less than fourteen days before the day of said hearing.<sup>32</sup>

No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by a planning board has been submitted to the town meeting or city council, or twenty-one days after said hearing has elapsed without submission of such report.<sup>33</sup>

### **Board of Selectmen**

The particular distinctive part which the selectmen play in a town meeting comes at the very beginning: it is they who set the time and place for the meeting and prepare and issue the warrant pursuant to which it is called. After that it is theoretically possible to dispense with them entirely.<sup>34</sup>

In Uxbridge, the practice is for the Board of Selectmen to make the motion on all articles except for citizen petitions and articles provided by other multiple member bodies.

### **The School Committee**

Each Massachusetts town has both a constitutional and a statutory obligation to support and maintain the public schools.<sup>35</sup>

The Massachusetts Educational Reform Act of 1993 includes school finance provisions establishing a minimum amount that shall be appropriated by each town for support of the schools.<sup>36</sup>

### **Select Committees**

Town meetings frequently establish committees either to investigate and report or to carry out substantive action. In the later case particularly, the powers of the committee should be clear so as to avoid litigation. The vote should, of course, set forth the duties of the committee and, in addition should include the how, the when and where: How is the committee appointed, and when and here does it report? .... There should also be explicit understanding as to whether the committee is to be an ad hoc group, to function until the completion of some specific task and then dissolve, or whether it is to function as a standing committee for the foreseeable future, with or without a sunset clause to provide for a future review of the continued need for the group.<sup>37</sup>

### **Constables**

The first duty of a constable in connection with the town meetings is the service of the warrant and the giving of the prescribed notice. During the meeting the constable may be called upon by the moderator to remove unruly citizens.<sup>38</sup>

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<sup>32</sup> MGL Chapter 40A, Section 5

<sup>33</sup> MGL Chapter 40A, Section 5

<sup>34</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 29

<sup>35</sup> Massachusetts, Chapter V, Section 11 and MGL Chapter 71, Section 34

<sup>36</sup> MGL Chapter 70, Section 6

<sup>37</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 36

<sup>38</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 40

## **Tellers**

Tellers are appointed by the moderator to assist in the taking a counted vote, and in some towns are sworn. If a teller indicates the likelihood of speaking on a controversial matter that person should not be appointed in order to eliminate any partiality in taking a counted vote.<sup>39</sup>

## **Strangers**

All members of a town's registered voters may speak in an open Town Meeting. Non-voters may speak at the discretion of the moderator or Town Meeting.

## **PROCEDURES AND MOTIONS**

### **Article for consideration**

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

### **Main Motions:**

#### **Motions**

All actions taken by a town meeting is taken by votes upon motions. An article is not self starting; it merely states out the limits of an area within which the meeting may act. Nothing affirmative may happen, and the moderator may not take a vote, unless someone makes a motion.<sup>40</sup>

After a motion has been read, it should be seconded with promptitude. By this is meant that a member, other than the mover, should address the chair with the phrase 'I second the motion' or equivalent.<sup>41</sup>

#### **Withdrawal**

The mover has a right to withdraw a motion, even though it has been seconded, if the moderator has not stated the motion to the meeting<sup>42</sup>. Once a motion is in the possession of the meeting, whether by a formal statement from the chair or informally by the commencement of debate, it may not be withdrawn without a majority vote or unanimous consent. After the motion has been voted on, it may not be withdrawn.<sup>43</sup>

#### **Reconsideration and Recession<sup>44</sup>**

Reconsideration alone is not final, but is merely a vote to give "further reflection, renewed attention, and more care deliberation" to the action to be reconsidered.

Rescission, on the other hand, is in effect a combination of a vote to reconsider and a vote to annul the previous action.

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<sup>39</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 40

<sup>40</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 61

<sup>41</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 63

<sup>42</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 118

<sup>43</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 65

<sup>44</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 77

### *Tradition against Reconsideration*

In many communities a tradition or practice has grown up through the years of shunning reconsideration, and in such communities the moderator will refuse to recognize a motion for reconsideration in the absence of some compelling circumstances that seem to justify a departure from the accepted practice.<sup>45</sup>

There are no reported cases in which the moderator's refusal to permit reconsideration has been questioned [by the courts]. The reason is that the most the court could do would be to order the town to hold another meeting to reconsider the matter. And the proponents to reconsideration can usually obtain another town meeting to reconsider the matter by collecting signatures on a petition, which is much quicker, cheaper and surer than litigation.<sup>46</sup>

### **Uxbridge By-laws - Priority of Motions**

Rank	Motion	2 <sup>nd</sup> Req.	Debate	Amend	Vote Req.	Reconsider
1	To adjourn	Yes	No	No	Majority	No
2	To lay on the table	Yes	No	No	2/3 <sup>rd</sup>	Yes
3	To move the question	Yes	No	No	2/3 <sup>rd</sup>	No
4	To postpone to a time certain; to commit; recommit or to refer	Yes	Yes	Yes	Majority	Yes
5	To amend	Yes	Yes	Yes	Majority	Yes
6	To postpone indefinitely <sup>47</sup>	Yes	Yes	No	Majority	Yes

### **To Amend**

The first amendment to a motion is called the primary amendment or amendment in the first degree. It may itself be amended. An amendment to the primary amendment is called the secondary amendment or amendment in the second degree. A secondary amendment may not itself be amended.<sup>48</sup>

All amendments must be in writing with copies to the Moderator and Town Clerk.

### **The Previous Question (To Move the Question)**

It requires a two-thirds vote for passage, and it cannot be reconsidered if adopted.<sup>49</sup>

### **Incidental Motions:**

<sup>45</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 86

<sup>46</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 86

<sup>47</sup> Town Meeting Times (page 92) "manuals say that this is the lowest ranking subsidiary motion and that it can be made only while a main motion, and no other, is pending".

<sup>48</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 94

<sup>49</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 103

### **Point of Order<sup>50</sup>**

A point of order resembles other motions in that it states a question, but, not being a motion, it need not be seconded; and whereas other questions are put to the meeting by the moderator, a point of order is decided by the moderator alone, without debate.

If the moderator needs factual information to decide a point of order, he or she should inquire of the appropriate officials, or of others. If the information is not available, the moderator should recess the meeting or ask that the matter be postponed until the information can be obtained.

### **Division of the Question**

By-laws – § 125-12

### **Separate Consideration<sup>51</sup>**

A motion for separate consideration closely resembles a motion to divide the question, but differs in two respects: (1) it may be applied to a proposition, such as a building code, which falls naturally into parts but which is so interrelated that the parts will not stand alone (as required by division); and (2) the action, if any, taken on each part is not final until the action on the whole proposition at the end.

After separate consideration of all the sections, the moderator states that the entire proposition is open to amendment, and whole paragraphs may be added at the end and further amended. Eventually, a final vote is taken on the whole.

### **Methods of Voting**

By-laws – § 125-14

### **Suspension of the Rules**

Rules relating to the conduct of the meeting, such as the order of business, may be suspended. By-laws which are merely directory may be suspended, but by-laws which are more than mere rules of parliamentary procedure cannot be.<sup>52</sup>

### **Privileged Motions:**

#### **To Dissolve**

The motion to dissolve requires a second, is not debatable or amendable, requires a majority vote and may not be reconsidered. It may be withdrawn. A motion to dissolve the meeting is not in order as long as any article in the warrant remains undisposed of.<sup>53</sup>

#### **To adjourn to a fixed time, or to recess**

The motion to adjourn to a fixed time or to recess requires a second, is debatable and amendable as to the dates and places, and requires only a majority vote<sup>54</sup>.

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<sup>50</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 110

<sup>51</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. pp. 114-115

<sup>52</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 120

<sup>53</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. pp. 131-132

<sup>54</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 130

## **A Point of No Quorum**

By-laws – § 125-5

### **To Fix the Time to (or at) which to Adjourn<sup>55</sup>**

The motion requires a second and a majority vote; may be debated, amended and reconsidered. The motion is not in order while a question is under debate.

### **Debate<sup>56</sup>**

No person should be permitted to speak at length unless a motion is pending. No person is to speak impertinently or beside the question, superfluously or tediously. No person is to use indecent language against the proceedings of the meeting, and no vote already passed is to be reflected on by anyone except on a motion to reconsider or rescind it. No one is to disturb another during a speech except for a point of order or question of privilege. No one is to stand up to interrupt the speaker, or pass between the speaker and the moderator.

*MGL chapter 39, Section 17*

No person shall address a town meeting without leave of the moderator, and all persons shall, at the request of the moderator, be silent. If a person, after warning from the moderator, persists in disorderly behavior, the moderator may order him to withdraw from the meeting, and, if he does not withdraw, may order a constable or any other person to remove him and confine him in some convenient place until the meeting is adjourned.

### **Conflict of Interest: Moderator**

The ability to preside fairly and impartially over a town meeting is fundamental for the moderator. If any matter comes before the meeting in which the moderator is interested, or appears to be interested, he or she should step down from the platform and designate someone else to preside during the consideration of and voting on that article.<sup>57</sup>

### **Votes:**

Attainment of a majority means that there are more voters in favor than opposed. Thus a tie vote means that a majority has not been achieved and the motion fail. Where a two-thirds vote is required all that is necessary for passage is the attainment of at least two-thirds of those present and voting.<sup>58</sup>

## **Money Articles**

Money articles at TM vs. STM

### **By-laws – § 125-15 Priority of motions**

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<sup>55</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. pp. 125-126

<sup>56</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 135

<sup>57</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. pp. 142-143

<sup>58</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 149

On proposed amendments involving sums of money, the larger or largest amounts shall be put to question first and an affirmative vote thereon shall be a negative vote on any smaller amount.

### **Budget Articles**

The budget is treated differently from town to town. There appear to be three general methods for dealing with it.<sup>59</sup>

1. The moderator reads a budget item; calls for a recommendation by the finance committee on the item; debate on that item; and calls for a vote on that item. Then the moderator does the same with the next budget item.
2. The moderator reads each budget item but does not 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.
3. The moderator summarizes the budget article. The chair of the finance committee moves that the town meeting appropriate the money recommended in the finance committee’s report. The moderator entrains motions to amend the budget article. When the town meeting has voted on all amendments, the town meeting votes on the finance chairman’s motions as originally presented or amended.

The first method is the equivalent of a complete division of the article; the second is a partial division; and the third is a main motion with amendments.<sup>60</sup>

### **Quantum to Vote:**

*Key Massachusetts General Laws (MGL) governing votes at town meeting*

- To adopt or change zoning by-laws, two thirds, MGL, Chapter 40A, Section 5
- To appropriate from the stabilization fund, two thirds, MGL, Chapter 40A, Section 5B
- To incur debt under a general or special act, unless otherwise provided therein, two thirds, MGL, Chapter 44, Section 2
- To pay unpaid bills of previous years which may be unenforceable because of the insufficiency of an appropriation, at the annual meeting, four fifths; at a special town meeting, nine tenths, MGL, Chapter 44, Section 64
- To appropriate money for the purchase or taking of land or easements generally, two thirds, MGL Chapter 40, Section 14
- To take or purchase land for a public domain, two thirds, MGL Chapter 45, Section 19
- To establish an historic district, two thirds, MGL Chapter 40C, Section 3
- To approved proposed amendments to a Town Charter, two thirds, MGL Chapter 43B, Section 10

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<sup>59</sup> Citizen’s Guide to Town Meeting, Secretary of the Commonwealth, pp. 12-13

<sup>60</sup> Town Meeting Times, A Handbook of Parliamentary Law Third Edition 2001. p. 55

## **Zoning**

Zoning ordinances or by-laws may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereinafter provided. Adoption or change of zoning ordinances or by-laws may be initiated by the submission to the city council or board of selectmen of a proposed zoning ordinance or by-law by a city council, a board of selectmen, a board of appeals, by an individual owning land to be affected by change or adoption, by request of registered voters of a town pursuant to section ten of chapter thirty-nine, by ten registered voters in a city, by a planning board, by a regional planning agency or by other methods provided by municipal charter. The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review.<sup>61</sup>

*No zoning ordinance or by-law or amendment thereto shall be adopted or changed except by a two-thirds vote* of all the members of the town council, or of the city council where there is a commission form of government or a single branch, or of each branch where there are two branches, or by a two-thirds vote of a town meeting;<sup>62</sup>

No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.<sup>63</sup>

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<sup>61</sup> MGL Chapter 40A, Section 5

<sup>62</sup> MGL Chapter 40A, Section 5

<sup>63</sup> MGL Chapter 40A, Section 5