

Town Meeting & Elections

Chapter 3

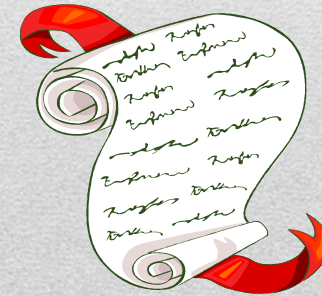
Warrant Preparation – Additional Considerations

1



- This chapter will cover the procedures for postponing or canceling a meeting for which a warrant has already been posted, policies on accepting articles for placement on a warrant, the order or arrangement of articles on a warrant, required and advisable annual articles, required information to appropriate money in secret ballot municipalities, and filling vacancies in municipal offices.

introduction





- If the warrant has not been up for 7 days, the municipal officers can vote to cancel the meeting and direct a constable or other resident to take down the warrant and any other materials that were posted and return them to the clerk for filing as a public record.
- The municipal officers should mark the original warrant “Canceled” and show the date of the vote. At least a majority of the municipal officers should sign that marking, especially if no record of the meeting exist where they voted to cancel.

canceling a meeting



- If the warrant has not been posted for 7 days, and there are at least 7 days remaining before the meeting, the original warrant can be taken down if the municipal officers vote to postpone the date at a properly noticed public meeting.
- The original can be replaced with a new warrant that has been approved by the municipal officers at a properly noticed public meeting, which states the new date and time, and is posted at least 7 days before the meeting it calls.

postponing a meeting

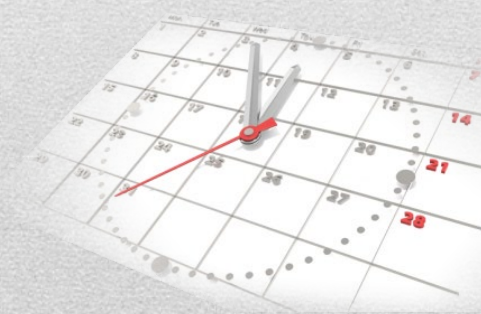


- If the warrant has been posted early enough but has not been up for 7 days, it is possible that enough time will remain to move the meeting to an earlier date.

advancing date of meeting

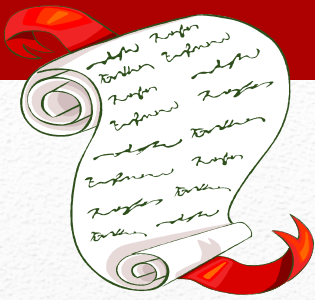


- If a warrant has been posted for 7 days or more, the meeting cannot be canceled, postponed or advanced, since the meeting has been properly called for the date and time announced by the warrant.
- After convening and electing a moderator, an open town meeting can be adjourned by motion and vote to a specified later date (postpone), or to adjourn without acting on any of the articles after electing the moderator (canceling).



point of no return





- State law dictates that the municipal officers have sole authority to determine what articles will be included in a warrant
- Title 30A contains provisions for a formal petition process whereby voters can compel the municipal officers to put an article on the warrant.

policy on acceptance of articles



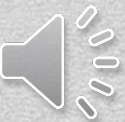
- Numerous non-profit organizations solicit funding from towns.
- It may be helpful to establish a policy for these entities, at least requiring a show of community support from any organization requesting funding, or for all to strictly follow the petition process.

appropriation requests



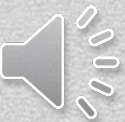
- After the election of the moderator in the first article, the second article will typically call for the election of officers, to include the office to be filled and the term of the office, and the number of persons to be elected to any board where more than one seat is to be filled.
- In a secret ballot election, the warrant must list the articles for elections of officials before any referendum questions, since the ballot must appear in this order.
- The warrant for an open town meeting can list one article for those to be elected by written ballot.

order of articles



- If the traditional date of an annual town meeting is changed by the municipal officers to a later date, the elected officers who are in office at the time of the change are ordered to remain in office until the election of their successors at the next meeting.

effect on changes of annual town meeting date on terms of elected municipal officials





- Any money spent must be appropriated by town meeting and must specify the source of the funds as well as the use to which they are to be put.

appropriation required to spend money



- Grant funds cannot be accepted or spent without authorization from the legislative body.
- Generally, legislative authorization is also required to accept and spend gifts of money or property.



grants and gifts



- In 2005, the state legislature enacted a law that places limitations on the amount of money that a municipality may raise through taxation (30-A 5721-A).
- This limit, known as the tax levy limit, or LD1 limit, is arrived at by multiplying the past year's core municipal commitment (total commitment minus school, county, TIF and overlay) by the municipality's growth factor (the growth of personal income and the new assessable real property).
- The tax levy limit can only be exceeded on a one-time emergency basis, where unexpected circumstances require increased expenditures; however, a vote to increase the levy limit may be implemented when the legislative body recognized that the municipality's fiscal needs are in excess of the tax levy limit.

tax levy limit



- To exceed the limit: To see if the town will vote to exceed the property tax levy limit established for (name of town) by state law, due to extraordinary circumstances outside the control of the legislative body, namely (state reason or reasons)
- To increase the limit: To see if the town will vote to increase the property tax levy limit of \$(insert limit), established for (name of town), by state law in the event that the municipal budget approved under the preceding articles will result in a tax commitment that is greater than the property tax levy limit.

Sample articles



- State law requires municipal treasurers to prepare a signed financial statement to accompany any question submitted to the electors for ratification of revenue bonds or general obligation securities.
- This requirement does not apply to borrowing in anticipation of taxes, state or federal revenue sharing, or state or federal aid since the municipal officers can accomplish this type of borrowing without need for voter approval; however many lenders believe this requirement for a disclosure to apply to any certificate of indebtedness, including promissory notes for short-term debt.

financial disclosure required for votes to borrow money



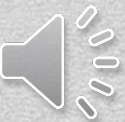
- Three requirements that apply in a secret ballot referendum if the article requests an appropriation of money (must appear on both the warrant the on the secret ballot):
 - The article must be accompanied by a recommendation of the municipal officers, even if the recommendation is “none”.
 - If the town has established a budget committee by an article or an ordinance adopted by the town meeting or by charter, the budget committee’s recommendation on the article must be printed along with the recommendation of the municipal officers.
 - If the proposed action affects the school budget, a recommendation of the municipal school board must be printed along with the municipal officers and budget committee (if applicable).

budget recommendations



- Budget and other recommendations should be separated from the text of the article to which they pertain, and the source of each recommendation should be clearly identified for both open town meeting articles and secret ballot articles and ballots.

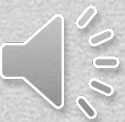
format of articles in relation to their associated recommendations





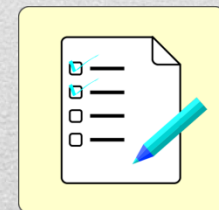
- An article seeking an appropriation can be written:
 - in an open-ended format (to see what sum the Town will vote to raise and appropriate), which can be amended from the floor to state any amount, or
 - with a cap or limit (to see if the Town will vote to raise and appropriate the sum of \$10,000), which can be reduced by amendment but cannot be increased above the stated figure

open-ended vs. capped money articles



- Authorization for expenditures in first quarter of next budget year
- Article language: *To see if the town will vote to authorize the municipal officers to spend an amount not to exceed 3/12 of the budgeted amount in each budget category for the ___ annual budget during the period from July 1, _____ to the annual town meeting OR annual budget meeting.*
 - This provides continuing spending authority for the municipal officers for expenditures made after the end of the budget or fiscal year being voted on in other parts of the same warrant, but before the next annual town meeting or meeting at which the next annual budget is adopted.

recommended warrant articles



- Interest rate of abated taxes
- Article language: *To see if the town will vote to set the interest rate to be paid by the town on abated taxes pursuant to 36 M.R.S.A. Section 506-A.*
 - If taxes are paid but later abated, the municipality must refund the abated taxes and pay interest on them. Title 36 Section 506-A says that the interest rate paid on overpayments may not exceed the rate set for delinquent taxes, nor be less than that rate reduced by 4%.

recommended warrant articles





- Closing or opening of roads to winter maintenance.
- Article language: *To see if the town will vote to authorize the municipal officers to make final determinations regarding the closing or opening of roads to winter maintenance pursuant to 23 M.R.S.A. Section 2953.*
 - Winter closings can be effected for a maximum of 10 years and must be ordered between May 1 and October 1 in any given year.

recommended warrant articles



- Authorization for disposal of municipal property
- Article language: *To see if the town will vote to authorize the municipal officers to dispose of town-owned property with a value of \$_____ or less, under such terms and conditions as they may deem advisable.*
 - This article avoids the possibility of having to call a special town meeting every time the town has property that they wish to sell or otherwise dispose of.

recommended warrant articles



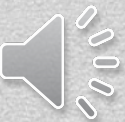
- Appropriation of snowmobile registration funds
- Article language: *To see if the town will vote to appropriate (all or some) of the money received from the state for snowmobile registrations to the (name) Club for the maintenance of their network of snowmobile trails, on condition that those trails be open to the public (in snow season/at all times) for outdoor recreation purposes at no charge, and to authorize the municipal officers to enter into an agreement with the Club, under such terms and conditions as the municipal officers may deem advisable, for that purpose.*
 - This money can be appropriated annually for any purpose, but if part is appropriated to a snowmobile club, one condition must be that the club's trails be open for public use, so that public funds would not be used for a private purpose.

recommended warrant articles



- Appropriation for unanticipated expenses
- Article language: *To see what sum of money, if any, the town will vote to authorize the municipal officers to appropriate from surplus as they deem advisable to meet unanticipated expenses and emergencies that occur during fiscal year _____.*
 - Municipal officers are required to keep their spending to within the budget line items established by the town meeting. Without an article like this, a special meeting would need to be called to obtain funds for an unexpected need.

recommended warrant articles



- Authorization to accept prepayment of taxes
- Article language: *To see if the town will vote to authorize the tax collector or treasurer to accept prepayments of taxes not yet committed, pursuant to 36 M.R.S.A. Section 506.*
 - This allows the town meeting to authorize the tax collector to accept payments of taxes that have not yet been raised by vote of town meeting, or that have been raised at town meeting but not committed for collection.

recommended warrant articles

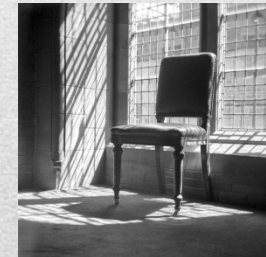


- Appropriation of money to fund tax abatements
- Article language: *To see what sum the town will vote to raise and/or appropriate to pay tax abatements and applicable interest granted during the ____ fiscal year.*
 - Although many communities use the overlay to pay for abatements granted, the municipal officers have no authority to spend the overlay without an appropriation vote.

recommended warrant articles

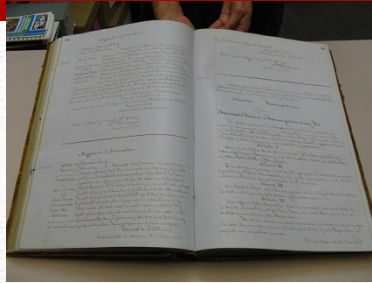


- There are various ways in which a vacancy arises, and various methods for filling those vacancies, which are found in 30-A M.R.S.A. section 2602
- Most vacancies in elected and appointed municipal offices are filled by appointment of the municipal officers for the remainder of the unexpired term.



vacancies in office





- The clerk should maintain a record of the status of every elected official and appointed municipal office.
- Clerks should maintain files with copies of certificates of election, letters of appointment, and records of oaths.
- Although not required, voluntary resignation should be given in writing and formally accepted by vote of the municipal officers.

vacancies in office – clerk's role



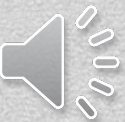
- Resignations
 - Elected officials should submit resignation to the municipal officers
 - Appointed officials should submit resignation to the original appointing authority
 - Submitted resignations can be withdrawn before the board or individual acts to either accept or takes steps to fill the seat
- Failure to elect
 - When no nominations are made for an office at open town meeting, or no one votes for a nominated candidate
 - In a town of 4,000 or less, no nominee gains a majority of votes in open town meeting, with repeated balloting
 - No one takes out papers and no candidate is written in on a secret ballot
- Failure to Qualify
 - The person elected to a position refuses to be sworn into that position within 10 days of being requested to do so by the municipal officers
- Removal from municipality
 - If an official who is required to be a resident in order to hold a specific position establishes legal residency outside of the municipality, the seat is deemed vacated, unless the move is only temporary
- Death

causes of vacancies



- 30-A M.R.S.A. Section 2602 details whether a vacancy can be filled by election or by appointment.
- A vacancy in the office of selectperson can only be filled by election.

**filled by election or
appointment?**



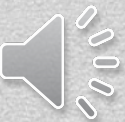
- The term for filling an interim vacancy between annual town meeting is usually for the remainder of the original term, not a full term.
- Municipal officers have discretion on whether to fill an office immediately after a vacancy occurs, or wait until the next annual town meeting.

term of replacement



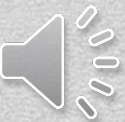
- The Maine Supreme Court has held that where the municipal officers have already filled a vacancy by making an appointment, no vacancy remains; therefore it is reasonable for the municipal officers to refuse to honor a petition calling for an election to fill that vacancy. *Googins vs Gilpatric (1932)*
- 30-A Section 2602 arguably allows a vacancy other than in the office of selectmen to be filled only by appointment of the municipal officers.
- If a valid petition for an election to fill a vacancy in the office of selectman is filed, that should probably be honored. If no petition is filed, and the remaining municipal officers constitute a quorum and they agree enough to effectively function as a board, they can continue without filling the vacancy.

petition for election to fill vacancy



- Since the tax assessment must be signed by at least a majority of the board of assessors, vacancies here must be filled quickly.
- Vacancies that occur between elections may be filled by appointment of the municipal officers.
- When there is a failure to elect a full board of assessors, the municipal officers are to serve as the board of assessors.

assessor





- An interim vacancy for a municipal school committee member, not an RSU, SAD, or CSD member, can only be filled by appointment by the remaining members of the school committee within 30 days, and that the term shall expire at the next annual meeting.

municipal school committee



- These vacancies are to be filled by appointment of the municipal officers, with a term to expire at the next annual municipal election, and until a successor is elected and qualified.

RSU and SAD board of directors



- These boards are more complicated. Refer to M.R.S.A. 20-A Section 1653, local counsel or MMA legal, since some may have been formed by Private & Special Act of the Legislature, which may have provisions concerning vacancies.



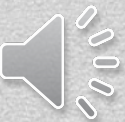
CDS boards



- Any municipality can by charter or ordinance apply rules that are different than those detailed in 30-A Section 2602, under Home Rule Authority.

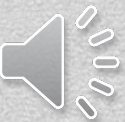


home rule authority to vary law regarding vacancies



- Certain positions that are elected by town meeting may have been created through a P&S Act of the Legislature, such as water district members.
- These laws may contain provisions that govern the filling of vacancies and how they can be filled.

private & special acts of the legislature



- How to cancel or postpone a meeting
- Who has the final authority of what appears on the warrant
- The order of the articles on the warrant
- Recommended warrants articles
- How to fill vacancies

Knowledge check





- You have reached the end of Module 3 of the Town Meeting and Elections class.
- For specific questions on any topic in this module, please contact the legal department at Maine Municipal Association, your town's attorney, or a clerk mentor.
- Please print this final page as proof of completion of this module.
- You may submit the final page to MMA along with the other eleven modules' completion pages to obtain a certificate to be used for certification points.

thank you

