

BELMONT TOWN MEETING HANDBOOK



This Handbook was prepared by Vincent L. Hennessey, Town Moderator from 1970 to 1978; it was revised in 1986 by Daniel Needham, Jr., the Town Moderator from 1978 to 1991, and was revised again from time to time by Henry L. Hall, Jr., who became Town Moderator in 1991.

BELMONT TOWN MEETING HANDBOOK

I. THE BELMONT REPRESENTATIVE TOWN MEETING

In 1926 the Town of Belmont adopted the plan of a limited or representative Town Meeting by accepting a special legislative Act (Chapter 302 of the Acts of 1926). This Act was amended by Chapter 710 of the Acts of 1969 which provided that the citizens of Belmont, then numbering some 27,000, should elect "as nearly 288 as may be" representatives to vote at the Town Meeting. In addition to those elected as Town Meeting Members, the Act provides for certain Town Meeting Members at large, namely, any member of the General Court from Belmont, the Moderator, the Town Clerk, the Selectmen, the Town Treasurer, Chairman of the Trustees of the Public Library, Chairman of the Planning Board, Chairman of the School Committee, Chairman of the Board of Assessors, Chairman of the Board of Health, and Chairman of the Warrant Committee. Obviously, therefore, some Town Meeting Members qualify in more than one capacity but the Act provides that "no elected member whose official position entitles him to be a member at large, shall act as a member at large during such time as he remains an elected member." The Act has been amended further by Chapter 16 of the Acts of 1995 and Chapter 18 of the Acts of 2005.

II. THE WARRANT

The By-Laws of the Town of Belmont provide for the business of the Annual Town Meeting to be held on the 4th Monday of April, three weeks after the Annual Town Election.

The Annual Town Meeting, as well as any Special Town Meeting, is called by a Warrant stating the time and place of the holding of the Meeting and the subject matter to be acted upon. Section 3 of the Act and Sections 2.3 and 2.4 of the General By-Laws require the Warrant to be posted in the Town Hall, mailed to the Town Meeting Members and copies to be made available at the Town Clerk's office and the Public Libraries. When a Meeting is adjourned, it is the duty of the Town Clerk under Section 2.5 of the By-Laws to post notice of the adjourned Town Meeting "as soon

as practicable after the adjournment." The notices so posted shall state briefly the business to be acted upon at the adjourned Meeting and shall include notice of any proposed reconsideration.

A. Insertion of Articles in Warrant

Preparation of the Warrant for the Town Meeting is the responsibility of the Board of Selectmen. An article may be inserted in the Warrant by the Selectmen, frequently acting at the request of a Town official, or by petition of a required number of voters.

If a citizen wishes to put an article in the Warrant for the Annual Town Meeting, he or she can simply write out the Article and have ten or more registered voters of the Town make a written request for its insertion. To place an article in the Warrant for a Special Town Meeting requires the request to be signed by 100 registered voters. (G.L. c. 39, § 10.)

Anyone wanting to insert an article in the Warrant may obtain the closing date of the Warrant from the Town Clerk. The closing date is variable and is established by the Selectmen. Such a person would be wise to consult the Town Counsel as to the proper wording of the Article he or she wishes to insert.

The Selectmen are required to call a Special Town Meeting upon the request of 200 registered voters, such meeting to be held not later than 45 days after the receipt of such request. (G.L. c. 39, § 10.)

B. Role of the Warrant Committee

Section 19.2 of the Town's General By-Laws, as amended, provides: "It shall be the duty of the (Warrant) Committee to consider for all town meetings all articles in the Warrant which involve an appropriation of money and to report thereon at the town meeting," and, further, that "The Selectmen shall immediately, upon voting to include in the Warrant any such article, transmit a copy thereof to the Committee which shall thereupon take the same under consideration." Section 19.2 also provides: "The (Warrant) Committee shall also consider and report upon other Warrant articles and other matters which, in the Committee's judgment, affect the financial interests of the Town."

A "short statement of the report and recommendations of the Committee" shall appear on the copies of the Warrant provided by the Selectmen for the Town Meeting Members.

The By-Laws further provide that the Chairman of the Warrant Committee, or someone designated by the Chairman, shall present or read the vote of the Committee containing its recommendations with reference to each article in question before any debate shall be in order on the article, and that he or she report the number of members of the Committee voting in favor or against the Committee's recommendation with respect to an article.

C. Role of the Capital Budget Committee

Article 13 of the General By-Laws establishes a Capital Budget Committee whose duty it is "annually to prepare a Capital Budget Report showing, for each of the six years next following, a list of those public improvements and non-recurring major equipment needs which, in its opinion, represent the most necessary and urgent projects or purchases to be undertaken by the Town during each such year. The report shall include the probable cost of each such improvement or purchase and the Committee's recommendation as to the method of financing them."

It is customary that the Moderator call upon the Committee for its report prior to discussion on any article calling for an appropriation to finance a public improvement or major equipment purchase.

D. Role of the By-law Review Committee

Article 25 of the General By-Laws establishes a By-Law Review Committee with the duty "to consider all articles in the Warrant for any town meeting which propose an amendment or addition to the General By-Laws."

Section 25.3 provides: "The Committee chairman or some member of the Committee designated by the chairman shall report to the town meeting such recommendations, if any, as the Committee shall consider appropriate with respect to any article in the Warrant which proposes an amendment or addition to the General By-Laws. The Moderator shall call upon the committee for such report prior to discussion or vote on such article."

III. ADMISSION TO FLOOR AND RIGHT TO SPEAK

The Town Meeting held for the transaction of Town business in Belmont is a "limited Town Meeting" and only elected Town Meeting Members are entitled to be admitted to that portion of the meeting place which is reserved for Town Meeting Members. Others may be admitted by invitation of the Town Meeting or the Moderator to the area reserved for Town Meeting Members. It is the custom in Belmont for Committee Chairmen, who expect matters to come before the Meeting of interest to their respective committees, to request that those members of their Committees who are not Town Meeting Members be admitted to the floor. Persons who are not Town Meeting Members are, of course, not entitled to vote. Other voters of the Town may attend as spectators but they are not admitted to the area reserved for Town Meeting Members except by invitation. The Act provides that "all town meetings shall be public."

The Act also provides: "Subject to such conditions as may be determined from time to time by the representative town meeting, any voter who is not a town meeting member may speak at any representative town meeting, but shall not vote." This, however, does not mean that a voter of the Town, who is not a Town Meeting Member, has all the privileges of the Town Meeting Member except that of voting. It does not mean that he or she is able to participate in the debate at will, nor does it mean that he or she is entitled to come onto the floor of the Town Meeting and seek recognition of the Moderator.

If a voter who is not a Town Meeting Member wishes to speak on a particular article, it is the practice in Belmont for such voter to inform the Moderator in advance of his or her desire to address the Meeting either personally or through a representative, and the Moderator arranges the opportunity for him or her to do so; or in the alternative he or she may have some Town Meeting Member request permission for him or her (or his or her representative) to speak. Such voter, who is not a Town Meeting Member, is not entitled to seek recognition personally from the Moderator during debate. This privilege is reserved for the Town Meeting Members.

Frequently some citizen who is particularly interested in an article in the Warrant, such as an article to amend a zoning bylaw affecting the citizen's property, will engage an attorney to represent him or her. Such attorney is, as a matter of courtesy, generally allowed to address the Meeting.

IV. ORDER OF BUSINESS AND PROCEDURE

The procedure at a Town Meeting is governed by the rules and regulations stemming from our Representative Town Meeting Act, the General Laws of The Commonwealth of Massachusetts (particularly Chapter 39), the By-Laws of the Town of Belmont, *Town Meeting Time*, by Johnson, Trustman & Wadsworth, and custom.

Before a Town Meeting begins, the Moderator is informed of the number of Town Meeting Members present and determines that there is a quorum. The Act provides that "100 town meeting members shall constitute a quorum for doing business; but a lesser number may organize temporarily and may adjourn from time to time."

The Moderator, after ascertaining that a quorum is present, calls the meeting to order. The Moderator then defines the limits of the hall, and appoints and announces the selection of Tellers. Usually there is an opening ceremony at the first session of the Annual Town Meeting including an invocation and a flag ceremony. The Moderator then asks the newly elected and reelected Town Meeting Members to rise so that the Town Clerk can administer the oath of office to them.

The Moderator makes certain that all Town Meeting Members have copies of the Warrant and announces that with the unanimous consent of the Town Meeting Members, he or she will ask the Town Clerk to read only the caption and return of the Warrant. If there is no objection, the Town Clerk will read the introduction and return of service of the Warrant without reading each printed Article.

It is at this point, as mentioned previously, that requests are made for certain persons, such as Committee members who are not Town Meeting Members, to be admitted to the floor.

The Moderator then usually makes a short statement regarding procedure and informs the Meeting that the Warrant Committee, the Capital Budget Committee or the By-Law Review Committee will report on certain Articles before any debate shall take place.

Finally, before proceeding to the articles, a preliminary motion is offered as to the order in which the Articles should be considered. Section 2.7.2 of the By-Laws provides: "Articles in the Warrant shall be acted upon in their order, unless the Meeting by vote otherwise determines." In Belmont, it has been the custom for the Selectmen, who have been responsible for preparation of the Warrant, to suggest such changes in the order of the articles as may seem advisable. This suggestion is placed upon a board for the Town Meeting Members to see before the Meeting begins. This change in order is usually readily accepted by the Town Meeting. Occasionally, during the course of a Meeting, particularly if an adjournment is to intervene, other changes may be made.

Article 1 of the Warrant for Belmont Town Meetings typically states "To hear the report of the Selectmen and other Town Officers. To hear the report of any Committee heretofore appointed and to act thereon." This article allows the Board of Selectmen and other town officers, boards and committees to report to the Town Meeting on appropriate matters not otherwise appearing in articles on the Warrant. The article stays "on the table" throughout the Town Meeting to allow Town Officials to report when necessary. Reports under Article 1 are for information only and are not subject to discussion or debate. Discussion and debate are limited to matters contained in a Warrant article. The business of the Meeting begins with Article 2.

A. Presenting of Motions

Our By-Laws (Section 2.7.3) provide that "all motions involving the expenditure of money shall be in writing" and that "any report, resolution or motion shall be reduced to writing if the Moderator so directs." Therefore, if a motion is to involve an expenditure, or is to be at all complicated, it should be reduced to writing. The Moderator will customarily require any motion to amend to be in writing to ensure that the record of the meeting is complete.

In Belmont, those responsible for the insertion of an article in the Warrant prepare, with the assistance of the Town Counsel, written motions for the articles in which they are interested, and the Moderator is apprised in advance of the Town Meeting of these motions. When this procedure has been followed, the motions so prepared have been carefully and well worded and determined to be within the scope of the articles involved. This practice has resulted in saving the Town Meeting valuable time which can be devoted to worthwhile debate.

As each article is taken up, the Moderator, having been informed in advance as to the person who will present the motion, recognizes such person. Since it has been ascertained that all Town Meeting Members have copies of the Warrant, the articles in the Warrant are announced only by number by the Moderator as they are taken up.

In Belmont, it has become the customary practice that the Town Meeting dispense with the seconding of main motions under articles as being superfluous. The Moderator, as a Town Meeting Member at large, is deemed to have seconded each main motion. However, on all other motions, except those which require no seconding under parliamentary procedure and custom, the second is required. In such cases, the requirement of a second avoids the spending of the Town Meeting's time on a motion which has no one in its favor but the mover.

After a main motion has been made under an article, the Moderator then asks for a report from the Warrant Committee, and from the Capital Budget Committee or By-Law Review Committee, if their recommendations are necessary, and then, and only then, is discussion on the motion in order.

If a Town Meeting Member wishes to speak, the Member stands up, and in a voice that can be heard says, "Mr. Moderator" or "Madam Moderator". When he or she is recognized, the Member should state his or her name and precinct number. The Member is then said to have "obtained the floor." During debate, a speaker will be required to address the chair first, and questions may be asked only through the chair. The debate must be confined to the motion under consideration. Any person must cease speaking and yield the floor at the Moderator's request.

A Member should not conclude a speech by offering a motion. The motion should precede the discussion. Particularly is this so when a speaker concludes a speech by a motion that will terminate debate, such as a motion for the previous question, or to lay on the table. In such case, the Moderator should decline to entertain the motion.

B. The Role of the Moderator and the Vote on Motions

The Moderator by statute (G.L. c. 39, § 15) is in charge of the conduct of a Town Meeting and "decides all questions of order." The Moderator is elected annually. Any vacancy in that office may be filled by the Town Meeting Members at a meeting duly called for that purpose. If the Moderator is absent from a Town Meeting, a Moderator *pro-tempore* may be elected by the Town Meeting Members. The Moderator is given broad powers under our statutes. Because of these broad powers given by these statutes, the Massachusetts Moderators Association takes the view that there is no appeal from the rulings of the Moderator.

A copy of Sections 15 and 17 of Chapter 39 of the Massachusetts General Laws is appended.

It is the duty of the Moderator by statute to make "public declaration of all votes."

Our By-Laws provide that unless otherwise provided by law, all votes shall be taken in the first instance by a "yes" and "no" voice vote, and that if the Moderator is in doubt as to the vote or if any Town Meeting Member immediately doubts the vote, the Moderator shall call for a standing vote, or for a roll call vote, provided a Town Meeting Member requests a roll call vote, and provided that 35 or more Town Meeting Members concur in the request and it is requested in connection with the final action upon any article in the Warrant. If a roll call vote is so requested, the Town Clerk shall record the "yes" and "no" votes so as to indicate the individual vote of each Town Meeting Member who shall have voted, and such record shall be made available to the public at the Office of the Town Clerk and shall be printed in the Town Report.

G.L. c. 39, § 15 requires the Moderator to verify the vote declared if it is "immediately questioned by

seven or more voters"; however, as noted above, our By-Laws require a count "if any Town Meeting Member immediately doubts the vote."

The vote required to pass a main motion depends on substantive law. As a rule, it is a majority of those present and voting on the question, but there are many instances where a statute requires some other proportion, such as two-thirds, four-fifths or even nine-tenths.

Some motions require a two-thirds, four-fifths or nine-tenths vote by statute, and some require a two-thirds vote by parliamentary procedure.

Under G.L. c. 39, § 15, it is provided that if a four-fifths or nine-tenths vote of a Town Meeting is required by statute, the count shall be taken, and the vote shall be recorded in the records by the Clerk; but if the vote is unanimous, a count need not be taken, and the Clerk shall record the vote as unanimous. The statute and 2.7.6.1 of our General By-Laws provide that if a two-thirds vote is required, the Moderator may declare the vote passed by a vote of at least two-thirds of those voting on the question in favor and a count need not be taken unless any Town Meeting Member doubts the vote. The Town Clerk shall record the Moderator's declaration that a vote passed by two-thirds in favor.

The Moderator is advised by Town Counsel as to the legal requirements of votes on the articles, whether a mere majority, or otherwise. However, as in the question of scope, it is the Moderator's ultimate responsibility to ascertain the requirements of a vote.

The Moderator in Belmont, being a Town Meeting Member at large by virtue of the office, is entitled to vote; but there are only two instances where it is necessary for the Moderator to vote. He or she may vote to break a tie, and, if a motion he or she opposes would otherwise carry, the Moderator may cast a vote, thus creating a tie and defeating the motion.

Once a motion is in the possession of the Meeting, whether by a formal statement by the Moderator or informally by the commencement of debate, it may not be withdrawn without a majority vote or unanimous consent. If it is obvious to the Moderator that the Meeting is willing to have a motion withdrawn, the Moderator usually can dispose of the matter promptly

by suggesting that unless there is an objection, it will be assumed that the motion may be withdrawn by unanimous consent.

Articles appearing in the Warrant may not be withdrawn without action being taken under them, but the Meeting may vote, under an appropriate motion, to take no action or "dismiss" the Article. In Belmont tradition, the motion to dismiss is treated as a main motion is debatable and requires a majority vote for passage. It is usually offered when it is determined that no affirmative action is necessary or warranted under an article appearing in the Warrant.

It is the function of the Moderator to determine whether a motion is within the scope of an article, that is, whether the article in the Warrant gives adequate legal notice of the subject matter of the motion. However, whenever there is any question concerning this, the Moderator will often seek advice of the Town Counsel. Since it is the customary practice of Belmont Moderators to go over the Warrant and the proposed motions with the Town Counsel prior to the Town Meeting, such questions can usually be anticipated, and the benefit of Town Counsel's advice already obtained. An unanticipated question of scope may arise, however, with respect to an amendment to a main motion that is proposed by a Town Meeting Member during discussion. In any event, in the last analysis the responsibility is that of the Moderator.

Scope is a substantive question rather than procedural. The basic rule may be stated as follows: "Since the purpose of the Warrant is to apprise the voters of the subject matter to be considered at the Meeting, all that is necessary is for the article to include a sufficient description of the subject matter to provide the voters with substantial and intelligent notice of the nature of the business to be acted upon." The article need not contain details of "an accurate forecast of the precise action which the Meeting will take." Matters incidental to and connected with the article are proper for consideration and action. Express limitations in an article may, however, limit the scope of action that may be taken under that article.

The words "or in any way act thereon", or a similar phrase, may allow a more liberal interpretation of the article but they should not be relied upon to justify any action that is not reasonably relevant.

Sometimes, "or in any way act thereon" serves as a basis for the appropriation of money necessary to carry out a motion which is successful; or after a motion under an article has failed, as a basis for a new motion under the article.

C. Order of Precedence of Certain Motions

Article 2 of the General By-Laws provides in part for procedure at Town Meetings in Belmont. Section 2.7.7 establishes the order of precedence for certain motions. It provides, "When a question is before the Meeting, the following motions shall be received and shall have precedence in the following order:

- To adjourn,
- To lay on the table,
- For the previous question,
- To postpone to a time certain,
- To commit, recommit or refer,
- To amend,
- To postpone indefinitely.

Motions to adjourn, to lay on the table or for the previous question shall be decided without debate."

Except for the motion to adjourn, which is called a "privileged motion," these motions listed in Section 2.7.7 of the By-Laws are called "subsidiary motions."

(1) Motion to Adjourn (not debatable - majority vote)

The word "adjourn" has been used indiscriminately to describe any action from a short recess to complete dissolution. The Moderator under the power to regulate the Meeting has the power to declare a short recess without motion. The authors of *Town Meeting Time* recommend that a distinction be made between "adjourned" and "dissolved"; that "adjourned" be confined to a temporary suspension of the Meeting, and that "dissolved" be used to refer to the final termination of the Meeting. This seems to be a valid distinction. However, if all the business of the Meeting is completed, an unqualified motion to adjourn will be treated as a motion to dissolve.

The importance of this motion to adjourn being given first rank under the By-Laws of Belmont is that

it obviates any parliamentary question as to its rank and when it can be made. Thus, if, at a late hour, the Town Meeting is struggling with an important question, the motion to adjourn can be made, and a hasty decision avoided.

Of course the motion to adjourn should fix a time and place for the adjourned meeting. If the business of the Meeting has not been completed, the Moderator should not accept the motion unless it specifies such a time and place.

(2) Motion to Lay on the Table (not debatable - 2/3 vote)

By custom in Belmont, Article 1 in the Warrant at the Annual and any Special Town Meeting is "To hear the report of the Selectmen and other Town Officers. To hear the report of any Committee heretofore appointed and to act thereon." It is also the custom after it has been moved that the reports of the Selectmen or Town Officials, Departments and Committees for the current year be accepted, to move "that Article 1 be laid on the table." The purpose of this latter motion is obvious. It is to temporarily defer or postpone discussion of any report that has been submitted, and to keep it on the table until it becomes of interest to the Town Meeting in connection with some later article in the Warrant. At that time, it can be "taken from the table."

On the other hand, when a "motion to lay on the table" is made after a main motion has been made, it may have one of two purposes: to temporarily defer debate, or to kill without further debate. If the motion to "lay on the table" carries, all pending motions go to the table with it. It is usually apparent to the Moderator whether the purpose is only to postpone debate or whether the purpose is to kill the article or motion involved.

If the purpose is only to delay debate, it is important for the Moderator to realize that a motion to adjourn is not in order until the motion which has been laid on the table is removed from the table and acted upon.

The authors of *Town Meeting Time* state that "through the years the motion to lay on the table has lost its original purpose of temporarily deferring a debate, and has come to be used as a motion to kill

without further debate. Accordingly, the Town Moderator should treat the motion as one made to suppress the debate and dispose of the question." Under such circumstances the authors of *Town Meeting Time* suggest a two-thirds vote should be required, and this procedure has been followed by the Moderators in Belmont.

It should be noted that if this view of the motion to lay on the table is taken, a motion to take from the table is equivalent to reconsideration and requires a two-thirds vote under the By-Laws of the Town of Belmont. (Such a motion to reconsider is subject to Section 2.7.8 of the By-Laws of Belmont, which is discussed later in this handbook.)

Except for the limited purpose of setting something aside to consider it later, such as a report, it seems better to use less ambiguous motions than the motion to lay on the table. Thus, it seems that if the purpose is to defer debate, it is preferable to move to postpone until after a subsequent article or to a time certain, which can be done by majority vote. If the purpose is to cut off debate, then it seems that the motion for the previous question is preferable (requiring a two-thirds vote). If the purpose is to have a Committee do more study of the problem involved, then there should be a motion to commit or to recommit to a Committee, which requires a majority vote.

(3) Motion for the Previous Question (not debatable - 2/3 vote)

The motion for the previous question is the method most frequently used to limit or cut off debate. Unlike the motion to lay on the table, it applies only to the motion immediately pending. This motion, like the motion to adjourn and the motion to lay on the table, is decided without debate and requires a two-thirds vote. It is in effect a motion to terminate debate on the motion then pending and to bring it to a vote.

(4) Motion to Postpone to a Time Certain (debatable - majority vote)

A motion to postpone to a time certain is preferable to a motion to lay on the table when its purpose is merely to defer debate. The motion specifies a particular time during the Meeting when discussion on the pending motion is to resume, such as "immediately following final action on Article X." It should not

specify a time on the clock, since it is not possible to predict with precision what the Meeting will be discussing at any particular moment.

(5) Motion to Commit, Recommit or Refer (debatable - majority vote)

A motion to commit, recommit or refer may be made only when a main motion is pending, or when one or more subsidiary motions of lower rank, e.g., to postpone indefinitely or to amend, or incidental motions arising out of any of these, are pending. A motion to commit or refer should specify the Committee to which it is committed or referred, and, if necessary, by whom the Committee is to be appointed or elected, its makeup, and it should also contain an appropriation for the Committee's expenses, if appropriate.

(6) Motion to Amend (debatable - majority vote)

A motion to amend may consist of adding, deleting or substituting words in the motion to be amended. The main motion must always be acted upon after a motion to amend. The motion to amend requires only a majority vote regardless of the vote required on the main motion. A motion to amend is itself subject to a motion to amend, which is called a secondary amendment. This secondary amendment may not itself be amended, but after it has been acted upon, a new secondary amendment may be offered. No more than one primary and one secondary amendment may be pending at one time. A secondary amendment is voted on before the primary amendment, and, of course, the primary amendment before the main motion.

Usually the motion to amend is applied to a main motion or to another motion to amend, but it may be applied to motions to commit, to postpone to a time certain or to limit debate.

(7) Motion to Postpone Indefinitely (debatable - majority vote)

A motion to postpone indefinitely under strict parliamentary procedure should be made only while a main motion, and no other, is pending. A motion to postpone indefinitely cannot be amended. In Belmont, this motion is treated like a motion to dismiss and has

a meaning simply that no action be taken under this article. It is not considered to be negative action. In Belmont, the motion to dismiss is often offered as a main motion by a Town official and usually indicates that those who inserted the article in the Warrant now consider no action is called for.

(8) Motion to Reconsider (debatable - 2/3 vote)

Section 2.7.8 of the Town By-Laws provides, "A motion to reconsider any vote must be made before the final adjournment of the meeting at which the vote was passed, but such motion to reconsider shall not be made at an adjourned meeting unless the mover has given notice of his intention to make such a motion, either at the session of the meeting at which the vote was passed, or by written notice to the Town Clerk by 12 o'clock noon on the first business day following the commencement of such session. There can be no reconsideration of a vote once reconsidered or after a vote not to reconsider it."

Some manuals and By-Laws provide that reconsideration may be moved only by one who voted on the side that prevailed on the first vote. Fortunately, this rule, which is so difficult to apply, is not the rule in Belmont. Our By-Laws provide that "in matters not specifically provided for by law or by these By-Laws, the Moderator shall be guided by the principles and rules of practice contained in *Town Meeting Time, A Handbook of Parliamentary Law* by Johnson, Trustman and Wadsworth." *Town Meeting Time* expressly indicates that this rule should not be followed.

Section 2.7.8 of the General By-Laws requires a two-thirds vote for reconsideration.

D. Procedure on the Budget

Articles 3 and 4 of the Warrant, by custom in Belmont, are the articles providing for the Town Budget. Each year they take the same form.

These Articles 3 and 4 are taken up together in reverse numerical order at or near the end of the Meeting upon motion by the Chairman of the Warrant Committee (Article 4) and by the Town Treasurer (Article 3). There is a budget table appearing at the end of the Warrant or on a separate document, to which the Moderator calls the attention of the Town Meeting Members.

The Moderator then informs the Town Meeting that as in previous years the Meeting will proceed by considering those items not already voted under special articles, taking them up under separate major headings; that the Chairman of the Warrant Committee will make appropriate motions under each heading; that the items under each heading shall be disposed of before proceeding to the next major heading; and that if any Town Meeting Member wishes to speak on any item under a particular major heading, the Member should indicate his or her wish to do so immediately after the Chairman makes his or her motion.

The Chairman of the Warrant Committee then proceeds to make the motions under the major headings as they appear on the Budget Table for the appropriation of the necessary funds (including the sums already appropriated under special articles which appear under that heading) specifying the source from which the necessary funds shall be obtained, whether by general tax, by transfer from surplus or from other accounts or sources.

As each motion is made on a major heading a Town Meeting Member who wishes to ask a question concerning any item under that major heading is given the opportunity to do so by the Moderator. If it is merely a point of information which the Member seeks, the Town Meeting Member is allowed by the Moderator to state what the question is.

A motion to amend is handled in the usual way and if it results in an amendment, then, of course, the figures are changed, and the budget amended accordingly.

Action on Article 4 is not considered final so as to require a two-thirds vote for reconsideration, or any other procedure relating to reconsideration, until all action on the Article is completed.

After all these motions by the Chairman of the Warrant Committee under these major headings have been acted upon, the Town Treasurer makes a motion under Article 3, recapitulating the appropriation of the sum total of the amounts already appropriated, and for the transfer of funds from and into the appropriate accounts.

E. Proposition 2½

The annual tax levy in Massachusetts is limited by G.L. c. 59, § 21C ("Proposition 2½"). Some Moderators have taken the position that they will not allow a motion, or amendment to a motion, that would have the effect of increasing the total appropriations for a fiscal year to be raised by taxation above the levy limit. Since the annual tax levy is determined only in part by the appropriations made by Town Meeting, with assessments such as those made by the MBTA or MWRA, the overlay determined by the Assessors and certain other items (which may or may not be known at the time of the Annual Town Meeting) also affecting the annual tax levy, Belmont Moderators have taken the position that they will not rule an appropriation motion out of order because it might cause the limit to be exceeded. It is also noted that only the Selectmen are empowered by the statute to call an election to consider an override of the Proposition 2½ levy limit. Our Moderators have considered it inappropriate for either the Town Meeting or the Moderator to take action to deny the Selectmen the exercise of their prerogative to call an override election in order to balance the budget. The Moderator should, however, call upon the Warrant Committee or other appropriate official to warn the Meeting of the potential effect of a motion that might cause the limit to be exceeded.

F. Action on Articles Which May Be Illegal

It is likely that on occasion articles will be inserted in the Warrant which are of doubtful legal validity, and an objection as to their validity may be made to the Moderator. It is the view of the Massachusetts Moderators Association that the Moderator should allow the Town Meeting to proceed on the article, and rely upon the proper authority, such as the Attorney General's Office or the Bureau of Accounts, to declare the action illegal. It is often appropriate for the Moderator to request the opinion of Town Counsel as to the legality of a doubtful motion.

G. To Dissolve or Adjourn Sine Die

In Town Meetings, a motion to dissolve the meeting (or "to adjourn without day"), is not in order as long as any article in the Warrant remains undisposed of. As pointed out earlier, a motion merely to adjourn should fix a time and place for the adjourned meeting. However, if all the business of the meeting is completed, an unqualified motion to adjourn will be treated as a motion to dissolve.

MASSACHUSETTS GENERAL LAWS CHAPTER 39

§ 15. Moderators; powers and duties

The moderator shall preside and regulate the proceedings, decide all questions of order, and make public declaration of all votes, and may administer in open meeting the oath of office to any town officer chosen thereat. 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. If a two-thirds, four-fifths or nine-tenths vote of a town meeting is required by statute, the count shall be taken, and the vote shall be recorded in the records by the clerk; provided, however, that a town may decide by by-law or vote not to take a count and record the vote if a two-thirds vote of a town meeting is required by statute; and provided, further, that if the vote is unanimous, a count need not be taken, and the clerk shall record the vote as unanimous.

A town may pass by-laws, subject to this section, for the regulation of the proceedings at town meetings. Such by-laws shall be approved and published in the manner prescribed by section thirty-two of chapter forty.

In any town having a representative town meeting form of government the town meeting members shall not use the secret ballot when voting in the exercise of the corporate powers of said town or on any motion unless two-thirds of the town meeting members present and voting thereon vote that a secret ballot be used.

§ 17. Powers of moderator; preservation of order

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.

