

Editorial Notes on *Town Meeting Time*, 4th edition
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Preface

This fourth revised and expanded edition of *Town Meeting Time*, drafted by an Editorial Board comprised of current and former town moderators and town counsel, endeavors to capture changes in town meeting law and practice since publication of the third edition in 2001, focusing the handbook specifically on Massachusetts.

Of general note, sections on new practices, as well as a new Chapter 12 addressing post-meeting considerations, have been added. Citations to Massachusetts statutory and case law have been updated. References to out-of-state practices and laws largely have been removed. The limited number of references to out-of-state court decisions retained for historical context have not been reviewed for current legal validity. References to nineteenth and early twentieth century parliamentary manuals originally incorporated in the first edition of *Town Meeting Time* have been eliminated unless important for historical context. References to unpublished papers and other materials no longer available have been removed. The text throughout has been edited for twenty-first century readers, with gender neutrality and, we hope, greater clarity and simplicity.

To simplify citation and facilitate future updates to the text of the handbook, the sections have been renumbered to be sequential within chapter rather than sequential from beginning to end of the book. For example, § 46 and § 47 now are designated as § 7.1 and § 7.2. A chart cross-referencing old section numbers to new chapter and section numbers is included in the handbook as an appendix. In addition, sections including multiple topics have been divided into separately numbered subsections.

Chapter 1: The Town Meeting

§ 1.1 History: the 4th edition discusses differences in town meeting procedures among towns, comments on the evolution of town meeting procedures over the centuries, and adds description of town meeting adaptations made during the COVID pandemic, including authorization of remote and hybrid conduct of representative town meetings.

§ 1.3. Necessity for Rules of Procedure: notes the limitations on applicability of Robert's Rules as a parliamentary guide for town meetings.

§ 1.4. The Warrant: adds extensive new material on citizens' petitions and articles seeking "home rule authority" through special state legislation.

§ 1.5. Special Town Meetings: new section including discussion of special town meetings called by petition.

§ 1.6. Two Town Meetings on One Night: new material added and now a separate section.

Chapter 2: The Participants

§ 2.2. The Moderator: adds a new subsection § 2.2.3, Challenges to the Moderator’s Ruling, summarizing the current law relating to the power of a moderator to regulate the proceeding of town meeting, noting in particular that, absent a bylaw to the contrary, there is no legal right conferred upon a voter to “appeal to the meeting” the ruling of a moderator.

§ 2.4. The Select Board and Town Administrator or Manager: adds new text describing the preliminary work relating to town meeting that is often delegated by select boards to town administrators and managers.

§ 2.8. Standing Boards, Committees, and Commissions is a new section outlining the role of town boards, committees, and commissions in town meeting preparation and participation.

§ 2.10. Constables, Checkers, Tellers, and Pages: new material added discussing electronic voting.

§ 2.11. Non-voters at the Meeting: retitled section, formerly titled “Strangers,” adds new material.

Chapter 3: Preliminary Considerations

§ 3.1. Preparation for the Meeting: has been divided into subsections.

§3.1.3. Consent Agendas: new section covering their creation and use.

§3.1.6. Physical Location and Equipment: includes material on electronic voting.

§3.1.7. Remote and Hybrid Meetings: new section.

§3.1.8. Accessibility Accommodations: new section.

§3.1.9. Pre-Meeting Activities and Forums: new section.

§3.1.10. Electronic Presentations and Written Materials: new section.

§ 3.2. Meetings in Multiple Locations: has a new lengthy footnote describing town meeting adaptations implemented during the COVID-19 pandemic.

§ 3.3. Opening the Meeting: has been divided into subsections with some new material.

§ 3.9. Broadcasting and Recording: material detailing methods for moderator’s regulation (or even denial) of recording of the meeting was deleted, reflecting changes in recording technology since the 3rd edition (enabling unobtrusive recording of meetings) as well as developments in analogous law regulating rights of individuals to record public meetings in the pursuant to the open meeting law.

§ 3.10. Emergency Postponement of Town Meeting: new section describing important changes in state law since the 3rd edition.

Chapter 4: Motions

§ 4.2. Seconding and Stating the Motion: Clarified that seconding is a custom rather than a legal requirement.

Chapter 5: Main Motions

§ 5.2. Detailed Affirmative Main Motions: Scope: Explanation has been simplified and made more accessible for both moderators and other municipal practitioners. New footnote addresses the special case of motions and amendments under the Community Preservation Act articles, under which town meeting generally is not permitted to increase an appropriation beyond the amount recommended by the town's Community Preservation Committee.

§§ 5.5-5.10. Reconsideration: The discussion has been substantially revised. The traditional methods of weighing reconsideration, many of which have been drawn from Roberts and other manuals, remain. In addition, a simpler approach to reconsideration - focusing on whether there is actually good cause for the meeting to reconsider an action - is offered.

§ 5.11. Consent Agendas: New section added discussing practice that has been widely embraced since publication of the 3rd edition.

Chapter 6: Subsidiary Motions

§§ 6.1-6.8. The principles contained in the third edition are generally preserved. Explanations have been revised in an effort to decrease procedural complexity and make the text more accessible.

§ 6.3 To Amend: New footnote explains that under the Community Preservation Act town meeting generally is not permitted to increase an appropriation beyond the amount recommended by the town's Community Preservation Committee. A motion to amend may decrease or reject such a recommendation but may not increase it.

Chapter 7: Incidental Motions

§§ 7.1-7.10. References to sources no longer generally available have been removed.

§ 7.2. Point of Order: Expanded discussion of circumstances in which a point of order is appropriate; discussion of misuse of point of order motions added.

§ 7.3. Appeal: Revised to reflect the current state of the law as to whether a ruling by the moderator may be appealed to the meeting. By statute and case law, the moderator is empowered to decide all questions of order, including those related to appeals. The discussion of this question in the fourth edition replaces the “two schools of thought” discussed in earlier editions of the handbook.

Chapter 8: Privileged Motions

§ 8.1. In General: Reordered the list of five privileged motions to align with the sections discussing each privileged motion.

§ 8.2. A Question of Privilege: Added discussion of issues that may arise in meetings conducted outdoors. Revised recommendations regarding appropriate response to rude or uncivil remarks in light of the recent Barron v. Kolenda decision, with a cross-reference to the more complete discussion added to Chapter 9.

§ 8.3. To Fix the Time at Which to Adjourn: Revised title from “To Fix the Time to (or at) Which to Adjourn”

§ 8.5. To Adjourn to a Fixed Time: Revised title from “To Adjourn to a Fixed Time, or to Recess”.

§ 8.6. To Dissolve: Revised title from “To Dissolve or To Adjourn Sine Die.”

Chapter 9: Deliberation [formerly titled “Debate”]

§ 9.1. Managing Deliberation: Revised title from “Managing Debate.” Expanded discussion of moderator’s role in managing deliberation and reoriented focus to contemporary rather than historic practice. Historical references are preserved in footnotes. Added discussion on potential impact of Baron v. Kolenda case on civility requirements at town meeting. Revised presentation format for common procedural rules on deliberation and steps required for removal of a disruptive voter from the meeting.

§ 9.2. Slander: Fourth edition deleted this section as not properly within the scope of a handbook of parliamentary procedure for town meetings and not capable of treatment with appropriate depth in this context.

Chapter 10: Conflict of Interest and Open Meeting Law

§ 10.1.2. For the Moderator: Section divided into subparts; new and more current examples of conflict issues included.

§ 10.2. New section on Open Meeting Law as it applies to town meeting.

Chapter 11: Voting

§ 11.1. In General: Discussion added on the use of electronic voting at in-person town meetings, has been widely adopted since publication of the 3rd edition, and on the state legislature's authorization of remote and hybrid representative town meetings during the COVID-19 pandemic, together with associated use of new technology for remote voting. Reviews the moderator's role in deciding all questions of order and prerogative to call the vote.

§ Appendix: Quantum of Vote: Table updated through January 2024 for Massachusetts; material on all other states removed; addition of section on Housing Choice zoning bylaw amendments that can be passed by majority, versus two-thirds, votes.

Chapter 12: Post Meeting Considerations

This is a new chapter bringing together steps that moderators and other town officials need to review and consider to tie up the affairs of a town meeting.

§ 12.1. Preparation of Minutes: ties into section § 2.3 Town Clerk

§ 12.2. Proposition 2½ and the Tax rate: deals with the post meeting issues relating to this topic. Issues during the meeting are discussed in section § 3.7 Handling the Budget.

§ 12.3. Submittal of Bylaws to the Attorney General: describes the requirement to submit bylaws to the Massachusetts Attorney General for approval and the process and criteria used by the Attorney General to consider bylaws, especially documentation of the correct quantum of vote and pre-meeting requirements.

§ 12.4. Referenda: outlines the possibility of referenda on actions taken by representative town meeting. Advises that a moderator would be wise to remain as impartial on referenda as they were at town meeting to avoid future or past charges of partiality.

§ 12.5. School Districts and Regional School District Budgets: discusses scenarios under which second town meeting(s) may be needed if the first town meeting does not pass, or reduces, a school budget.

§ 12.6. The Select Board: Follow-up: discusses follow-up actions which may be required of the select board. Cautions that while town meeting may authorize the select board to do something, town meeting may not require the select board to do it.

§ 12.7. Addressing Procedural Defects: discusses the potential for procedural defects calling into question a town meeting action; notes that a special act of the legislature may be a potential solution.

§ 12.8. Debrief and Gratitude: advice for the moderator

§ Addendum: The Town Meeting: eliminated

This essay exploring the possible roots of town meeting was presented at the Association's annual meeting in 1975 and first included in the second edition of *Town Meeting Time* in 1983. While it was an interesting and entertaining read, it was undocumented by historical references and at odds with some other writings on the origins of New England town meeting. It was beyond the scope of this revision to research and annotate the assertions with respect to historical fact made in the essay. The essay has therefore been omitted from the 4th edition.

Town Meeting Time

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