



*2023 Traditional Town Meeting  
Moderators Workshop*

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## Moderator's Authority and Duties

- ▶ Preside over the meeting (Duties; 40:4)
  - ✓ Regulate the meeting's business
  - ✓ Rules of Procedure are the foundation
  - ✓ Decide questions of order
  - ✓ Declare results
- ▶ Enable free speech
  - ✓ Prevent disorder
- ▶ No difference whether a Town or School moderator

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## Passing the Gavel



- ▶ If absent:
  - ▶ Town Moderator Pro Tem is appointed by Supervisors of Checklist (40:3)
  - ▶ School Moderator Pro Tem is appointed by the School District Clerk (671:33)
- ▶ Moderator may appoint an assistant to cover temporary situations (40:3-a)
- ▶ Absent due to Covid? Have a Moderator Pro Tem appointed
  - ▶ An Asst. Moderator may be appointed

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## What's your plan?



- ▶ Rules of procedure
- ▶ Review warrant
- ▶ Local hot topics/warrant articles
- ▶ Preparatory workshop/meeting with volunteers & election officials
- ▶ Expect the unexpected!

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## Official Ballot v. Official Ballot Referendum



- RSA 39:2-a, I & RSA 669:13: Allowed towns/districts to adopt **official ballot** - Two sessions:
  - First: Ballot voting (officers, zoning, certain other questions by law)
  - Second: Town Meeting (voting on all other warrant articles)
- RSA 39:2-a, II: New provision (Senate Bill 2) that allowed towns/districts to adopt **official ballot referendum** (a.k.a. "SB 2") via **RSA 40:12 - :15**
  - Two sessions:
    - First: Deliberative Session
    - Second: Official Ballot Voting Day

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## Postponement



- ▶ RSA 40:4 defines how to postpone the business session or the official ballot voting session
- ▶ The moderator may postpone when:
  - National Weather Service has issued a weather event warning and the moderator believes the event may cause the roads to be hazardous or unsafe
  - If an accident, fire, natural disaster, or other emergency, renders use of the meeting location unsafe.

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## How to Postpone the Business Session



- ▶ The moderator may decide up to 2 hours but not more than 48 hours prior to the scheduled session due to weather event
  - ▶ Moderator must consult with certain town officials before deciding
  - ▶ Notice to residents must be provided
- ▶ Moderator may postpone at any time prior to the session due to disaster or emergency rendering meeting place unsafe.

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## How to Postpone the Official Ballot Voting Day



- ▶ Must be made on the day immediately prior at any time before 6:00 p.m.
- ▶ Document the decision and notify the Secretary of State within 2 hours
  - ▶ Recommend documenting the decision in an email to the SOS and later reprint the email in the town/district report
- ▶ Election must be rescheduled to the Tuesday 2 weeks following the original date

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## Recent Laws To Keep in Mind



### CONTENT OF TOWN MEETING MINUTES

- ▶ Right-to-Know Law - RSA 91-A:2, II requires that minutes the names of those who make or second each motion deliberative session.

### REDUCED VOTE MARGIN TO APPROVE BOND ISSUE.

- ▶ Chapter 38 (HB 1558) reduces from two-thirds to three-fifths the vote margin that is required for a town meeting to approve the issuance of a bond or note

### INTENT OF THE VOTER

- ▶ **RSA 40:4-g** - In any vote conducted at town meeting every ballot shall be counted if the intent of the voter can be determined, regardless of whether the voter followed any instructions relative to marking the ballot provided before the vote.

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## Manner of introduction of warrant articles - DRA Issues

- ▶ **RSA 39:2**: The subject matter of all business to be acted upon at the town meeting shall be distinctly stated in the warrant.
- ▶ There is no legal requirement for the main motion made under a warrant article to reflect the exact wording of the article as printed in the warrant.
- ▶ However, if the article is moved with significant changes to the article as printed in the warrant, the better practice is first move the article as printed in the warrant; thereafter, a proposed amendment can be made.
- ▶ DRA may disallow article that that varies significantly from what appeared in the posted warrant if there is no evidence in the meeting minutes the article was amended by the meeting.

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## Warrant Article Amendments - General Considerations



- ▶ The legality amendments is controlled by RSA 39:2, which requires that “the subject matter of all business to be acted upon at the town meeting shall be distinctly stated in the warrant.” This means that any motion or amendment that raises subject matter not contained in the posted warrant does not have legal validity.
- ▶ So long as a motion or amendment deals with the same subject matter as appears in the warrant, the action to be take with respect to that subject matter may vary from what is in the warrant.
- ▶ When the language of an article is prescribed by statute, amendments that alter the original intent may not be legal if they go too far.
- ▶ Petitioned Warrant Articles can be amended!!

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## Wording of Articles Prescribed by Law

Funds Made  
Available During  
the Year 31:95-b, I  
(a)

Special Revenue  
Funds, 31:95-d, I,  
(c)

Adoption of Town  
Manager form of  
government, RSA  
37:15

Authorizing Tax  
Anticipation  
Borrowing, RSA  
33:7, V(a)

Rescinding action  
that enlarged  
Select Board, RSA  
41:8-d

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## Problem Amendments to Avoid



-  Change of Purpose
-  Agents of Capital Reserve Fund Not Warned
-  Made "Non-Lapsing" From Floor
-  Not Warned

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## Line-Item Budget Amendments



- ▶ Voters can move to amend a line item on the DRA budget form to zero.
- ▶ Voters cannot amend a line item downward to limit spending for specific purposes as any such amendment only reduces the bottom line of the budget.

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**Collective Bargaining**

**RSA 32:19 and the Budget Committee**  
**RSA 32:19-a-presentation at the annual meeting**  
**RSA 273-A:1, IV- "Cost item"**  
**RSA 273-A:3, II(b)- Obligation to Bargain**

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**Capital Reserve Funds**  
**RSA Chapter 35**

- Can't change purpose by amendment
- Can't add agent by amendment
- Can't transfer funds by amendment

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## Special Revenue Funds: RSA 31:95-c

- *No agents can be appointed*
- *No transfer to other purpose*
- *Only spent by town meeting*

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## Revolving Funds, RSA 31:95-h

- ▶ Six purposes: recycling, ambulance, special details, affordable housing, cable access, energy conservation
- ▶ Other purposes, such as recreation under RSA 35-B:2, with different rules of operation
- ▶ “Agent” is the board or body selected by town meeting
- ▶ Special limits on expenditures possible (e.g., limit on single expenditure)
- ▶ “No means no” applies if an appropriation fails

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# Voting



- ▶ Voice
- ▶ Hands (voting cards)
- ▶ Division (standing vote)
- ▶ Secret Ballot
- ▶ Move the question, point of order

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## The Secret Ballot

### Secret Ballot Voting, RSA 40:4-a, I (a)

- 5 voters
- Written
- Present, prior to vote
- Recount of secret ballot vote RSA 40:4-a, I(b)

### Questioning a Vote, RSA 40:4-b

- 7 voters
- Orally or in writing
- Before other business

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## *Voting on Multiple Bonds greater than \$100,000*

- ▶ 3 separate bond articles each article in excess of \$100,000
- ▶ Articles must appear on warrant in order of the amount proposed, highest to lowest.
- ▶ Each such article must be acted on prior to other business.
- ▶ The meeting can change the orders of the day.
- ▶ After discussion and debate on the First Bond Article, the moderator would then close the debate and begin ballot voting on that article.



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## *Voting on Multiple Bonds greater than \$100,000 (cont.)*

- ▶ A ballot box labeled "First Bond Article" would be used to deposit Yes/No ballots.
- ▶ After a majority of voters have voted on the First Bond Article, the moderator could then begin discussion on the Second Bond Article, announcing that while discussion proceeds on the Second Bond Article, ballots on the First Bond Article will be accepted for not less than one hour.
- ▶ The same would be true for voting on the Second Bond Article and discussion and voting on the Third Bond Article.



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## *Budget Act - 10% Limit*

- ▶ In towns with Official Budget Committee -, the total amount appropriated cannot exceed by 10 percent the amount recommended by the Budget Committee.
- ▶ The 10 percent increase allowable is computed on the total amount recommended by the budget committee less that part of any appropriation item which constitutes fixed charges.
- ▶ Fixed charges shall include appropriations for:
  - I. Bonds, and all interest and principal payments thereon.
  - II. Notes, except tax anticipation notes, and all interest and principal payments thereon.
  - III. Mandatory assessments imposed on towns by the county, state or federal governments.



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## **No Means No - RSA 32:10, I (e)**

- ▶ If the meeting deletes a purpose in the operating budget, or reduces the amount appropriated for that purpose to zero or does not approve an appropriation contained in a separate article, that purpose or article shall be deemed one for which no appropriation is made, and no amount shall be transferred to or expended for such purpose during the ensuing fiscal year.
- ▶ The word “purpose” refers to line on the budget form posted with the warrant, or form submitted to the department of revenue administration

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## Restricting Reconsideration RSA 40:10

- ▶ General rule: any vote can be reconsidered before meeting adjourns, unless reconsideration has been restricted by vote of the meeting.
- ▶ You cannot move to reconsider a vote to restrict reconsideration
- ▶ The action to restrict reconsideration cannot be taken in advance of a vote
- ▶ Motion need not be in writing
- ▶ Motion can be made by a single person

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## The Right-to-Know Law & Town Meeting

- 91-A applies to town meeting
- Public can attend
- Audio and Video recording allowed
- First Amendment applies
- Only registered voters are permitted to speak (unless non-residents are authorized to speak by the meeting)

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## NH Moderators List Serv

- ▶ This List Serv group was established to provide a simple way for New Hampshire moderators to communicate with each other.
- ▶ Each member will be able to send email to this list, and Google Groups will distribute the email to all of the group subscribers.
- ▶ The purpose of the group is to allow moderators to discuss issues, ask questions, and share information about any aspect of the moderator position.
- ▶ Messages should be relevant to that topic only, not include obscenity or advertisements, and be free of personal attacks.
- ▶ To be added to the NH Moderators List Serv, send an email to o: [sbuckley@nhmunicipal.org](mailto:sbuckley@nhmunicipal.org)

