TOWN OF NEEDHAM MASSACHUSETTS

NEEDHAM TOWN MEETING HANDBOOK



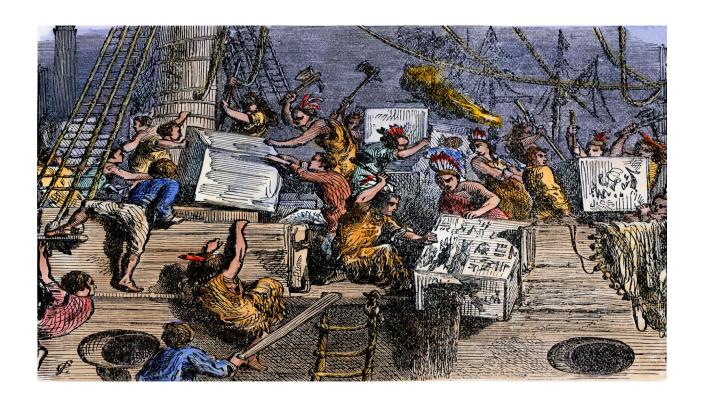
MICHAEL K. FEE
TOWN MODERATOR

April 2021 Revised Edition

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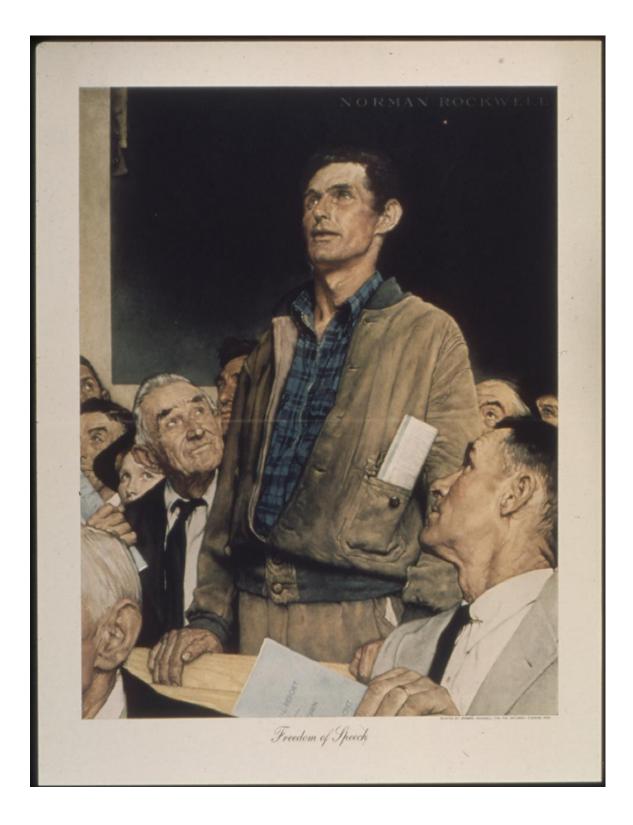
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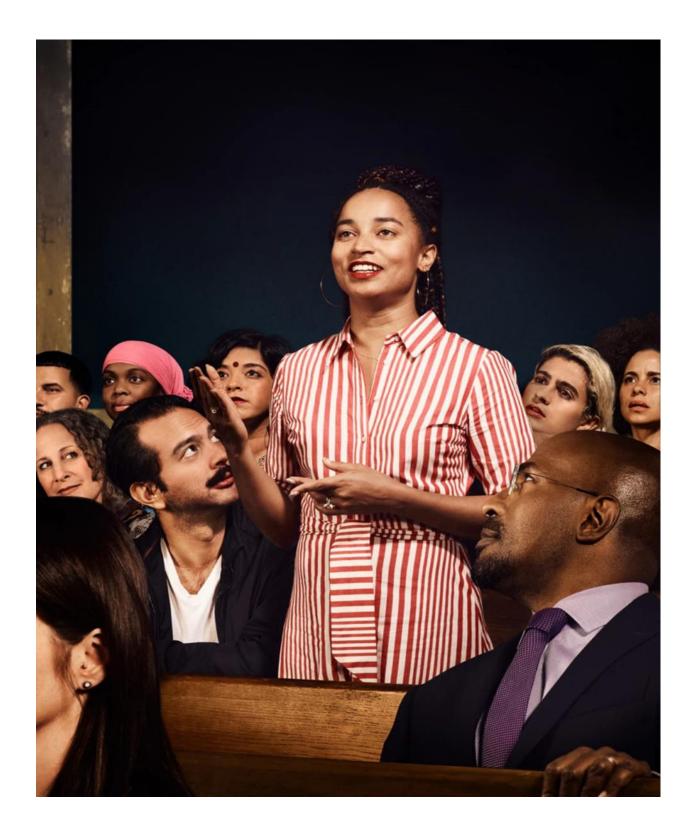


"This is what becomes of their wretched town meetings – these are the proceedings of a tumultuous and riotous rabble who ought, if they had the least prudence, to follow their mercantile employment and not trouble themselves with politics and government, which they do not understand."

LORD GEORGE SACKVILLE GERMAINE: Member of King George III's Privy Council (1773); Member of Parliament (1774); Secretary of State for the American Colonies (1775 - 1782): Remarks to Parliament about the Boston Tea Party and Colonial resistance to the Tea Act.



Norman Rockwell's "Freedom of Speech" -- 1943 – One of the "Four Freedoms" based on the artist's observations at Town Meeting in Arlington, Vermont



For Freedoms' re-interpretation of Norman Rockwell's "Freedom of Speech" -- 2018

Introduction to the 2021 Revised Edition

In 1961, the Needham League of Women Voters published a booklet entitled "A Guide for Town Meeting Members." The Guide was revised once in March of 1967. The Needham League eventually supplemented the Guide with a useful brochure entitled "Guide to Town Meeting." As a public service, the Needham League continued to distribute this brochure to newly elected Town Meeting Members through 1997.

When I was first elected Moderator, one of my goals was to update the resources available to Town Meeting Members to help each Member become an effective and informed representative of their precinct. After discussing the matter with numerous Town Meeting Members, I became convinced that one useful step would be the production of a handbook for Town Meeting Members that would contain some practical information about our representative town meeting's history, procedures, and rules.

The Needham Town Meeting Handbook, first published in November 1998, revised in 1999 and revised once again in 2021 is my effort to collect in one place a summary of information that may prove helpful to our Town Meeting Members and town residents. Town Meeting is such a fascinating and rich institution that it probably warrants its own textbook rather than a mere handbook. Nonetheless, based upon experience in Needham and in other towns, I believe a concise handbook provides the essential information that an informed Town Meeting Member should possess. The Handbook has been widely distributed and I often see it in the possession of Members at Town Meeting.

The *Handbook* is a guidebook. It is not a legal document, and the contents of the book are not in any way intended to have any force or effect of law or be legally binding. The *Handbook* is intended to provide guidance to Needham's Town Meeting Members and citizens about the institution we convene at least twice a year to discuss, debate and decide the most important issues facing our town.

In this 2021 Revised Edition, I have kept much of the content from the prior versions, but updated it to describe changes in governing law, emergency procedures we adopted during the COVID-19 Pandemic of 2020-2021, as well as other changes.

I welcome any suggestions to improve this *Handbook* in the future.

Michael K. Fee

Needham Town Moderator

Acknowledgments

Many people contributed to the original version of this *Handbook*. I would like to acknowledge the assistance of the late Henry L. Hall, Jr. (1931-2020), former Moderator of the Town of Belmont and President of the Massachusetts Moderator's Association from 1998 to 1999. An experienced Moderator and gifted municipal finance lawyer, Henry was my law partner at Ropes & Gray LLP, and he provided me with invaluable guidance as I prepared the content for the first edition of this *Handbook*, the framework for which I based in part on Henry's highly successful *Belmont Town Meeting Handbook*.

In May 1998, with the assistance of the Needham League of Women Voters, I distributed drafts of the *Handbook* to newly elected Town Meeting Members. I asked these Town Meeting Members to act as a focus group for the draft and provide me with their comments and suggestions. Several Town Meeting Members provided extremely useful suggestions that influenced the content and organization of the *Handbook*, for which I am grateful.

Two individuals well known to the citizens of Needham contributed greatly to the first edition of the *Handbook* and although both are now deceased, they continue to inspire me to this day. First, my predecessor as Needham's Moderator, Richard P. Melick, reviewed the original draft and provided me with extensive and detailed comments. Words cannot express the respect I continue to have Dick Melick, who served as Moderator for 35 years. Second, the late Mr. James Hugh Powers, the longest serving Town Meeting Member in Needham's history, contributed greatly to the first edition and at my request, authored a section for Town Meeting Members which he called a guide to doing one's "homework" for Town Meeting. Mr. Powers had been a material contributor to the 1967 revision of the League of Women Voters' Guide for Town Meeting Members. I was privileged to have the benefit of his input not only on the first edition of the *Handbook*, but also his valued advice, observations, and counsel on Town Meeting matters right up until his death in 2017 at the age of 93.

The Needham League of Women Voters was very supportive of the creation of a *Handbook*. This organization continues to be a vital source of information and tireless promoter of voter and Town Meeting Member education. Each year, I enjoy presenting an orientation program for new Town Meeting Members that is organized by the League.

The Richard Patton Melick Foundation supported my *Handbook* project from the outset and kindly agreed to fund its original publication. Since 1997, this organization contributed greatly to our town and the never-ending effort to inspire citizen participation in local government in Needham and recognize Needham's volunteers. https://melickfoundation.com/

Finally, I am grateful for the assistance of our wonderful Town Clerk, Theodora K. Eaton, MMC, who plays a critical role in our elections, provides check-in staff for Town Meeting and maintains the official records of all our Town Meetings. Mrs. Eaton provided me with invaluable feedback on the 2021 Revised Edition.

Michael K. Fee

NEEDHAM TOWN MEETING HANDBOOK

I. NEEDHAM'S REPRESENTATIVE TOWN MEETING

Since the days of Colonial America, New Englanders proudly have been identified with one of the purest forms of democracy: New England Town Meeting. Indeed, the concept of a town meeting -- citizens of a community gathering at a common meeting place to discuss with civility, debate and democratically decide important issues that affect their community -- served as an inspiration for the Founders of the United States of America. Indeed, as they looked toward gaining independence from the British Crown, the concept of self-government was not new to the Founders who hailed from Massachusetts and New England. They had been steeped in the tradition of participatory democracy at the local level that had thrived at New England town meetings since the beginning of the Colonial Era. Indeed, because by 1776 Massachusetts town meetings had been a forum for free speech, debate and self-governance for over a century (Needham's Town Meeting began in 1711), the Supreme Judicial Court of Massachusetts once called Massachusetts towns the "tap spring" of the American Revolution.

All over our country and throughout the world, the "New England Town Meeting" is the quintessential model of democracy. For example, candidates for public office at all levels often hold "town halls" with groups of voters. Universities, institutes, the media, and polling organizations routinely convene what they call "town hall meetings" seeking to stimulate and monitor discussion among "ordinary citizens" about all kinds of important issues, including public safety, fiscal policy, international trade agreements, and race relations in America. In the 1990s, South American countries emerging from military rule and Eastern European countries who had rid themselves of communist dictators held "Town Meetings" because they could and prove that every person's opinion is valuable and should be heard.

For over 300 years, Needham Town Meeting has been more than a quaint discussion group. It is *the* means through which we citizens govern our town. In Needham, we do not outsource governing to a Mayor or a City Council: we govern ourselves through Town Meeting. As our town's Charter states clearly, when Town Meeting convenes, it is the Town of Needham:

The town shall continue to have the capacity to act through and be bound by its town meeting members who shall, when convened from time to time as provided by law, constitute a representative town meeting and the representative town meeting shall exercise exclusively, in conformance with this charter, all powers vested in the municipal corporation.

Town Charter ("T.C.") at Part 2, Section 14 "Powers of Town and Town Meeting"

Town Meetings in Massachusetts are either open or representative. Any town in the Commonwealth with a population of at least 6,000 may petition the General Court (legislature) for authority to adopt a representative form of town meeting. In 1933, the Town of Needham adopted a representative Town Meeting. Under our Town Charter, the elected composition of Needham's Town Meeting is to be not more than 240 members. T. C. at Part 2, Sec. 6. These members are elected from the 10 Precincts (A-J) into which Needham has been divided. T.C. Part 2, Sec. 5. The members are allocated to the town's precincts in accordance with the

constitutional law principle known as "one man, one vote." Accordingly, at ten-year intervals that coincide with the national census, the Select Board must redistrict the town. The population must be as evenly distributed as possible throughout the precincts, with each precinct having roughly the same number of inhabitants. The members elected from each precinct serve staggered three-year terms. Each precinct's elected Town Meeting Members are listed in the back of the Annual Town Report and in the Town Meeting pages of the Town of Needham website, www.needhamma.gov.

Approximately one third of the Town Meeting's membership is elected each year during the Annual Town Election, which under our General By-Laws ("By Laws"), occurs on the second Tuesday of April each year. By-Laws Sec. 1.1.1. To be listed on the ballot, candidates for Town Meeting membership need only obtain the signatures of ten registered voters from the precinct where the candidate resides and file the signatures with the Town Clerk who will pass them on to the Board of Registrars. Candidates for reelection as a Town Meeting Member need only return a letter of intent that is sent by the Town Clerk to be listed on the ballot. T.C. Part 2, Sec. 8.

In addition to elected Town Meeting Members, the Town Charter provides for a compliment of Members known as "Town Meeting Members at Large." These are: any resident member of the General Court from Needham whose district is entirely within the town of Needham; the Moderator; the Town Clerk; the members of the Select Board; and the chairpersons of every other elected board of the town, except the housing authority and the commissioners of trust funds. T.C. Part 2, Sec. 7. A Town Meeting Member at Large may have membership conferred simultaneously through election from a precinct and by being one of the designated town officers or chairpersons, but that person may only cast one vote at Town Meeting.

It is important to remember that Town Meeting Members have dual representative responsibility. On the one hand, each member represents the interests of her constituents in the precinct where she lives. On the other hand, each member must always consider the well-being of the entire Town of Needham when matters come before the meeting. In addition, because they represent neighbors who if we had an Open Town Meeting system would be able to vote at Town meeting, Town Meeting Members must be ever mindful of their duty to attend Town Meeting sessions faithfully. Each time a Town Meeting Member fails to attend a session or fails to vote on an issue, the missing Member deprives the residents of his precinct of the representation to which they are constitutionally entitled.

II. THE MEETING AND THE WARRANT

The By-Laws of the Town of Needham provide for the legislative business of the Annual Meeting to be held on the first Monday of May. To allow Members to complete the workday and catch their breath, Town Meeting customarily begins at 7:30p.m. If all the business of the meeting is not concluded on the first evening, the meeting is adjourned until the following Wednesday and then the next Monday. Thereafter, the selection of meeting times is at the pleasure of the Town Meeting Members, but it has been customary to continue with a consecutive Wednesday, Monday, Wednesday until the business of the meeting is completed, unless a holiday or other special event arises. By- Law. Sec. 1.1.1.

Until 2015, it was difficult to postpone the date when Town Meeting must start. In that year, however, the Governor signed into law Senate Bill 2121, chapter 487 of the Acts of 2014. Under that law -- which followed some hurricanes that interfered with fall special town meetings in Massachusetts, including one in Needham -- the Town Moderator was empowered to postpone a meeting in the interests of public safety. Specifically, if the Moderator determines that voters would be unable to attend town meeting due to "a weather-related or other public safety emergency," the Moderator "shall consult with local public safety officials and the members of the Board of Selectmen [now Select Board]," and then "the moderator shall recess and continue the town meeting to a time, date and place certain."

The law also states "[i]f due to the emergency no suitable town facility is available for a meeting place in a town that typically holds such meetings within the town limits, the board of selectmen may move the meeting location to a suitable meeting place in a contiguous municipality." While additional temporary legislation was enacted in June 2021 to authorize additional measures during the COVID-19 pandemic (Chapter 53 of the Acts of 2020) — including if desired, holding a representative town meeting virtually — the core provisions of the 2015 law remain in force. Due to considerations resulting from the COVID-19 pandemic, the Needham Moderator used this authority in 2020 to postpone Annual Town Meeting from the first Monday in May to June 8, 2020.

While the time for holding an Annual Town Meeting is prescribed by law, the timing of Special Town Meetings is variable. The Select Board may call a Special Town Meeting at any time. G.L. c. 39 sec. 9. In Needham, the Select Board typically calls a Special Town Meeting that is held during the Annual Town Meeting in May to deal with year-end issues and calls another in the fall (September, October or November) to deal with issues that arise during the middle of the municipal year, which runs from July 1 to June 30. Other Special Town Meetings may be called as needed. Upon the request of 200 registered voters the Select Board is required to call a Special Town Meeting. A meeting requested by citizens must be held not later than 45 days after the Select Board's receipt of the request. G.L. c.39, § 10.

The Annual Town Meeting and any Special Town Meeting are both called through a Warrant. The Warrant states the time and place for the meeting and through a series of "Articles" arranged in numerical sequence, describes the subjects to be acted upon at the meeting. The Warrant is an important legal document that not only provides required notice and an agenda, but it also contains important information for Town Meeting Members. Unless a subject is included among one of the numbered Articles in the Warrant, it cannot be discussed at a town meeting.

The only exception to this rule is the "Omnibus Article" which appears at the end of a Warrant. By its terms, this Article is used to adjust or make any appropriations that were approved earlier in the meeting, to appoint study committees, and take certain other actions. For example, Needham has allowed the Omnibus Article to be used for motions that correct unanimously agreed-upon mistakes or omissions relating to action taken under a previous article, thus obviating the need to reopen the prior article through reconsideration. The Omnibus Article is also used to acknowledge citizens' good works, enact certain qualifying non-binding resolutions, or applaud the accomplishments of an athletic team.

The legislative session of the Annual Town Meeting begins on the first Monday in May. Other topics are submitted to all the registered voters of Needham on a town-wide ballot. For example, though it is technically part of Annual Town Meeting, all Needham's registered voters elect certain offices in the Annual Town Election. Article 1 of every Annual Town Meeting Warrant is the Annual Town Election. Another example is a debt exclusion override under Proposition 21/2. Overrides must be authorized by a vote of the town.

Sections 1.2 of the General By-Laws require the Town Clerk to mail the Warrant to Town Meeting Members. Copies of the Warrant are also posted in the various public places around Town and summaries (the title and a synopsis of each article) are inserted into local newspapers. Under the By-Law, the Town Clerk is required to the Warrant on the official Town of Needham website and make a hard copy of the Warrant available to any resident who requests one.

Since 1951, Annual Town Meeting Warrants have included as few as 40 articles (1976) to as many as 137 (1952), with the number of articles in most Warrants in ordinary times falling somewhere between. During the same period, no Special Town Meeting Warrant contained more than 27 Articles and most contained fewer than 10. Traditionally, the business of a Special Town Meeting has been limited to one session covering all the Articles in the Special Town Meeting Warrant. On a few occasions, Special Town Meetings have been called to address only one Article. Due to adjustments that were necessary during the COVID-19 pandemic emergency, the number of Articles addressed in Special Town Meetings in 2020 and 2021 was larger than usual.

A. Insertion of Articles into the Warrant

The Select Board, acting as Needham's Warrant Committee, is responsible for preparing the Warrants for both Annual and Special Town Meetings. An Article may be inserted in the Warrant upon request of the Select Board, at the request of a Town official, or by petition of a required number of voters.

If a citizen wishes to place an Article in the Warrant for the Annual Town Meeting – known as a "Citizen's Petition" -- he or she can simply write out the Article, have ten or more registered voters of the Town sign a petition (a written request) to insert it in the Warrant and submit it to the Select Board. A Citizen's Petition for an Article in a Special Town Meeting Warrant must be supported by the signatures of at least 100 registered voters. Mass. Gen. Laws ("G.L.") c.39, § 10.

Anyone who wishes to insert an article in the Warrant may obtain the closing date of the Warrant from the Town Clerk. The closing date varies from year to year and is established by the Select Board well in advance of the Annual Town Meeting. For example, for an Annual Town Meeting to be held in May, it is not unusual for the Warrant to close around the first week of February. In addition, any person who wishes to submit an Article for the Warrant would be wise to consult in advance with the Select Board and Town Counsel about the proper legal wording of an Article. Town Counsel may be reached through the Select Board's office. The citizen petitioner should also consult in advance with the Moderator about procedural issues and applicable rules.

B. Role of the Finance Committee

The Finance Committee is comprised of nine registered voters, none of whom may be Town officers, agents or employees, though they may be elected Town Meeting Members. The members of the Finance Committee are appointed by the Moderator for three-year terms and may be reappointed by the Moderator. Because it is not composed of any Town officials, agents or employees and is appointed by the Moderator, the Finance Committee functions as an extension of the legislative branch of our municipal government (Town Meeting) and serves as a year-round "fiscal watchdog" over financial matters.

Section 1.10.3 of our By-Laws, as amended, provides:

The Finance Committee shall consider all matters of business included within the articles of any warrant for a Town Meeting, and shall, after due consideration, report thereon its recommendations as to each article that it finds to have a financial implication. The Committee shall report in print or otherwise to all Town Meetings. For the information of voters, the report of the Finance Committee to the Annual Town Meeting shall be printed, together with the motion substantially in the form to be proposed in connection with each article, in the warrant of said meeting. The Finance Committee's recommendation on the operating budget shall be the Main Motion to be acted on by Town Meeting.

Section 1.10.2 of the By-Law also provides:

The Committee shall have access to all facts, figures, records, and other information relating to all Town departments, boards, committees or officers; and such information shall be furnished immediately by any department, board, committee, officer or employee when requested by the Committee, such information shall be furnished immediately by whomever it is requested, including the Town Manager and/or any department, board, committee, officer or employee. If not directly requested of the Town Manager, the Committee shall inform the Town Manager or the School Superintendent and/or their designees of such requests.

Under Massachusetts law applicable to Needham, the Finance Committee is obligated to submit a budget to the Annual Town Meeting. G.L. c. 39, sec. 16. Accordingly, our By-Laws provide that The Finance Committee thereafter is required to report "in print or otherwise" to Town Meeting. The Finance Committee prepares and presents the Annual Operating Budget for the town in the Warrant and provides Town Meeting with a recommendation on every Article that has any financial implications. The Committee's recommendation is placed under each Article in the Warrant and each year, the Finance Committee's Chair authors a comprehensive letter to Town Meeting Members which is also printed in the Warrant.

C. Other Standing Committees

In addition to the Finance Committee, the Town Meeting relies upon the work other committees and boards that consider issues and report to the Town Meeting. For example, the Personnel Board, comprised of five members who are appointed by the Moderator, reviews matters involving human resource issues and collective bargaining. Another standing committee from which Town Meeting Members receive reports is the Planning Board. The members of the Planning Board are elected in the Town Election. The Planning Board presents Articles concerning zoning and advises Town Meeting on zoning issues. At almost every town Meeting, either the Planning Board or Citizens propose amendments to the Needham Zoning By-Law.

Another important committee that shares information with Town Meeting is the Needham School Committee, which may address matters relating to the Needham Public Schools. Needham also has a representative on the Minuteman Regional Vocational Technical School District School Committee which supervises the operations of Minuteman Regional Vocational Technical High School. The Community Preservation Committee reports to Town Meeting on the status of the funds collected under the property tax surcharge implemented under the Community Preservation Act, G.L. ch. 44B. After consulting with the Finance Committee and the Select Board, the Committee seeks Town Meeting's authorization to expend these funds for various purposes authorized by statute. By-Laws Section 2.7.3. Depending upon the contents of the Warrant, Town Meeting might also hear from the Park and Recreation Commission, the Board of Health, the Permanent Public Building Committee, the Transportation Committee or the Council on Aging.

These are just a few examples of the various boards and committees that address matters pending before Town Meeting. All these groups work year-round and are available to respond to questions and provide information to Town Meeting Members.

III. ADMISSION TO FLOOR AND RIGHT TO SPEAK

As described above, Needham's Town Meeting is a representative town meeting. Accordingly, like the floor of a legislative chamber at the state or federal level, only elected Town Meeting Members are permitted in the section of the meeting place reserved exclusively for elected Town Meeting Members. This has traditionally been defined as a designated number of rows (typically the first 11 rows) on the floor of James Hugh Powers Hall at Needham Town Hall. The Marshal places a stanchion where the rows reserved for Town Meeting Members begin and only Town Meeting Members with identifying badges are permitted in this area. When Town Meeting was held outdoors in 2020 and 2021 due to a public health emergency, the area reserved for Town Meeting Members was defined with low steel railings.

Non-Town Meeting Members may be admitted to the floor of Town Meeting by invitation of the Town Meeting or as "guests" of the Moderator. For example, it is customary for committee chairpersons to ask the Moderator's permission for those members of their committees who are not Town Meeting Members be admitted to the floor. Once admitted to the floor, persons who are not Town Meeting Members are not entitled to vote. As described further below, registered voters of the Town may attend Town Meeting as spectators, but they are not admitted to the area reserved for Town Meeting Members. Non-Needham voters and non-

residents may attend as well, but only with advance notice to the Moderator and with the Moderator's permission. Town Meetings have traditionally been televised live on Needham Cable Television, subject to rules established by the Moderator.

The Needham Town Charter provides, "all town meetings shall be open to the public and the press, and, 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." T.C. Part 2, Sec. 11. In Needham, the procedure for recognizing a registered voter who is not a Town Meeting Member involves the non-member first rising and seeking recognition from the Moderator as described below in Section IV C. When recognized by the Moderator, the registered voter must address the meeting through the microphone, identify himself or herself and abide by all the rules applicable to the meeting, including rules regarding time limits and decorum. A registered voter may not make a motion, but he or she may request that a Town Meeting Member make a motion on his or her behalf.

If the registered voter wishes to speak at the meeting, it is most advisable for that person to inform the Moderator in advance so that when the person rises during discussion under an Article to be recognized, the Moderator will be prepared to locate and recognize the speaker. Of course, precisely when the voter chooses to rise is the responsibility of the voter and cannot become that of the Moderator. Furthermore, while the Moderator attempts to recognize all individuals who wish to speak — both Members and registered voters -- no slot to speak may be reserved, nor can the opportunity to speak be guaranteed by the Moderator. For example, if a motion to move the previous question passes, discussion may be terminated before a registered voter can be recognized and speak.

Non-residents of Needham are not authorized to speak at Town Meeting. Sometimes, the Select Board or the School Committee may ask that a town employee with specific expertise answer a question posed by a Town Meeting Member. In these situations, if the Moderator is satisfied that Town Meeting will benefit from hearing this person, the Moderator will ask the meeting for its unanimous consent to allow the non-resident to address Town Meeting. A similar procedure is followed if a board or committee wishes to have a retained consultant who is not a resident of the town address Town Meeting.

In ordinary times, more than one board or committee may wish to address a main motion or other motion. To avoid confusion and ensure an orderly and rational presentation of facts to Town Meeting Members, the chairs of these boards and committees will confer in advance of Town Meeting and agree on a speaking order. The group must also confer in advance with the Moderator, who may suggest a different order. Once an order is set, when the meeting reaches an Article, the Moderator will announce who will speak and recognize the speakers in that order. This tradition in Needham is simply a matter of convenience and constitutes an attempt to present information from Town boards and committees in a rational order to foster an informed discussion and debate. Occasionally, some mistakenly believe that this process is a "sign up" system for speakers, but it is not so. Even if boards and committees wish to address a motion, the proponent of the Main Motion identified in the Warrant is always recognized first by the Moderator.

Sometimes, a citizen who is particularly interested in an article in the Warrant, such as an article to amend a zoning by-law affecting the citizen's property, will engage an attorney to represent him or her. As a matter of courtesy, such an attorney is generally allowed to address the Meeting on behalf of the citizen. Under Section 1.7 of the Needham General By-Law, however, "[a]ny person employed as an attorney by another interested in any matter under discussion at a Town Meeting shall disclose the fact of his employment before speaking."

IV. ORDER OF BUSINESS AND PROCEDURE

Procedure at Town Meeting is governed by the General Laws of The Commonwealth of Massachusetts (particularly Chapter 39), the Needham Town Charter, the General By-Laws of the Town of Needham, the parliamentary procedure handbook applicable to Needham's Town Meeting (*Town Meeting Time*, by Johnson, Trustman & Wadsworth (3rd Edition)), as well as by established customs and traditions.

Before a Town Meeting begins, the Town Clerk informs the Moderator of the number of Town Meeting Members present and the Moderator determines whether a quorum exists. Our Charter provides that "[a] majority of the town meeting members shall constitute a quorum for transacting business, but a lesser number may organize temporarily and may adjourn from time to time." T.C. Part 2, Sec. 11.

After determining the presence of a quorum, the Moderator calls the meeting to order. The Moderator then defines the limits of the hall or other meeting space and announces any planned recesses. Typically, at the beginning of the first session of the Annual Town Meeting, there is an opening ceremony that includes respect for the flag (e.g., the Pledge of Allegiance and sometimes a patriotic song), an invocation delivered by a member of the Needham Clergy Association and at times, a brief musical or dramatic program. Opening ceremonies at a Special Town Meeting are usually much more abbreviated. At meetings held during the COVID-19 emergency in 2020 and 2021, opening ceremonies were omitted or greatly curtailed.

When a meeting is held in Powers Hall, the Moderator identifies the pages (high school students) who will bring portable microphones to a speaker who has been recognized. When a meeting is held outdoors, microphones for speakers are set up at various fixed spots around the meeting space. Next, the Moderator seeks the unanimous consent of the Town Meeting Members to waive a reading of the Warrant in its entirety. Upon receiving unanimous consent, the Moderator will ask the Town Clerk to read the Call to Meeting and conclude with a reading the officer's Return of the Warrant. The Return confirms that the notification required by General By-Laws Section 1.2 was accomplished. The Moderator then asks newly elected and reelected Town Meeting Members to rise and take the oath of their office, which is administered by the Town Clerk.

Once Town Meeting Members are sworn in, the Moderator describes the procedure at the Town Meeting. This is an important part in the Meeting because Town Meeting adopts the rules that will govern the proceedings. For example, the Moderator seeks unanimous consent for a rule that provides that any speaker who refers to personalities or who in the judgment of the Moderator engages in a personal attack will be ruled out of order. In addition, the Members agree that they must rise and seek recognition from the Moderator before speaking and once

recognized, clearly state their name and precinct. Time limits on presentations by speakers are proposed by the Moderator and adopted by the Meeting. At this time, the Meeting also enacts Needham's traditional rule on amendments to the Budget Articles: no motion to increase the amount of funding on any line item in a budget will be in order unless it identifies the line item or items that will be reduced to fund the proposed increase. Town Meeting also enacts a procedural rule governing the submission of zoning amendments.

Following some additional public service announcements or special recognition, the Moderator moves to the Articles. The Moderator announces any instances where the wording of a Main Affirmative Motions differs from the corresponding Article. For example, changes may consist of a change in the amount of a requested appropriation or minor wording. The Moderator also identifies the Articles under which proponents will not present a Main Affirmative Motion to Town Meeting and will therefore, be withdrawn. Because the Main Motion under a withdrawn Article is never placed on the floor, the subject matter of the Article may not be discussed. The Moderator also identifies (by Article number) the Main Motions that will be subject of a motion -- such as a motion to amend or a motion to refer -- from their proponents and thus cannot be enacted by unanimous consent. In these situations, the Article is omitted from the Consent Calendar.

A. Consent Calendar and Consideration of Articles

After these tasks are completed, the Moderator offers the Consent Calendar. Through the Consent Calendar, Town Meeting Members control the subjects they wish to discuss and debate. It has long been the custom in Needham for the Moderator to call out by number -- in numerical sequence -- the remaining Articles in the Warrant. The Moderator will pause a moment after each Article is called to see whether Town Meeting wishes to discuss or debate the subject matter of the Article. If after calling an Article by number the Moderator hears a Town Meeting Member exclaim "question," "debate," or some similar expression, the Article will be deemed "controversial" and set aside for discussion. The Articles for which no one requests discussion are deemed "noncontroversial." After the Moderator recites the final list of Articles falling into this category, the Main Affirmative Motions under these noncontroversial Articles are passed by unanimous consent and the Articles disposed of.

The Consent Calendar has proven to be a useful tool in Needham, streamlining the agenda so it will consist only of those topics the Members decide should be the subject of a presentation, explanation, discussion and debate at Town Meeting. This process is procedurally proper because the Main Affirmative Motion for each Article is filed with the Town Clerk at least one week prior to the meeting and was open to inspection and review by Town Meeting Members. In addition, a large volume of information is available to Town Meeting Members prior to the Meeting, sometimes obviating the need for presentations at Town Meeting. After reviewing this information, Town Meeting Members have the right to conclude that they have enough information and do not need to spend time on the subject.

A Main Affirmative Motion adopted by unanimous consent is never again addressed by the meeting. Of course, Town Meeting has no obligation to enact anything by unanimous consent or place any Article on the Consent Calendar. Members, not the Moderator or anyone else, decide what is to be discussed at Town Meeting.

The remaining Articles – the so-called "controversial Articles" -- are taken up individually in numerical order, unless a motion to change the order of and consideration is passed. This might happen because a proponent of one or more related Articles may move that the Articles be consolidated for joint discussion but voted on separately. If this motion passes by a majority vote, the traditional rule that limits discussion to the subject matter within the "four comers" of the one Article placed on the floor by the Moderator does not apply. Instead, the limits of debate extend to the subject matter of the combined Articles. In addition, a Town Meeting Member may move to postpone consideration of an Article until after some action is taken on another Article. The moving party must state the reasons for this motion and convince a majority vote to in favor. A motion to *advance* an Article for consideration out of sequence requires Town Meeting's unanimous consent.

B. Presenting Main Affirmative Motions

In Needham, the party responsible for the insertion of an Article in the Warrant prepares a written motion that corresponds to the Article. These motions are known as Main Affirmative Motions and these are the motions Town Meeting discusses and votes. The Article simply provides notice to Town Meeting Members that a Main Motion addressing the described subject matter will be forthcoming.

A "motion" is something that asks for action. These Main Motions are "affirmative" in that they ask Town Meeting to do something rather than not do something. Proponents are encouraged to work with Town Counsel on appropriate wording for their Main Affirmative Motions. When motions are prepared carefully and are well worded so that they are within the scope of the corresponding Article, the process works well. Ultimately, the wording of Main Motions is subject to approval of the Moderator. The Town Counsel files the motions with the Town Clerk and provides the Moderator with the motions in advance of the Town Meeting.

A. Procedure Before 2020

As each article is announced in turn and placed on the floor for discussion, the Moderator, having advance knowledge of the person who will present the Main Affirmative Motion, recognizes that person. The person advocating for enactment of the Main Motion – known as a "proponent" – provides information to Town Meeting about the Main Motion and explains why they want it enacted. The proponent may decide to share some of his or her allotted presentation time with others. After the affirmative presentation is complete, if the Main Motion has any fiscal implications, the Moderator recognizes a member of the Finance Committee to deliver the Committee's recommendation. For example, if enactment will result in an appropriation or involve the assumption of debt by the town, the Finance Committee will state whether it recommends this action. After the proponent(s) and the Finance Committee have had an opportunity to speak, other interested boards or committees that wish to address the merits of the proposal contained in the Main Motion may be recognized. The Moderator then invites general discussion from Town Meeting.

B. Procedure During Public Health Emergency

The COVID-19 pandemic of 2020-2021 presented obstacles to our ability to conduct Town Meeting in the usual manner, but these impediments were overcome with technology and the with the contributions and cooperation of numerous parties, including Town Meeting Members. Because Town Meeting was moved outdoors to accommodate social distancing, and visibility was dependent on the availability of sunlight, efforts were undertaken to shorten the duration of Town Meeting.

To further this goal, the Moderator and other stakeholders decided to eliminate the delivery of affirmative presentations by proponents at the meeting, as well as the commentary provided by the Finance Committee and other interested boards and committees. Instead, proponents and other speakers pre-recorded videos of their affirmative presentations and in the case of the Finance Committee, the Committee's recommendation to Town Meeting. The videos could be viewed in advance of Town Meeting through You Tube and the Town's website.

Proponents also posted to the Town website supporting materials that ordinarily would be distributed at Town Meeting in hard copy or displayed on a screen. After viewing the materials and the videos, Town Meeting members had the opportunity to submit written questions to the proponents or the Finance Committee that could be answered before the meeting and viewed by all. With the presentations relating to an Article already completed and certain questions already answered, when the Moderator reached an Article at the meeting, the Moderator placed each Main Affirmative Motion on the floor at the outdoor meeting and immediately called for "discussion." Discussion, debate and voting then proceeded in the ordinary fashion.

These emergency procedures were effective. While they break with the established tradition of in-person, interactive and audio-visual presentations, they remain available to us in the event a public health crisis of the kind experienced between 2020 and 2021 ever occurs again.

C. Discussion and Debate

The Moderator's call for "discussion," is a signal that it is time for the Members to participate. A Member who wished to speak stands up, and in a voice that can be heard calls out, "Mr. Moderator," or should the Moderator be female, "Madam Moderator." When the person is recognized by the Moderator, the Member must state his or her name and precinct. Having been recognized by the Moderator, the Member has "the floor" and until the Moderator rules otherwise, is the only person authorized to speak.

During discussion and debate, a speaker is required to address his or her remarks to the Moderator as chair of the meeting. A speaker may ask the proponents questions, but the questions must be asked through the Moderator. It is critical that the Moderator not lose control of the Meeting by permitting an unstructured debate or a dialogue between a Member and a proponent or for that matter, a Member and any other party, including another Member. Our By-Laws provide that "[t]he Moderator may direct to any person in the hall a specific request by a Town Meeting Member for information pertaining to a question under consideration." By-Laws,

Sec. 1.5. In addition, under the "four corners" rule enforced by the Moderator, the debate must be confined to the subject matter of the Article under consideration.

Any person recognized by the Moderator must comply with the rules of the meeting. The Moderator enforces those rules and may declare a speaker out of order. Should that occur, the individual must cease speaking and yield the floor at the Moderator's request. Massachusetts law vests the Moderator with the power to maintain order at Town Meeting. Specifically, under M.G.L. ch.39, § 15, "The moderator shall preside and regulate the proceedings, decide all questions of order, and make public declaration of all votes...." Under M.G.L ch. 39, § 17, the Moderator's authority to maintain order is clear. That section titled "Powers of Moderator; preservation of order" states:

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.

In Needham, it has always been considered proper form for a Town Meeting Member not to conclude remarks with a motion. Instead, a speaker should announce his or her intentions — including the intent to offer a motion — clearly at the outset of their remarks and provide the rationale for the motion so that Town Meeting Members may consider the speaker's remarks in context. Furthermore, under our By-Laws a speaker may not conclude a speech on the merits of any Main Motion or other pending motion with a non-debatable motion to terminate or limit debate, such as a motion to move the previous question, or to lay on the table. By-Laws, Sec. 1.5. This conduct is out of order.

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

The Moderator supervises Town Meeting and all the conduct that occurs at the meeting. Needham's Moderator is elected every three years. Any vacancy in the office may be filled by the Town Meeting Members at a meeting duly called for that purpose. If the Moderator is unexpectedly absent from a Town Meeting, a Moderator *pro-tempore* may be elected by the Town Meeting Members. T.C. Part 3, Sec. 18. If the Moderator knows he or she will be absent at an upcoming session, the Moderator typically proposes a specific Moderator *pro-tempore* for that session and requests Town Meting's vote by unanimous consent.

The Moderator is given broad powers under Massachusetts and Needham law. Because the Moderator is vested with broad powers to conduct the meeting and rule on matters of procedure, there is no appeal from the Moderator's rulings on issues of procedure or order.

Once a motion is placed on the floor, 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 particular motion withdrawn – such as a motion to amend -- 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.

The Moderator determines whether a motion is within the "four corners" of an Article, that is, whether it is within scope. 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.

Whenever there is a question concerning the scope of any action, the Moderator may seek advice of the Town Counsel. Since it is the customary practice of Needham Moderators to go over the Warrant and the proposed motions with the Town Counsel before the Town Meeting, questions of scope can usually be anticipated. An unanticipated question of scope may arise when an amendment to a Main Motion is proposed by a Town Meeting Member. In these situations, the final responsibility for determining whether a matter falls beyond the scope of an Article lies with the Moderator.

The words "or in any way act thereon," or a similar phrase often appear at the end of an Article in the Warrant. This phrase may allow a more liberal interpretation of the Article, but they cannot be relied upon to justify any action that is not reasonably relevant, nor consistent with past practice and tradition in Needham. Sometimes, "or in any way act thereon" serves as a basis for the appropriation of the money necessary to carry out the action authorized by a successful vote on a motion or after a motion fails, the basis for a new motion under the article.

The Moderator declares the result of all votes, most of which are taken by a voice vote, and the results are often readily apparent. If the Moderator is in doubt about the outcome of a voice vote, however, the Moderator declares that he or she is in doubt and orders a vote by division, usually a vote by a show of hands or a standing vote. Since there is no provision in the By-Laws for a recount if the Moderator is not in doubt concerning a voice vote, Massachusetts law applies. Massachusetts law (G.L. ch. 39, § 15) requires the Moderator to verify a voice vote he or she has declared if it is "immediately questioned by seven or more voters."

When a counted vote is necessary, the Moderator assembles a group of volunteer tellers who are drawn from among the assembled Town Meeting Members. The Moderator asks each volunteer if there is any reason why he or she cannot conduct an impartial count. If a Town Meeting Member has been an active participant in the underlying debate, the Moderator will not use that person as a teller to avoid the appearance of bias. Once an unconflicted group of tellers is assembled, the Moderator administers an oath under which each teller swears to conduct an accurate count and truthfully report their count to the Moderator. The meeting place is divided into pre-determined sections and each teller counts the hands or the standing Members in his or her assigned section. The tellers then report their counts to the Moderator who with the assistance of the Town Clerk, tallies the final vote and announces it to Town Meeting.

Under our Section 1.3.2 of our By-laws, a roll call vote may be taken only in three situations:

- (1) whenever requested by twenty-five Town Meeting Members present, immediately following a voice vote, standing vote or vote by a show of hands;
- (2) whenever such a roll call on the pending question is ordered by affirmative vote of a majority of Town Meeting Members present and voting; and
- (3) whenever such a roll call is deemed necessary by the Moderator in the fulfillment of the duties of his [or her] office.

If a roll call vote is used, the Town Clerk shall call the roll and record the "yes" and "no" votes to indicate the individual vote of each Town Meeting Member who shall have voted. A Town Meeting Member who votes "yes" or "no" can change the vote cast before the last vote tally is stated, but a Town Meeting member who has voted "present" or who has been marked "absent" cannot change his vote because there is no vote to change. The record compiled by the Town Clerk must be made available to the public at the Office of the Town Clerk and shall be printed in the Town Report. In Needham, roll call votes are very rare and require approximately one hour to complete.

Massachusetts law, G.L. c. 39, sec. 15, provides that in a representative town meeting, votes shall not be taken by secret ballot unless two-thirds of the Town Meeting so votes.

The quantum of vote required to pass a Main Motion depends on the applicable substantive law. The Moderator confers with Town Counsel about the legal requirements governing the quantum needed to pass a particular measure. For most action, a vote of a majority of those present and voting on the question is required for passage. There are instances, however, where a statute requires some other proportion for passage, such as supermajorities of two-thirds, four-fifths or even nine-tenths vote of Town Meeting. For example, appropriations that require the assumption of debt by the town require a two-thirds vote to pass. G.L. ch. 44, Sec. 8. Appropriations from a stabilization fund also require a two-thirds vote. G.L. ch. 40, Sec. 5B.

Under G.L. c.39, sec.15, ". . . 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; but if the vote is unanimous, a count need not be taken, and the Clerk shall record the vote as unanimous." In 1997, the Legislature amended the statute to provide that in the case of a two-thirds vote, "a town may decide by by-law or vote not to take a count and record the vote if a two thirds vote is required by statute . . ." At the 1998 Annual Town Meeting, Needham adopted By-Law Sec. 1.3.1, which provides that a counted vote to determine the existence of a two-thirds supermajority is not required. The By-Law authorizes the Moderator to declare the existence of a two-thirds vote on a voice vote. "Two-thirds" mean two-thirds of those Members present and voting. The vote constituting two-thirds is calculated by the Moderator who verifies it with the Town Clerk.

Where a two-thirds vote is required under parliamentary procedure – for example, moving the previous question -- no statutory obligation to count exists and By-Law Sec. 1.3.1 does not apply. In these situations, the Moderator must only be satisfied that two-thirds are in favor of a motion. Rules of parliamentary procedure are procedural rather than substantive, and a mere procedural error is not likely to nullify the action of the Town Meeting. In contrast, any vote on a Main Affirmative Motion governed my statute – such as whether the town should assume long-term debt -- is one of substance.

The Needham Moderator is a Town Meeting Member at Large and is entitled to vote. There are only two situations at Town Meeting, however, when the Moderator may vote while serving as Moderator. First, he or she may vote to break a tie. Second, the Moderator may vote to make a tie, thereby defeating a motion that might otherwise carry by a majority of one vote. The Moderator's vote may be made after the "ayes" and "nays" have been counted but must be made before the Moderator declares the tally of "ayes" and "nays. If the Moderator recuses himself or herself from presiding over a particular matter, the Moderator's status reverts to that of an ordinary Town Meeting Member and he or she may vote like any other Member.

E. Order of Precedence of Certain Motions

The Moderator is responsible for determining the propriety of all motions. Motions are considered by Town Meeting in order of their "precedence" or "rank." Besides the Main Affirmative Motions discussed above, some of the customary motions that arise at Town Meeting in Needham include motions:

- 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 are decided without debate. Except for the motion to adjourn, which is called a "privileged motion," these motions 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 receiving a motion. The authors of *Town Meeting Time* recommend that a distinction be made between a meeting that is "adjourned" and one that is "dissolved." A meeting is "adjourned" when the suspension is temporary. A meeting is "dissolved" when the meeting is concluded. If all the business of the Meeting is completed, an unqualified motion to adjourn is treated as a motion to dissolve.

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

In Needham, motions to dissolve an Annual or Special Town Meeting are accompanied by resolutions that honor the contributions of citizens, typically citizens who have passed away since the last Town Meeting. The resolution and the motion to dissolve are voted on separately.

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

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 the Main Motion without further debate. If the motion to "lay on the table" carries, all pending motions – such as motions to amend -- go to the table with it. It is usually apparent to the Moderator whether the purpose is 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 (or dissolve) is not in order until the motion previously laid on the table is removed from the table – through a motion to take 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 a motion without further debate. Accordingly, the Moderator treats 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 for passage, and this is the procedure followed by Moderators in Needham.

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 to move 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 refer to a committee, which requires a majority vote.

(3) Moving the Previous Question or "Calling the Question" (not debatable - 2/3 vote)

Moving the Previous Question is the method used to limit or cut off debate. Unlike the motion to lay on the table, it applies only to the motion immediately pending unless the movant specifically states that it shall apply to all pending motions. 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 for passage. It is in effect a motion to terminate debate on the pending motion and to bring it to an immediate vote. If the motion fails to pass, discussion and debate resumes. The motion may be made again if in the sole judgement of the Moderator a reasonable time has elapsed, and the Members are again ready to entertain the motion.

(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 objective is merely to defer debate. The motion must specify 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 moment. If the motion passes, the Meeting must remain in session until the "time certain" is reached.

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

In Needham, we typically call this a Motion to Refer. Under parliamentary rules, 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 or board to which the subject matter under and Article is committed or referred. If the motion requires the composition of a committee to receive the referral – such as a study committee created by Town Meeting – motion should specify how the committee is to be appointed, its makeup, and if necessary, should also contain an appropriation for the Committee's expenses. In Needham, we also expect the motion to specify when the committee to which the subject matter is referred will report back to Town Meeting.

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

Motions to amend are common at Town Meeting. A motion to amend may consist of adding, deleting or substituting words in the motion to be amended. A motion to amend must be within the scope of the Article as determined by the Moderator. If the motion to amend a Main Motion passes, the Main Motion -- as amended -- must always be acted upon. The motion to amend requires only a majority vote, regardless of the quantum of vote required to pass the underlying Main Motion. So, for example, if the Main Affirmative Motion seeks to amend the Needham Zoning By-Law, which in most instances requires a two-thirds vote, a motion to amend the Main Motion needs only a majority vote to pass.

A motion to amend may itself be subject to a motion to amend. This 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. If circumstances or logic require, the Moderator may in his or her judgment decide to alter the order of presentation of the amendments. 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 refer or postpone to a time certain.

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

Under strict parliamentary procedure, a motion to postpone indefinitely should be made only while a Main Motion, and no other, is pending. A motion to postpone indefinitely cannot be amended. In Needham, this motion is treated like a motion to dismiss and has a meaning that no action be taken under this article.

(8) Motion to Reconsider (debatable - majority vote)

Motions for reconsideration have traditionally been viewed with caution in Needham. To avoid unwarranted repetition, the propriety of such a motion is decided in the first instance by the Moderator. The Moderator requests a preliminary offer of proof from the Member seeking reconsideration describing why reconsideration is necessary. For example, is there something new and material that was not before Town Meeting when it acted? It is difficult to request reconsideration without appearing to use the opportunity to re-argue the substance of the underlying matter during the argument for the motion, but before reconsideration is permitted. It falls on the Moderator to restrict the scope of argument when deciding the threshold question of whether a motion for reconsideration should be presented to the meeting.

In Needham, unlike some other towns, we do not require that the motion be made by a Member who was not on the prevailing side in the previous vote. Before permitting the motion to be placed on the floor, however, the Moderator must decide whether a reasonable period has passed since the original vote. If the Moderator decides the motion may be presented to Town Meeting for its consideration, the motion must secure a majority to pass. If the motion carries, discussion and debate on the underlying Main Motion is reopened. When discussion and debate is concluded, a new vote is taken and the outcome of the previous vote may or may not be changed.

To deter the possibility of endless, repetitive motions for reconsideration as sometimes happens in other towns, Needham has a By-Law that limits the number of times reconsideration may be sought. Specifically, By-Law Section 1.3.3 provides, "A warrant article ...which has once been reconsidered may not again be reconsidered, unless such further reconsideration is moved on behalf of the Select Board or Finance Committee and is adopted by a simple majority of Town Meeting."

F. Other Factors

(1) Proposition $2\frac{1}{2}$

The annual tax levy in Massachusetts is limited by G.L. c.59, § 21C ("Proposition 2 ½"). 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,

Needham Moderators have taken the position that they will not rule an appropriation motion out of order only because it might cause the limit to be exceeded.

It should also be noted that only the Select Board is empowered by the statute to call an election to consider an override of the Proposition 2½ levy limit. Needham Moderators have considered it inappropriate for either the Town Meeting or the Moderator to take action to deny the Select Board the exercise of their prerogative to call an override election to balance the budget. The Moderator should, however, call upon the Finance Committee or other appropriate officials to warn Town Meeting of the potential effect of a motion that might cause the limit to be exceeded.

(2) Action on Articles Which May Be illegal

On occasion, articles may 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 Moderator's Association that the Moderator should not intervene. He or she should allow Town Meeting to proceed on the article, and rely upon the proper authority, such as the Attorney General's Office or the Department of Revenue, to declare the action illegal. Of course, the Moderator may request the opinion of Town Counsel as to the legality of a doubtful Article or motion.

(3) To Dissolve or Adjourn Sine Die

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

V. CONCLUSION

As Needham Town Meeting Members, you are heirs to an over 300-year legacy of citizen government. Like the generations before you, I hope you treasure this gift of self-governance and discharge your duties with enthusiasm and honor. This Handbook begins with a quote from Lord George Sackville Germaine, a man who did not have a favorable opinion of the New England Town Meeting. Like most authoritarians, he believed the people were incapable of governing themselves. We know better.

Needham Town Meeting is a vibrant and effective institution that has stood the test of time. It is not an obsolete relic. Each year Needham Town Meeting Members demonstrate how current and meaningful Town Meeting is. Let us keep it that way. In addition, by participating in Town Meeting, let us show our children, our neighbors, the world – and Lord George Germaine wherever he is -- how ordinary citizens can assemble as a non-partisan body and with courtesy, mutual respect and civility, discuss and decide our town's most important issues.

VI. APPENDIX 1 -- PEPARING FOR TOWN MEETING- A MATTER OF "HOMEWORK"

Contributed by James Hugh Powers¹

How well any session of Town Meeting progresses, and how long the Town Meeting as a whole lasts, depends in significant degree upon how well the various town departments, town officials, citizen groups sponsoring warrant articles, and Town Meeting Members do their homework before the Town Meeting convenes. A productive Town Meeting is the product of a community effort and community cooperation.

A. The Moderator

Obviously, the fairness, firmness, tactfulness and political skills of the Moderator, well exercised create a climate conducive to civil discourse, expeditious completion of business before the Town Meeting, and, on the whole a productive Town Meeting.

Politically, and in terms of parliamentary expertise, his task is to help the Town Meeting deliberate adequately upon the business before it, and to "get to where it wants to go" in an orderly and lawful manner, guided in legal questions by the Town Counsel.

From town to town, Moderators differ in their concepts as how best to serve these responsibilities, in their style, and in their approach to their homework.

In some towns, they see their role as akin to that of the President of the State Senate or the Speaker of the State House of Representatives with a partisan function of sorts. In Needham, this concept of their job(s) has been long rejected by our Moderators, (for decades) especially since the institution of our Representative Town Meeting in 1932-34.

Moderators in Needham have tended to regard the Meeting as a business meeting and their role as more like that of a judge presiding over a courtroom, presiding over what is happening on the floor of Town Meeting, but refraining from involvement as a partisan of one cause or another. They see their role, like that of a judge, as a "facilitator" that may, in rare instances encourage conflicting parties to seek a compromise of their differences which will spare Town Meeting a bitter and protracted debate, with potential negative impacts (on the Town) down the road. Moderators have varied in their style as to when to play such a "facilitator" role, and how.

There is no "set" format for Town Meetings, so that Meetings vary greatly town to town. So do the practices of moderators vary. The Moderator's "homework" also includes keeping himself apprised of developments in the community which will affect the proceedings of the Town Meeting. He must know who the "players" are, and where they are coming from, so that he can cope with events on the Town Meeting floor.

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¹ Mr. Powers' text appears as it was first published in 1998, except I have changed references he made in the original to "Selectmen" to "Select Board." In addition, for the 2021 edition, I have updated the resources available to Town Meeting Members.

B. The Select Board and Town Counsel

How long a Town Meeting lasts also depends on how well the Select Board fulfill their responsibility of arranging the succession of Town Meeting Warrant articles in a logical and efficient order. By doing so appropriately, the Select Board can minimize the need to take such articles out of order during the Town Meeting through reconsideration or otherwise or making it necessary to revisit articles under the concluding "Omnibus" article at the end of the Town Meeting Warrant.

An important part of the Select Board's "homework," politically, is twofold. First, they are in a position to act as "facilitators" to achieve agreements and compromises among conflicting groups in respect to controversial articles proposed for inclusion in a Town Meeting Warrant, or later included in it. If they perform this facilitator function successfully, the Moderator's job will be greatly eased and the Town Meeting members will be able to do their job better in less time.

Second, aided by the Town Counsel, the Select Board can also strive to see that all proposals submitted for inclusion as articles in a Town Meeting Warrant are (1) conformable to state and federal laws and regulations and (2) clearly drawn. This will spare the Town Meeting confusion, and the risk of being plunged into esoteric legal debates difficult for lay Town Meeting Members to grasp.

The Town Counsel is available to all authors of proposed Warrant articles, to help them draft those articles properly and to assist them in preparing the motions they wish to offer in relation to them. (He is also available to Town Meeting Members to help them in drafting motions they may wish to offer) on any Warrant article up for consideration. If motions are properly drafted, the Town Meeting will not have to be delayed while properly phrased motions are being redrafted.

C. Town Meeting Members

Town Meeting Members must also do their own homework in a variety of ways.

They should obtain from the Town Clerk's office copies of two booklets, one of which contains our Town Charter and General By-Laws, the other the Zoning By-Law², and should familiarize themselves with their contents. A Warrant article proposing an amendment to one by-law may impact other by-laws in ways not obvious from a reading of the Warrant article, the specific amendment of which is not proposed. Another necessary working tool, obtainable from the Town Clerk or Planning Board, is a zoning map of the Town.³ Zoning legislation affects the town's economy and the property rights of constituents of Town Meeting Members.

² All are viewable on the Town of Needham website: https://www.needhamma.gov/686/Town-Bylaws; https://needhamma.gov/686/Town-Bylaws; https://www.needhamma.gov/686/Town-Bylaws; <a href="https://

³ Also available on the town website: https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId=

There is no substitute for preparation!! It is incumbent upon Town Meeting Members to read, prior to the opening of the Town Meeting, the Town Meeting Warrant, and all relevant reports and documents business before the Town Meeting, which have been sent to them by the Town and by parties at interest.⁴

Nothing so irritates Town Meeting Members as the failure of a colleague to read materials provided to him or her, and then take up the time of the Town Meeting posing questions the answers to which have already been sent to all Town Meeting Members.

Town departments and committees are, with rare exceptions, anxious to respond to inquiries of Town Meeting Members and other citizens, (in respect to business pending before the Town Meeting.) Veteran Town Meeting Members have found town officials very obliging. Simple questions can be addressed to the responsible town agency or committee chair by telephone.⁵ If the question is complex and, on its face, will require some checking by the staff of a lepartment of committee, it is best to submit one's question in writing. This will enable the agency or committee to serve the Town Meeting Member or citizen better.

In this general connection, Town Meeting Members should avail themselves of the opportunity to attend public hearings and informational meetings arranged by Town departments, committees and other agencies, and by citizen organizations such as the League of Women Voters. Notice of official hearings is given in our local newspapers, which also report the time and place of other public meetings, seminars and conferences that may be arranged by citizen groups.⁶

Our Town Library also offers access to a formidable body of information relative to the history of the Town, its governmental organization, and political and developmental issues in the Town. This is a very useful resource for town agencies, Town Meeting Members, and citizen organizations.

News articles, special articles, and letters to the editor, in our local newspapers, afford Town Meeting Members an opportunity to identify issues of importance to voters of the Town generally, and to voters of their precincts in particular. Town Meeting Members should maintain contact with their constituents and be good listeners.⁷

The hallmark of an effective and respected Town Meeting Member is a conscientious attention to <u>all</u> issues pending before the Town Meeting, knowledge of the rules a diligent use of available informational sources and being there on the floor of Town Meeting to assure a full and fair representation of the residents of their precincts who have placed their confidence in their Town Meeting Members.

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⁴ Or available from other sources, including web-based sources.

⁵ Or email.

⁶ Notices also appear regularly on the town website or are provided via email for those who choose to participate in email lists offered by the Town.

⁷ Of course, various websites, email groups and social media may also be a source of information.

VII. APPENDIX 2 – MODERATOR'S SUGGESTED RESOURCES AND READING

- 1. *Town Meeting Time*, A Handbook of Parliamentary Law by Richard B. Johnson, Benjamin A. Trustman and Charles Y. Wadsworth (Third Edition). Available at the Needham Free Public Library or for purchase through the Massachusetts Moderator's Association https://massmoderators.org/town-meeting-dvds/
- 2. *Citizen's Guide to Town Meeting* (published by the Office of the Secretary of the Commonwealth) https://www.sec.state.ma.us/cis/cistwn/twnidx.htm
- 3. Needham Town Charter and General By-Laws https://www.needhamma.gov/686/Town-Bylaws;
- 4. "A Guide to Financial Management for Town Officials" Massachusetts Department of Revenue, Division of Local Services https://www.mass.gov/doc/a-guide-to-financial-management-for-town-officials/download
- 5. "Proposition 2 1/2 and the Tax Levy Process" (Massachusetts Department of Revenue, Division of Local Services https://www.mass.gov/service-details/proposition-2-12-and-tax-rate-process
- 6. Needham Zoning By-Laws http://needhamma.gov/1614/Zoning-By-Laws
- 7. Needham Zoning Map <a href="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/1388/Zoning-Map-2020?bidId="https://needhamma.gov/DocumentCenter/View/Id="https://needhamma.gov/DocumentCenter/View/Id="https://needhamma.gov/DocumentCenter/View/Id="https://needhamma.gov/DocumentCenter/View/Id="https://needhamma.gov/DocumentCenter/View/Id="https://needhamma.gov/DocumentCente
- 8. Massachusetts Law About Zoning: A compilation of laws, cases and web sources on zoning law in Massachusetts https://www.mass.gov/info-details/massachusetts-law-about-zoning
- 9. Mass. Gen. Laws ch. 39
- 10. Mass. Gen. Laws ch. 40A
- 11. Mass. Gen. Laws ch. 44
- 12. Town of Needham Annual Town Report https://www.needhamma.gov/2117/Annual-Town-Reports
- 13. Town Meeting page of the Town of Needham Website, including the "The Cradle of Liberty" -- A Primer on Local Self-Governance at its Finest" by Moderator Michael K. Fee https://www.needhamma.gov/2045/Town-Meeting