

*Compiled by Putney Town Meeting Parliamentarian  
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"Town meeting happens every year on the first Tuesday in March. A form of government that exists nowhere else in the world outside of New England, town meeting involves direct citizen lawmaking, true government by the governed." (Office of the Vermont Secretary of State)

### **Foundations of our direct democracy**

Our Vermont Town Meetings are legislative assemblies guided by laws and rules of order where voters govern ourselves under the *Constitution of the State of Vermont*, Chapter I, Article 6:

*"That all power being originally inherent in and co[n]sequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them."*<sup>1</sup>

### **Rules of order**

"Robert's Rules or some other rules of order shall govern all municipal meetings, except in elections using the Australian ballot system" (17 V.S.A. § 2658).

The latest edition is *Robert's Rules of Order Newly Revised* (RONR, 12<sup>th</sup> edition, 2020). For an introductory guide, see *Robert's Rules of Order Newly Revised In Brief* (3<sup>rd</sup> edition, 2020).

"The actions of any deliberative body are also subject to procedural rules prescribed by local, state, or national law and would be null and void if in violation of such law" (RONR, 12<sup>th</sup> ed.: 1:5).

### **Decorum in debate**

"The measure, not the member, is the subject of debate" (*Robert's Rules of Order Newly Revised*, 12<sup>th</sup> ed., 2020: 43:21).

"Members ... must address all remarks through the [moderator]" (RONR, 12<sup>th</sup> ed.: 43:22).

<sup>1</sup> As an individual constitutional right to be heard (Supreme Court of Vermont, *Severson v. City of Burlington*, 215 A.3d 102 (2019), 2019 VT 41, ¶12, ¶¶ 14–15).

### **Placing a warning article before town meeting**

A Vermont Town Meeting warning article proposes a motion that must be moved before the moderator 'states the question' (*Robert's Rules of Order Newly Revised*, 12<sup>th</sup> ed., 2020: 4:2).

"A motion made by direction of a board or duly appointed committee of the assembly requires no second from the floor" (RONR, 12<sup>th</sup> ed.: 4:11).

"When the [moderator] has stated the question, the motion is *pending*, that is, 'on the floor.' It is then open to debate." (RONR, 12<sup>th</sup> ed.: 4:3)

"Neither the warning, the notice, the official voter information cards, nor the ballot itself shall include any opinion or comment by any town body or officer or other person on any matter to be voted on" (17 V.S.A. § 2666).

"After [a] nominating committee has presented its report and before voting for the different offices takes place, the [moderator] must call for further nominations from the floor" (RONR, 12<sup>th</sup> ed.: 46:18).

### **Discussing warning articles & other motions**

"Public discussion of ballot issues and all other issues appearing in the warning, other than election of candidates, shall be permitted at the annual meeting, regardless of the location of the polling place" (17 V.S.A. § 2640 (c)(1)):

- Every Vermont Town Meeting voter present has an individual constitutional right to be heard in accordance with the rules of order.<sup>1</sup>
- Moving the Previous Question is never in order because it denies voters present their individual constitutional rights to be heard.<sup>2</sup>
- Warning articles, except election of candidates via ballot, cannot be "passed over," but can be postponed indefinitely by majority vote after inconclusive public discussion.

However: "A candidate for local office nominated from the floor at the annual meeting may

<sup>2</sup> <https://vtdigger.org/2023/02/07/howard-fairman-on-moving-the-previous-question-at-town-meeting/>

introduce his or her candidacy to the extent permitted by the voters at the meeting" (17 V.S.A. § 2640 (c)(2)).

Therefore: When a town-meeting ballot has *no* candidate for one or more local office(s), write-in candidates can be nominated from the floor and may introduce their candidacies to the extent permitted by the voters at the meeting.

Assignment of the floor:

- "A member cannot make a second speech on the same question the same day until every member who desires to speak on it has had an opportunity to do so once" (*Robert's Rules of Order Newly Revised*, 12<sup>th</sup> ed., 2020: 43:13).
- "No member can speak more than twice to the same question on the same day" (RONR, 12<sup>th</sup> ed.: 43:12) — that is, 'the same motion.'
- "Merely asking a question or making a brief suggestion is not counted as speaking in debate; nor is the making of a secondary motion ..., so long as in making the motion the member makes no comment on the then-pending question" (RONR, 12<sup>th</sup> ed.: 43:12).
- "A member ... can speak no longer than ten minutes unless he [or she] obtains the consent of the assembly" (RONR, 12<sup>th</sup> ed.: 43:8).
- "In debate a member's remarks must be germane to the question before the assembly — that is, [her or] his statements must have bearing on whether the immediately pending motion should be adopted" (RONR, 12<sup>th</sup> ed.: 43:20).
- "If any member objects, a member has no right to read from — or to have the secretary read from — any paper or book as a part of [her or] his speech without permission of the assembly" (RONR, 12<sup>th</sup> ed.: 33:20).
- "The foregoing paragraph applies only to papers or documents that are not before the assembly for action. When any paper is laid before the assembly for action, it is a right of every member that it be read once; and, if there is any debate or amendment, that it be

read again before members are asked to vote on it." (RONR, 12<sup>th</sup> ed.: 33:21)

#### Amending warning articles & other motions

"The ordinary member's becoming at home with the formal amendment process is the key-stone of the power of the general membership to keep details of the direction of an organization under its control to the extent it wishes to do so" (*Robert's Rules of Order Newly Revised*, 12<sup>th</sup> ed., 2020: 12:3).

"An amendment must always be *germane* — that is, closely related to or having bearing on the subject of the motion to be amended. This means that no new subject can be introduced under pretext of being an amendment." (RONR, 12<sup>th</sup> ed.: 12:6)

"Until the [moderator] states the question, the maker has the right to modify [her or] his motion as he [or she] pleases or to withdraw it entirely" (RONR, 12<sup>th</sup> ed.: 4:19).

You are not alone: "A member ... can ask the [moderator] to assist [her or] him in wording an appropriate motion" (RONR, 12<sup>th</sup> ed.: 4:7).

"It is the duty of the [moderator] to see that the motion is put into suitable form — preserving the content to the satisfaction of the mover — *before* the question is stated" (RONR, 12<sup>th</sup> ed.: 4:18).

"There are three basic processes of amendment" (RONR, 12<sup>th</sup> ed.: 12:8):

1. to insert or add words or a paragraph;
2. to strike out words or a paragraph;
3. either:
  - a. to strike out *and* insert words or
  - b. to substitute a paragraph or more.

A proposed municipal budget to be adopted via floor vote can be amended.

Voting on a proposed amendment adopts or rejects it; then voting on the motion, if and as amended, adopts or rejects it.

Degrees of amendment (RONR, 12<sup>th</sup> ed.: 12:11–12):

- “A primary amendment applies directly to the pending ... main motion.”
- “A secondary amendment applies to a pending primary amendment.”
- “An amendment of the third degree is not permitted. To accomplish the same purpose, a member can say, while a secondary amendment is pending, that if it is voted down, he [or she] will offer another secondary amendment — which he [or she] can then indicate briefly — in its place.”

#### **Voting on warning articles & other motions**

Putting the question: “When the debate appears to have closed, the [moderator] may ask, ‘Are you ready for the question?’ or ‘Is there any further debate?’ If no one then rises to claim the floor, the [moderator] proceeds to put the question — that is, he [or she] puts it to a vote after once more making clear the exact question the assembly is called upon to decide.” (*Robert's Rules of Order Newly Revised*, 12<sup>th</sup> ed., 2020: 4:34)

“When a vote declared by [the moderator] is immediately questioned by one voter, he or she shall divide the meeting [‘vote to be taken again by rising’ (RONR, 12<sup>th</sup> ed.: 29:1–2)], and if requested by seven voters, shall cause the vote to be taken by paper ballot” (17 V.S.A. § 2658).

Public counting of paper ballots: “Persons who are not election officials may remain within the polling place but outside the guardrail, or within a designated area in any other room where ballots are being counted, provided that they are able to observe the counting process, but that they do not in any way interfere with the orderly count and return of votes” (17 V.S.A. § 2581).

“A warned article voted on at an annual or special meeting of a municipality shall not be submitted to the voters for reconsideration or rescission [rescinding] at the same meeting after the assembly has begun consideration of another article” (17 V.S.A. § 2661 (a)).

Before the assembly has begun consideration of another article:

- A motion to Reconsider “can be made only by a member who voted on the prevailing side” (*Robert's Rules of Order Newly Revised*, 12<sup>th</sup> ed., 2020: 37:8 (a)).
- “The seconding can be done by any member regardless of how he [or she] voted on the motion to be reconsidered” (RONR, 12<sup>th</sup> ed.: 37:9 (4)).
- A motion to Reconsider “is debatable whenever the motion proposed to be debated would be debatable, and when debatable, opens to debate the merits of the question whose reconsideration is proposed” (RONR, 12<sup>th</sup> ed.: 37:9 (5)).
- A motion to Reconsider “requires only a majority vote, regardless of the vote necessary to adopt the motion to be reconsidered” (RONR, 12<sup>th</sup> ed.: 37:9 (7)).

“If the voters have begun consideration of another article, the original article may only be submitted to the voters at a subsequent annual or special meeting duly warned for the purpose and called by the legislative body on its own motion or pursuant to a petition requesting such reconsideration or rescission [rescinding]” (17 V.S.A. § 2661 (a)).

“The article entitled ‘other business’ shall not be used for taking binding municipal action, and the moderator shall so rule” (17 V.S.A. § 2660 (d)).

“Nonbinding advisory articles ... shall not be subject to reconsideration or rescission [rescinding]” (17 V.S.A. § 2661 (g)).

#### **Straw poll versus committee of the whole**

“A motion to take an informal straw poll to ‘test the water’ is not in order because it neither adopts nor rejects a measure and hence is meaningless and dilatory” (*Robert's Rules of Order Newly Revised*, 12<sup>th</sup> ed., 2020: 45:72).

"If the assembly wishes to discuss and take a vote on a matter without the vote constituting final action by the assembly, it may instead vote to go into a committee of the whole. ... The assembly considers the matter as would a committee, and its vote ... serves only as a recommendation to the assembly, which the assembly is free to reject." (RONR, 12<sup>th</sup> ed.: 45:72)

"The Previous Question is not allowed in committees" (RONR, 12<sup>th</sup> ed.: 16:4).

### **Petitioning a town-meeting warning article**

Said to not have 'voter initiative,' Vermont does: petitioned town-meeting warning articles!

"The warning shall also contain any article or articles requested by a petition signed by at least five percent of the voters of the municipality and filed with the municipal clerk not less than 47 days before the day of the meeting" (17 V.S.A. § 2642 (a)(3)(A)) (see Validating Petitions below).

"On a petition signed by at least ten percent of the voters of a municipal corporation the proposition of incurring a bonded debt to pay for public improvements shall be submitted to the qualified voters thereof" (24 V.S.A. § 1755 (a)(1)).

"A petition... (17 V.S.A. § 2642 (a)(3)(C)):

- "may include more than one proposed article;
- "shall contain the petition language on each page on which signatures are collected; and
- "shall include the printed name, signature, and street address of each voter who signed the petition."

"All articles involving issues that Vermont law states the voters or electorate are capable of deciding and binding the town must be placed on the warning by the selectboard" (Office of the Vermont Secretary of State, Elections Division: *Petitioning Your Local Government*<sup>3</sup>).

"The board may warn 'advisory' or non-binding articles that are petitioned, but it is only required to do so if they relate to town business."<sup>3</sup>

"Any proposed articles that involve action that is specifically delegated in the Vermont Statutes to the legislative body (i.e., selectboard or school board) or to any other town board or official should be rejected by the legislative body and not placed on the warning."<sup>3</sup>

'Non-binding *resolutions*' are unwarned, informal motions from the floor seconded, debated, and voted upon under a final town-meeting warning article that is similar to 'To transact any other *town business* that may legally come before the annual town meeting.'

They are non-binding because "the article entitled 'other business' shall not be used for taking binding municipal action, and the moderator shall so rule" (17 V.S.A. § 2660 (d)).

### **Validating petitions** (17 V.S.A. § 2642 (a)(3)(B))

"The [municipal] clerk receiving the petitions shall immediately proceed to examine them to ascertain whether they contain the required number of signatures of registered voters set forth in subdivision (A) of this subdivision (3)."

"If found not to conform, he or she shall state in writing on the petition why it cannot be accepted, and within 24 hours from receipt, he or she shall return it to the petitioners."

"In this case, supplementary petitions may be filed not later than 48 hours after the petition was returned to the petitioners by the clerk or the filing deadline set forth in subdivision (A) of this subdivision (3), whichever is later."

"However, supplementary petitions shall not be accepted if [prior] petitions with signatures of different persons totaling at least the number specified in subdivision (A) of this subdivision (3) were not filed by the filing deadline."

<sup>3</sup> <https://sos.vermont.gov/elections/election-info-resources/town-meeting-local-elections/local-petitions/>