

QUESTION PRESENTED:

What process can be used for Town Meeting votes on warrant articles via a PAPER BALLOT distributed to all registered Westford voters and cast similarly to paper ballots used in local, State and Federal elections, as opposed to a “raise your paddle for counting” or similar vote at an “in-person” Town Meeting?

EXECUTIVE SUMMARY OF ANSWER:

- (1) Create and distribute proposed warrant articles like we already do.
- (2) Conduct an “in-person” Town Meeting like we already do to debate and amend warrant articles like we already do.
- (3) When debates and amendments are closed by moderator for each respective warrant article, the “as amended” warrant article is captured in writing for subsequent placement and publication on a paper ballot. Only essential change is not conducting an immediate “raise your paddle for counting” vote.
- (4) By a date certain after the “in-person” Town Meeting, a paper ballot containing all of the “as amended” warrant articles is prepared, and said ballot will be prepared just like any other ballot that is used for town elections. The contents of the ballot should also be published so that folks will know what they are voting on.
- (5) On a date certain after the “in-person” Town Meeting, there will be a “Town Meeting Election Day” when all Westford registered voters – our ideal target, after all! – will have opportunity to cast said ballot, ideally in same way as they do for any town election.

EXECUTIVE SUMMARY OF LEGAL ISSUES/QUESTIONS:

For the Commonwealth's canned, broad summary of laws regulating Town Meetings, see generally (a) MGL c.39, §§9-18 (labeled “Municipal government: city government and town meetings” in the General Laws); (b) “Massachusetts law about town meetings” (<https://www.mass.gov/info-details/massachusetts-law-about-town-meetings>); and (c) “Citizen’s Guide to Town Meetings” (<https://www.sec.state.ma.us/cis/cistwn/twnidx.htm>).

For ATM Committee purposes, the following statutes – and this preliminary executive assessment thereof! – should be given special attention in support of ballot voting:

- (1) c. 39 § 9 – ANNUAL MEETING; OTHER MEETINGS; ELECTION OF OFFICERS; TIMES; ADJOURNMENT; HOLIDAYS

As currently written, this section means that any ballot voting “shall” clearly take place within physical bounds of Westford – perhaps preventing folks from dropping ballot in any mailbox or ballot box outside of Westford (e.g. mailing it in from Chelmsford while out running errands) – and that matters determined by ballot “shall” be determined during the hours during which polls shall remain open, so lawful polling hours must be used. Importantly, it appears this section can be adjusted by town by-law.

(2) c. 39 § 10 – WARRANT; ISSUANCE; CONTENTS

The detailed instructions of this section re: warrant contents would likely require the Town Meeting warrant to give a clear description of WWWWW&H the ballot voting would be conducted after all debate is closed.

(3) c. 39 § 13 – QUORUM; APPLICATION OF SECTION

Importantly, this section says in pertinent part: “Towns may prescribe by by-law the number of voters necessary to constitute a quorum at town meetings.” and “This section shall not apply to such parts of meetings as are devoted exclusively to the election of town officers.” Together, it seems that TOW has ultimate control over what constitutes “quorum” and that the actual election-type voting – arguably ballot voting on Town Meeting articles – is not meant to be subject to a quorum requirement.

(4) c. 39 § 15 – MODERATORS; POWERS AND DUTIES

This section describes moderators' powers and duties. It arguably allows by-laws to be adopted by the Town that would allow moderator to adjust how actual votes are taken, e.g. by paper ballot after all debate and amendments are closed.

(5) c. 39 § 18 – DUTIES OF MODERATORS; RECEPTION OF VOTES

This section in its entirety says: “The moderator shall receive the vote of any person whose name is on the voting list or who presents a proper certificate from the registrars of voters.” A fair interpretation of this section is that any registered Westford voter should be able to cast a ballot, and that the Town Moderator must somehow directly oversee/participate in the counting of any votes to make sure that the ballot votes “received” are from registered Westford voters.