

Warrant Article Questionnaire Non-Standard Town Agency Articles

Section III – Questions with Response Boxes – To Be Completed By Petition Sponsor

Article # 39	Date Form Completed: 9.16.21 and 9.27.21
Article Title: Resolutions	
Sponsor Name: Town Meeting Practices and Rules Committee ("TMPRC")	Email: tmprcgriesmer@gmail.com

Question	Question
1	Provide the article motion exactly as it will appear in the Finance Committee Recommendation Book and presented to Town Meeting for action.
Response	<p>Please see attached motions.</p> <p>Please see attached motion.</p>
2	At a summary level and very clearly, what is the proposed purpose and objective of this Warrant Article and the accompanying Motion?
Response	<p>Resolutions are motions non-binding expressions placed before town meeting without need for a warrant article.</p> <p>Notably, Town Meeting Time provides only for Complimentary Resolutions with the following language in Chapter 3 Preliminary considerations Section 16 Opening of the Meeting sub section 5 as follows:</p> <p><i>"5. Complimentary Resolutions.</i> Sometimes the town wishes to express its appreciation of some achievement or service on the part of a citizen, or sympathy on an illness or death. The opening of the meeting is the time for such expressions. No article is necessary."</p> <p>No other written authority exists for resolutions. Resolutions are not mentioned in the Town Charter or the Town ByLaws. Resolutions are also not mentioned in state law.</p> <p>All resolutions are by definition non-binding because state law (MGL Ch. 39 s. 10) requires any binding action of Town Meeting to be pursuant to a warrant article. MGL Ch. 39 s. 10 states "No action shall be valid unless the subject matter thereof is contained in the warrant."</p> <p>However, state law does not prohibit warrant articles that contain non-binding subject matter or warrant articles under which Town Meeting votes a non-binding motion.</p> <p>Article 39 deals only with resolutions and does not deal with any warrant article that includes or seeks non-binding vote.</p>

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A key distinction is made between resolutions (all of which are non-binding) and warrant articles which may or may not be non-binding. All warrant articles go through a defined and structure process before coming to Town Meeting floor. Resolutions have no process before coming to Town Meeting floor.

Many differences exist for the process for warrant articles vs. resolutions. These differences are important.

Sponsorship

Before getting to Town Meeting floor, warrant articles must be sponsored either by a vote of a town board, an authorized public official (i.e. Moderator, Town Clerk, Town Administrator or School Superintendent) or a minimum number of registered voters. Ten registered voters are required to sponsor a warrant article for an Annual Town Meeting. One hundred registered voters are required to sponsor an article for a Special Town Meeting.

A resolution requires only one sponsor to hit Town Meeting floor. The resolution is read and then awaits a second. One person gets it on the floor and two people can put it up for debate.

Public Notice

A warrant article is noticed to the public 60 days before Town Meeting begins. Many warrant articles are noticed to the public 70 or more days before Town Meeting takes them up. The public gets to consider the matter well in advance whether or not they attend Town Meeting. Every individual members of the public can decide whether they wish to participate or weigh in on the matter.

No notice to anyone, much less the public, is required for a resolution. The public does not get to consider the resolution unless they happen to attend Town Meeting on the night it is offered. Otherwise, most individual members of the public have no knowledge and can't even decide whether or not to weigh in.

Public Hearing Process

Warrant articles must go through a public hearing process before the Finance Committee in advance of Town Meeting. Motions are proposed and evaluated in advance of Town Meeting. Finance Committee recommendations are due to Town Meeting members at least 7 days in advance of Town Meeting. Warrant articles can also be heard by other boards and committees. Warrant articles and motions can also be evaluated by appointed town officials including Town Counsel. The 60 day minimum period between the closing of the warrant for Spring or Fall annual town Meeting and the beginning of Town Meeting affords these opportunities. For some articles, the period is longer if they are taken up later in the warrant.

No public hearing process exists for resolutions. Further, no required minimum time period exists for anyone other than the sponsor to evaluate a resolution.

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A public hearing process is helpful if not necessary to avoid both problematic wording. Resolutions might be non-binding but inappropriately worded resolutions can have costs. The Finance Committee public hearing process in advance of Town Meeting also reduces the amount of time that Town Meeting must spend. Although debate on an individual warrant article might be lengthy, such debate would have been longer and more difficult without the benefit of advance consideration by the Finance Committee. The whole purpose of Finance Committees is to do the detailed advance work for which Town Meeting is not well suited. Resolutions have no such process.

Often, the public hearing process results in a different motion. Resolutions don't get this benefit. Rather, Town Meeting doesn't get this benefit as far as resolutions are concerned.

Sponsor Preparation

Sponsors must not only prepare warrant articles and motions for warrant articles. They must also prepare presentations to the Finance Committee and any other local board interested in the subject matter of their warrant article. Part of this preparation includes careful consideration and answering questions.

Resolutions do not require this.

Assigned Place in the Warrant

Warrant articles are assigned a place in the warrant by the Select Board. Warrant articles are taken up in order as established in the warrant unless Town Meeting votes to take something out of order. With warrant articles the Select Board and or Town Meeting can establish or amend the order for a logical flow of topics. The chief executive body and the chief legislative body are in control of the order of business.

Resolutions pre-empt and can side track and interrupt the order of established and necessary Town business. Because any one person can sponsor a resolution, the warrant articles sponsored by vote of a local board, by decision of an authorized individual town officer or by signature of 10 or 100 voters can be pre-empted in importance. Other than Complimentary Resolutions, which are by their nature brief and non-controversial, resolutions should not have greater importance or higher place in the order over duly sponsored warrant articles.

One nearby town (Wayland) requires all resolutions to be heard as part of a "resolutions warrant article" sponsored by the Select Board and further requires that this "resolutions warrant article" be absolutely last in the warrant. (They have further restrictions as discussed below.) This practice would not work well for Complimentary Resolutions which according to Town Meeting Time should be at the beginning of the meeting.

Entire nights have been spent at town Meeting on resolutions which are not Complementary and which have gone through no process.

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Use of Resolutions in Natick

Resolutions have been used for various purposes at Town Meeting. These purposes have included Complimentary Resolutions to express congratulations, appreciation or condolences. Such Complimentary Resolutions are the ONLY type of resolutions mentioned in Town Meeting Time. No mention of resolutions exists in Massachusetts General Law or in our Town Charter or Town ByLaws. The Town Charter, Town Bylaws and Town Meeting Time are the only governing documents for procedure at Town Meeting.

The practice has developed and evolved over time at Natick Town Meeting of using resolutions for matters that are not Complimentary Resolutions. These other uses have included language of potential zoning articles, detailed requests (essentially draft bylaws but for the warrant article) to ban plastic bags, requests that that Board of Health ban plastic bags, straws or styrofoam, requests that someone file an article, requests for information that has not been forthcoming, request to study a matter, requests for answers to questions from Town Meeting members that have not been answered. Each of these resolutions could have been a warrant article but were not filed in a timely manner.

Resolutions have also been used to debate state wide and national issues and controversies over which Town Meeting has no authority. Examples include gun control or to condemn the actions of individuals or to disassociate Town Meeting from actions outside the Town. Some of these resolutions engendered drafts of counter resolutions that were noticed to the Moderator but not presented on Town Meeting floor.

A pattern has begun to use resolution on national and state political issues and not the needs of the Town within Town Meeting's authority. Town Meeting's limited time is better used to debate and decide municipal affairs. Town Meeting is a decision making body on local appropriations, charter change provisions and local bylaw changes. Town Meeting is a legislative body not a debating society. Town Meeting is also expressly non-partisan. Engaging in issues of national controversy moves Town Meeting into matters which are easily very partisan.

Notably, Town Meeting Time provides only for Complimentary Resolutions with the following language in Chapter 3 Preliminary considerations Section 16 Opening of the Meeting sub section 5 as follows:

"5. Complimentary Resolutions. Sometimes the town wishes to express its appreciation of some achievement or service on the part of a citizen, or sympathy on an illness or death. The opening of the meeting is the time for such expressions. No article is necessary."

Aside from local practice, no other authority exists for introducing resolutions. Further such Complimentary Resolutions are the only instance in Town Meeting Time where reference can be made to an individual by name. The use of resolutions for any subject at any time is not provided for but is becoming a practice. Without a limit, further development of this practice

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	<p>could evolve into resolutions consuming the time of Town Meeting on any or all subjects that any one individual person would like to introduce.</p> <p>Without a limit on the use of resolutions, debates could be held at Town Meeting on a wide range of matters such as gun control or rights, riots at the Capitol, riots in Seattle or Portland, immigration, Afghanistan, voting rights, election integrity, Senate filibuster, Green New Deal, C-19 vaccine mandates, mask mandates, Joint Chiefs calls to China, Russia collusion, big tech regulation, deficit spending, free tuition, student loan forgiveness, minimum wage/living wage, Facebook and Instagram, Keystone pipeline, etc. Nothing currently prevents this. While such matters might be interesting or valid at the national level, they should not become the focus of Town Meeting which has other responsibilities and which can only express a non-binding opinion anyway whether in a warrant article or in a resolution.</p> <p>The developing practice of using resolutions for other than Complimentary purposes consumes time of the Representative Town Meeting which is an entirely volunteer body focused on appropriations, town bylaws and town Zoning ByLaws within the Town. Entire nights have been spent on matters outside town Meetings authority or on matters that could have been warrant articles. Resolutions should not be used as a substitute for a failure to sponsor a warrant article.</p> <p>Because resolutions are not provided to the Town on a town meeting warrant, there is very little to no opportunity for boards, committees, and members of the public to consider and to review them well in advance of town meeting or for the Moderator or Town counsel to weigh in on precise language. Adequate time for review and consideration by all parties is important to avoid protracted consideration at Town Meeting and questions on the appropriateness or legal implications of wording. The Moderator has reported that late breaking resolutions have conflicted with and interfered with the time necessary to prepare for the regular business of Town Meeting and requested that the TMPRC consider the matter of resolutions.</p> <p>The TMPRC considered the Moderator's request and sponsored this warrant article.</p> <p>The TMPRC has reviewed instances where town meeting considered resolutions to produce missing financial information on the Town's OPEB liability, to require FinCom consideration of a materially different free cash number, to request the then Board of Selectmen to place a debt exclusion question on the ballot or to request increased state aid. The TMPRC also considered the ultimate wording of resolution regarding events in Washington DC last January 6th where disassociated from actions at large but avoided naming individuals. Any and all of these matters could have been warrant articles but as warrant articles 1) would have a required number of citizen sponsors, 2) would have been noticed to the public 60 days before Town Meeting, 3) would have gone through a deliberative public hearing process, 4) would have required preparation and a presentation by the sponsors, 5) could have alternative motions developed and 6) would have been assigned an order in the warrant.</p>
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	<p>The TMPRC also noted that the Moderator reportedly spent much if not all of the time that should have been spent preparing for town Meeting instead dealing with initial wording and consulting with Town Counsel to avoid naming individuals and associated legal risks. The Moderator also dealt with proposed counter resolutions. (The central that involved Town Meeting was a news article that indicated that members had taken part and that by inference the Town Meeting was involved when it had no part of it.)</p> <p>The proposed motion limits resolutions to Complimentary subject matter consistent with Town Meeting Time. All other matters whether binding or non-binding would need to be part of filed warrant articles. Interested citizens could express themselves on non-binding topics but would need to file a warrant article and go through the warrant article process. If something arose after a warrant closed and citizens felt it was urgent enough to be addressed in public three options would be available. First, such a matter could be expressed at citizen's concerns at any meeting of any local board or committee each of which is required by the town charter to have a period of time on its agenda for citizens to present matters that are not on that board or committee's agenda. Second, ten or more citizens could file a warrant article at the next annual town meeting and 100 citizens could file a warrant article at the next special town meeting. Third, 200 or more citizens could petition the Select Board to call a special Town Meeting under the provisions of MGL Ch. 39 s. 10 which states "The selectmen shall call a special town meeting upon request in writing, of two hundred registered voters or of twenty per cent of the total number of registered voters of the town, whichever number is the lesser; such meeting to be held not later than forty-five days after the receipt of such request, and shall insert in the warrant therefor all subjects the insertion of which shall be requested by said petition." Two hundred registered voters could force the special and 100 could sponsor the article!</p> <p>The point is that no one would lose their right to speak or their right to express themselves. They would just need to go through the citizen's concerns part of a committee meeting or file a warrant article.</p> <p>The proposed motion also defines a resolution so as to distinguish it from a warrant article.</p>
3	Has this article or one of a very similar scope and substance been on a previous Warrant Article and what have been the actions taken by the Finance Committee, other Boards or Committees and Town Meeting?
Response	No.

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	Comments:
4	Why is it required for the Town of Natick and for the Town Agency sponsor(s)?
Response	See discussion above
5	Does this article require funding, how much, from what source of funds and under whose authority will the appropriation be managed and spent?
Response	No funding is required.
6	Does this article act in any way in concert with, in support of, or to extend any prior action of Natick Town Meeting, Massachusetts General Laws or CMR's or other such legislation or actions? Does this article seek to amend, rescind or otherwise change any prior action of Natick Town Meeting?
Response	No.
7	How does the proposed motion (and implementation) fit with the relevant Town Bylaws, financial and capital plan, comprehensive Master Plan, and community values as well as relevant state laws and regulations?
Response	The language fits well into an existing bylaw (Article 3).
8	Who are the critical participants in executing the effort envisioned by the article motion?
Response	There actually aren't any 'critical' participants'.

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9	<p>What steps and communication has the sponsor attempted to assure that:</p> <ul style="list-style-type: none"> • Interested parties were notified in a timely way and had a chance to participate in the process • Appropriate Town Boards & Committees were consulted • Required public hearings were held
Response	<p>The TMPRC's meetings have all been public and duly posted.</p> <p>No other public board or committees are involved or expressed interest.</p>
10	<p>Since submitting the article have you identified issues that weren't initially considered in the development of the proposal?</p>
Response	<p>The Town of Wayland appears to take an interesting and different approach which is arguably much more restrictive. The Select Board has to prepare a placeholder warrant article under which all resolutions are to be heard. It must be last on the warrant. All resolutions must have the same number of signatures of registered voters as for a warrant article. If the resolution with sufficient signatures is submitted before the close of the warrant it is included in the placeholder article. If no such petitions are submitted, the placeholder article is withdrawn from the warrant.</p> <p>Resolutions can be submitted after the close of the warrant but not less than 45 days before the state of town meeting. Such resolutions still need the required number of signatures as for a warrant article and are heard last.</p> <p>All resolutions must be 150 words or less and in the form of a warrant article.</p> <p>The Finance Committee must hear the municipal aspects of all resolutions and report thereon to Town Meeting.</p> <p>This approach effectively treats all resolutions as warrant articles.</p> <p>Notably, Wayland's code also prohibits return to any other warrant article once the resolutions article has been reached. There appears to be a narrow exception provided the Town meeting votes before reaching the resolutions article that it may return to other business. This provision appears to prevent or to inhibit resolutions from being taken out of order. A copy of the Wayland bylaw section is attached.</p>

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11	If this Warrant Article is not approved by Town Meeting what are the consequences to the Town and to the sponsor(s)? Please be specific on both financial and other consequences?
Response	If the warrant article is not passed, the representative town meeting risks spending time , perhaps increasing time, on hot button issues that any one person wants to introduce outside of the normal warrant article process.