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NHMA New Hampshire Town And City

Transitioning to SB 2 Form of Town Meeting

New Hampshire Town and City, November/December 2014

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If your town has elected to change to the SB2 form of town meeting, this article will provide an overview of mandatory deadlines for the selectboard and budget committee; provide timelines for collective bargaining agreements and bonding warrant articles; describe the deliberative session and what can and cannot be done at the deliberative session; explain what actions can be taken after the deliberative session; and describe how to prepare the ballot for town meeting election day.

Q: How many town meetings will we now have?

Legally there is still one town meeting, but instead of one session where debate and final voting on warrant articles takes place, there will be two separate town sessions, deliberative and voting. The deliberative session is held to discuss, debate, and possibly amend warrant articles (except that articles whose wording is prescribed by law may not be amended). The second town meeting session, the voting session, takes place in the voting booth where citizens vote on all warrant articles.

Q: What are the deadlines that must be met by the board of selectmen, budget committee and planning board for a March SB2 town meeting?

For 2015, the final date for posting notice of budget hearings by the budget committee and the final date for the selectmen to post notice of a hearing for a bond over \$100,000 under RSA 33:8-a is January 13, 2015 (or February 10, 2015, for an April meeting, or March 10, 2015, for May meeting)

The deadline for completing collective bargaining agreement negotiations and for submission of petitioned warrant articles is January 13 (or February 10 for April SB2, or March 10 for May SB2 town meeting) [n.b., if the petitioned article seeks to raise money by bonded indebtedness for an amount greater than \$100,000, the deadline is January 9, or February 6 if an April meeting, or March 6 if a May meeting]

Budget hearing by budget committee must be completed by January 20 (or February 17 for April meeting, or March 17 for May meeting)

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Bond hearings under RSA 33:8-a must be completed by January 20 (or February 17 for April meeting, or March 17 for a May meeting)

Budget committee delivers final budget with recommendations by January 22 (or February 19 for April meeting, or March 26 for a May meeting)

Zoning amendment hearings must be completed in time to include text of those amendments in the warrant for posting on January 26 (or February 23 for an April meeting, or March 30 for a May meeting)

The warrant and budgets must be posted by January 26 (or February 23 for April meeting, or March 30 for May meeting).

Q: What happens if the operating budget is not approved?

If the operating budget warrant article is not approved at the voting session, then the default budget is deemed to be approved for the next calendar or fiscal year (unless the selectman choose to call a special meeting, as described below). The “default budget” equals the amount of the same appropriations as contained in the operating budget from the previous year, reduced or increased as the case may be by debt service, contracts, and other obligations previously incurred or mandated by law. The default budget also excludes one-time expenditures contained in the previous year’s operating budget, which are defined as one time expenditures not likely to recur as determined by the governing body.

Q: How does the default budget work?

The default budget freezes the budget at the previous year’s level except for amounts which the town is legally obligated to pay or were one-time expenses. Employee raises should not be included unless they are required by a legally binding and previously ratified contract obligating the municipality to fill particular positions or employ particular people at certain wages.

While the per unit cost of certain commodities may increase from one year to the next (such as the per ton cost of bituminous concrete), the default budget includes the amount of *money* appropriated for that purpose from the previous year, not the amount that will be required for the same number of *units* in the coming year. New budget line items cannot be added because they are not part of the appropriations contained in the previous year’s operating budget.

Q: Who prepares the default budget?

The establishment of the default budget, including identifying one-time expenditures, rests with the governing body and cannot be altered by the town meeting. However, default budget

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preparation can be delegated to the budget committee by vote of the town meeting pursuant to RSA 40:14-b.

Q: How is the public made aware of the default budget?

The governing body must post certified copies of the default budget form along with the proposed operating budget and the warrant. RSA 32:5 (VII) (b)

Q: Do the checklist supervisors have to do anything different in an SB2 town?

Yes, the checklist supervisors must hold a session to correct the checklist before both the deliberative session and the voting session. The voter checklist must be updated in accordance with RSA 669:5 for each session of the annual meeting. RSA 40:13 (II-d)

Q: When is the deliberative session held?

In 2015, the deliberative session in a March town meeting is held on a date selected by the board of selectmen on or between January 31 and February 7 (or between February 28 and March 7 for an April Meeting, or between April 4 and April 11 for a May meeting).

Q: What happens at the deliberative session?

At the deliberative session warrant articles can be discussed and amended. However, warrant articles prescribed by law cannot be amended. In addition, warrant articles cannot be amended to eliminate the subject matter, but an amendment can change the dollar amount of an appropriation to zero. See RSA 32:10 (I) (e). All warrant articles must be placed on the official ballot for the ballot session, including those articles amended by the first session. RSA 40:13 (VI)

Q: Can the budget committee or board of selectmen change their warrant article recommendations based on actions taken at the deliberative session?

The governing body and the budget committee (if any) can change warrant article recommendations if the deliberative session has amended an amount contained in a special warrant article. If the operating budget warrant article is amended at the first session of the meeting, the selectmen and the budget committee may each vote on whether to recommend the amended article. RSA 32:5 (VII)

Q: Is there any special language that must be used for any warrant article in an SB2 town?

Yes, the operating budget warrant article must be worded as follows:

“Shall the (local political subdivision) raise and appropriate as an operating budget, not including appropriations by special warrant articles and other appropriations voted separately, the amounts

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set forth on the budget posted with the warrant or as amended by vote of the first session, for the purposes set forth therein, totaling \$_____? Should this article be defeated, the default budget shall be \$ _____, which is the same as last year, with certain adjustments required by previous action of the (local political subdivision) or by law; or the governing body may hold one special meeting, in accordance with RSA 40:13, X and XVI, to take up the issue of a revised operating budget only.’’

For the adoption of a proposed ordinance where only a topical description of the ordinance appears in the warrant (and where full copies of the proposed ordinance are made available in the office of the town clerk one week before the voting session), the article must be worded as follows: “Are you in favor of the adoption of (amendment to) the ordinance as proposed by the selectmen as follows: (here insert text or topical description of proposed ordinance or amendment)?” In the event that there is more than a single proposed amendment to an ordinance to be submitted to the voters at any given meeting, the issue as to the several amendments should be put in the following manner: “Are you in favor of the adoption of Amendment No. ___ to the ordinance as proposed by the selectmen as follows: (here insert text or topical description of proposed amendment)?”

Q: When is the voting session held?

The voting session is held on the second Tuesday in March (or second Tuesday in April, or second Tuesday in May). The voting session is deemed to be the annual election date for purposes of all applicable election statutes including, but not limited to, RSA 669:5, 669:19, 669:30, 670:3, 670:4, 670:11, 671:15, 671:19, and 671:30 through 32; and votes on zoning ordinances, historic district ordinances, and building codes under RSA 675.

Q: What election and voting procedures apply at the voting session?

Voting at the second session must conform to the procedures for the nonpartisan ballot system as set forth in RSA 669:19-29, RSA 670:5-7 and RSA 671:20-30, including all requirements pertaining to absentee voting, polling place, and polling hours. Approval of all warrant articles is by simple majority except for questions which require a 2/3 (or 3/5) vote by law, contract, or written agreement. Votes taken at the second session may not be reconsidered, but they are subject to recount under RSA 669:30-33 and RSA 40:4-c .

Q: Can any other action be taken if the budget article is defeated?

If the operating budget article is defeated, the selectmen can, as an alternative to the default budget, call one special town meeting to consider the adoption of a revised operating budget.

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That special town meeting does not have to get court approval pursuant to RSA 31:5. That special meeting will involve both a deliberative and voting session.

If no operating budget article is adopted, the estimated revenues are nevertheless deemed to have been approved.

Q: Can the town meeting be changed to an April or May meeting date?

RSA 40:14 (XI) permits the town to adopt either an April or May town meeting date. An article would be placed on the warrant either by the selectmen or by petition to change the town meeting date.

A public hearing must be held by the local governing body 15 days, but not more than 30 days, before the question is to be voted on. The article shall be worded as follows: “Shall we change the date for elections and the second session from the second Tuesday in _____ to the second Tuesday in _____, which would change the date for the first session to a date between the first and second Saturdays after the last Monday in _____, inclusive?”

This must be approved by a simple majority vote. A vote to change the dates of the meeting shall apply to the annual meeting next following the vote.

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