

ASK THE LEAGUE, MAY 2016

How are “special” town meetings noticed?

A “special” town meeting is a meeting of a town held on some day other than its annual meeting and which can be initiated upon the application of five percent of the voters or by the selectboard when it deems it necessary. 17 V.S.A. § 2643(a).

The voters may petition for a special town or annual meeting so long as its purpose is not “frivolous, useless or unlawful.” *Royalton Taxpayers v. Wassmandsdorf*, 260 A.2d. 203 (1969). However, a selectboard is only legally required to present a petitioned article on a town meeting warning if the article “set[s] forth a clear right which is within the province of the town meeting to grant or refuse through its vote.” *Clift v. City of South Burlington*, 2007 VT 3, ¶6, (quoting *Royalton Taxpayers’ Protective Assoc. v. Wassmandsdorf*, 128 Vt. 153, 160(1969)). In other words, the petition must address an issue over which the Vermont Legislature has specifically granted authority to the voters. Some examples of voters authority to petition for a special town meeting include overriding ordinances approved by the selectboard (24 V.S.A. § 1973), filling vacancies in elective offices (24 V.S.A. § 962), and approving the conveyance of town real estate (24 V.S.A. § 1061(a)(2)).

A selectboard, on the other hand, may “call” a special town meeting at any time for any reason, but must do so when required by law. Examples of when a selectboard must call a special town meeting in addition to those times when it receives a valid voter-backed petition include seeking to incur bonded indebtedness (24 V.S.A. § 1755(a)), and approving charter amendments (17 V.S.A. § 2645).

To “call” a special town meeting means to set a date (i.e. “warn”) for when the meeting will occur. Before the law was changed in 2015, a selectboard had to call a special town meeting within “15 days of receipt” of a valid voter-backed petition. This meant that the selectboard had a 15-day window to warn a special town meeting petitioned by the voters. The actual meeting date then had to occur “not less than 30 nor more than 40 days” from the date it was warned. 17 V.S.A. § 2641(a). Since the law has changed, a selectboard must warn a special meeting “within 60 days of receipt of the application by the municipal clerk.” This means that a selectboard has a 60-day window to warn a special town meeting when petitioned by the voters. As before, the actual meeting date itself has to be set for a date “not less than 30 nor more than 40 days” from the date it is warned.” 17 V.S.A. § 2641(a). The law also now allows a voter to withdraw his or her name from a petition for a special town meeting at any time prior to the signing of the warning by a majority of a selectboard.

Keep in mind that despite the above change, the law governing reconsideration or rescission of a town vote requires a selectboard to actually hold a special town meeting within 60 days of the day of receipt of a valid petition to reconsider or rescind a question considered or voted on at a previous annual or special town meeting. 17 V.S.A. § 2661(b).

Regardless of the purpose of a special town meeting, the warning and notice requirements are the same as those for the annual town meeting and include all of the following from 17 V.S.A. § 2641:

- posting a warning and notice in at least two public places in town as well as in or near the town clerk's office not less than 30 nor more than 40 days before the meeting; **and**
- publication of the warning in a newspaper of general circulation in the town as designated by the selectboard at least five days before the meeting or distributing the warning in written form to all town postal patrons at least 10 days before the meeting; **and**
- posting the warning and notice on the town's website if it actively updates it on a regular basis

The law does not define what it considers to be a "regular basis," nor does it direct when posting on a website is to occur. From a conservative perspective, we recommend posting on a town website (if the town has one) and posting the warning on it at the same time it posts its warning in the public places around town.

The **warning** must include all of the following:

- the date and time of the meeting or election;
- the location of the polling place(s); and
- the nature of the meeting or election.

As with warnings for annual town meetings, the warning for special town meetings must be signed by a majority of the selectboard and filed with the town clerk for recording before being posted.

The **notice** must include:

- information on voter registration; and
- information on early or absentee voting. 17 V.S.A. § 2642.

The Municipal Assistance Center's guide to warning special town meetings is posted at <http://www.vlct.org/assets/News/Current/2016-Special-Town-Meeting-Notice.pdf>.

As a final note, please be aware that, depending on the reason for the special town meeting, it may require Australian ballot voting, even if a town has not previously adopted this type of voting, as well as an accompanying informational hearing. Contact the Municipal Assistance Center for assistance.

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