

Chapter 3

Additional Considerations in Preparing Warrants

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Introduction

This chapter covers procedures for postponing or canceling a meeting for which a warrant has already been posted, policies on accepting articles for placement on a warrant, the order of arrangement of articles on a warrant, required and advisable annual articles, required information on warrant articles and on ballots to appropriate money in secret ballot municipalities, and filling vacancies in municipal offices.

Postponing/Canceling Town Meeting

Overview. No statutory procedure exists for either postponing a town meeting or canceling it altogether. This discussion provides guidance in the absence of statute.

Postponing meeting. If a warrant has not been posted for seven days, and if there are at least seven days remaining before the proposed changed meeting date, then the original warrant can simply be taken down after a proper vote (i.e., a vote taken at a meeting of which proper public notice under Maine's Freedom of Access Law has been given) to cancel it. Then the original can be replaced with a new warrant (approved by the municipal officers at a proper public meeting) stating the new date and time, so long as the new warrant is posted at least seven days before the meeting it calls. As a matter of mechanics, in a town that lacks word processing equipment, a photocopy of the original warrant articles can simply be cut and pasted between a new greeting and new signature lines for the municipal officers (and a new return).

Canceling meeting. As with postponement, if the warrant has not been up for seven days, then the municipal officers can vote to cancel and direct a constable or other resident (preferably the one who posted the warrant originally) to take down the warrant and any ordinances or other materials that were posted with it and return them to the clerk

for filing as a public record. No law specifies this procedure, therefore no law requires that the person who posted the warrant be the one who takes it down: it just seems sensible to do so. Indeed, the clerk could appropriately annotate the original or attach a record to it that would constitute a summary statement of the action taken. Obviously, it would be politic to post an explanatory notice or to get the news to the media directly that a posted meeting has been canceled. Remember that once a warrant has indeed been posted for seven days, the meeting has been called and cannot be cancelled.

The municipal officers should have the constable or resident turn in the posted warrants to the town clerk, who can file them with the original after the municipal officers mark the original "Cancelled" and show the date of the vote. At least a majority of the municipal officers should sign that marking (especially if no record or minutes exist of the meeting at which they voted to cancel the meeting).

Because "addendum" warrants (see preceding chapter) are not provided for in statute or case law, they should not be used to change a date or place of a meeting, but only to add articles.

Point of no return. If a warrant has been posted for seven days or more, then the meeting cannot be postponed or cancelled, because the meeting has been properly "called" for the date and time announced by the warrant. Promptly after convening and electing a moderator, however, an *open town meeting* can be adjourned to a preferred later date certain for the conduct of the business on the warrant, including the open town meeting election of officials, thus effectively "postponing" the meeting, or it can vote to adjourn without acting on any of the articles after the election of a moderator, thus effectively "canceling" the meeting.

On a *secret ballot election* or referendum day, however, the "meeting" (typically, the clerk, ballot clerks, and moderator candidates, along with any voters who have arrived before the opening of the polls) cannot simply elect a moderator and then vote a final adjournment without holding the election, or vote to adjourn to a later date certain (specified in the motion to adjourn) for the actual holding of the election. Rather, the polls must be opened, and the voting must proceed as scheduled in the warrant, even if turnout is expected to be unusually low because of severe adverse weather, for example. If there is an unusually low turnout for a secret ballot referendum question, the municipal officers may wish to consult with counsel concerning scheduling a second vote on the same issue. This option is not available, however, for a secret ballot election of officials.

Advancing Date of Meeting

If a warrant has been posted early enough but has not been up for seven days, it is possible that enough time will remain before the meeting for a decision to be made to move the posted meeting date to an even earlier date. This is really just canceling a

meeting and setting a new meeting for an earlier rather than a later date. As long as a new warrant goes up at least seven days before the new date, this can be done. It is recommended that meeting dates not be moved up except for a compelling reason, simply because it is human nature to complain more if one is surprised by having something occur earlier than expected and less so if it is to occur later (as unexpected extra time will be available to prepare for the event). To advance a date, the procedures of voting to do so and of voting to cancel the first warrant at a properly-noticed municipal officers' meeting and then replacing the first and last pages of the original warrant and preparing new copies for posting, as described above for a postponement, are recommended.

As noted above in connection with postponement, the "addendum" warrant should not be used to advance the date of a meeting. In any event, it is recommended that the date of a secret ballot election or referendum never be advanced. (For the same reasons relating to absentee ballot voting set forth in the discussion arguing against postponing a secret ballot election or referendum, above.)