

3. TOWN CLERK, TOWN MODERATOR & THE FOUR-CORNERS RULE

The last in this three-part overview of town meeting looks at the role of the Clerk and the Moderator, and also describes the four-corners rule at town meeting. The very first town official in Ipswich, the Town Clerk used to be called the Recorder. In 1643 Robert Lord was chosen as the first Recorder “to be present at every general of the Town ... and to record in a book what is committed to him by the Moderator.” When it comes to town meeting, the Town Clerk’s role is by no means simply clerical. She plays a vital role in the municipal legislature as she is required to make an accurate record of everything that happens on the floor; that’s why she is always right next to the Moderator. In fact, along with the quorum, a properly served warrant, and a Moderator, she is one of the four essentials of any town meeting. And her job doesn’t end at the meeting; she is also required to certify town meeting appropriations. For any action that must be approved by the Attorney General she is responsible for coordinating that process.

By the early 1700s Massachusetts town meetings were pretty stormy events. In 1715 the Great and General Court, still under the British Crown, passed a law “for the better regulating” of town meetings because of the “disorderly Carriage of some Persons in the Meetings” and because “the Affairs and Business thereof is very much retarded and obstructed.” See what I mean?!! That law required that the first action in any meeting was to elect a Moderator. He (and it was always a he back then) was to “manage and regulate the Business of the Meeting.” The law also established a few other rules which we still have today: the Selectmen control the warrant before being published; nobody may speak without permission of the Moderator; it takes at least seven people to challenge a declared vote; Moderators can order the Constable to remove disorderly people (back then it was a 20-shilling fine – half went to the Town treasurer and half for the poor); ten signatures are required for a citizen’s petition; and no “Matter or Thing whatsoever shall be voted or determine but what is inserted in the Warrant” for the meeting. This last rule is what came to be known as the “scope” or “four corners” rule.

For the next two-hundred years electing the Moderator was the first article on the warrant in Massachusetts town meetings. It wasn’t until 1902 that the Legislature allowed towns to elect Moderators by ballot at the polls, still only for a one-year term, instead of at the meeting. Ipswich did not adopt that change until 1912. While some towns have since extended a Moderator’s term to three years, Ipswich still has the one-year term.

So what exactly is the difference between an “article” on the warrant and a “motion” on the floor of the meeting? Almost 300 years after the first version of the four-corners rule, it hasn’t changed much. It now reads: “No action shall be valid unless the subject matter thereof is contained in the warrant.” Sometimes the motion under the article is simply that the Town “take favorable action under this article,” or adopt the article. That is why many people think an article is the same as a motion. But they are not; they are totally different animals. A motion need not be exactly the same as the article; in fact, often it is not the same. In that case the question becomes whether a motion is within the scope or four corners of the article. That is a question for the Moderator and the analysis has varied over the years.

In the 1700s, precision in the warrant was important as a way of assuring a consensus on votes at the meetings. When in the 1800s it was considered more of a privilege than a duty to attend town meeting, the idea of the warrant was more refined. Today, the manual that the Ipswich by-law requires a Moderator to follow says that the article has to give a “sufficient description of the subject matter” of the

topic so voters know “the nature of the business to be acted upon.” It also says that a Moderator deciding these questions should interpret the article “in a liberal manner and not with strictness or rigidity.” Translation: a motion is within the four corners of an article if, in the discretion of the Moderator, it addresses the subject matter of the article. Stated in the negative, if someone who had read the article but did not go to the meeting was surprised to learn the subject matter of something on which the meeting acted under that article, the action probably was not within the scope of the article. This is one reason why the wording that the Selectmen use when writing the articles is critical. In many towns, the Selectmen will consult with the Moderator as well as town counsel and bond counsel when preparing the wording of the articles.

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