

There has been much discussion of late about Waterbury town meetings, how public questions are decided and municipal charters. Until this week, I have not had the time to respond as I have been preparing budgets and reports for town meeting. As Waterbury Annual Meeting is still several weeks way, I think what I have to say will be timely. However, as this is a complicated issue, those who are interested in this topic should visit the town's website, where my comments can be read in full.

Vermont is a "Dillon's Rule" state. Municipalities in Vermont only have authority to do that which is approved explicitly by the legislature. Unless a Vermont municipality has been granted a specific charter by the state legislature, it must operate its government according to the General Laws of the State of Vermont. Title 24 of the Vermont statutes contains most of the laws which towns use to govern themselves. The Town of Waterbury does not have a specific charter that has been granted by the state legislature and as such, it operates under the General Laws of Vermont.

Vermont municipalities that want authority to govern themselves in a different manner than as provided in the general statutes can adopt a charter to do so. As "Dillon's Rule" still applies, however, the legislature has to approve the charter and it has to be signed into law by the governor.

All of Vermont's cities and villages have charters. The state law establishes **towns** as the municipal political subdivisions of the state and the law states that towns are to be governed by a 3-member select board. The general law allows towns to choose to expand its governing board to a five member board and Waterbury has chosen to do that. But to have a strong mayor-city council form of government like Rutland has, a mayor-council-commission form like Burlington has, or any city form of government chosen by the other seven Vermont municipalities that are incorporated as cities, requires a charter.

Many Vermont towns also have charters. They have charters for many reasons. Some have desired to implement a local option tax, others have decided they want to authorize the appointment of clerks or treasures by the town manager or select board rather than elect them as provided by law, for example. There are likely as many reasons for wanting a charter as there are towns that have charters. All Vermont villages, like Waterbury Village, have adopted charters. This allows the villages to offer, within a political subdivision in a town, additional services beyond which the town normally provides and to raise revenues for the provision of those services.

The Town of Waterbury has never written a charter, except for the documents which would have merged the town and village. None of the six proposed mergers since 1988 was approved by both the town and village. If one of the mergers had been approved, the document would have been sent to the legislature and it would have become the charter of the Town of Waterbury, if the legislature concurred.

The town can choose to write a charter at any time. If voters approve it, the proposed charter would be filed with the office of the Secretary of State and that office would forward it to the legislature for its consideration. The provisions of the charter would normally take effect on the

1st of July after legislative approval and signature by the governor. If townspeople believe a charter would be good for Waterbury, it would be appropriate to bring that issue to the select board to get the ball rolling. It would also be appropriate to discuss the concept of having a charter at town meeting when the article for "Other Business" comes to the floor. While the concept can be discussed and actions recommended, no binding action can be taken while discussing "Other Business" at a town meeting.

As pertains to deciding public questions, approving budgets and electing its governing board and other town officers, the general laws of the state dictate that towns do so at an open town meeting. In its purest form and still practiced by many Vermont towns, including Duxbury, all town elections (except for bonded indebtedness) are decided by a vote of those present at town meeting. Nominations for town clerk, select board member, lister etc... are made by a motion from the floor, that if seconded, may be debated. The races, if any are decided by voice vote or by paper ballot, but only those at the meeting may vote. These towns debate and approve their budgets and other public questions using this same process.

The state law mandates an open town meeting and a floor vote for public questions for every municipality. There are two exceptions: those municipalities that have a charter may have chosen to elect officers, adopt budgets and decide public questions by Australian ballot. In addition, the general law does provide a means for towns without charters to choose to decide public questions and elect officers by Australian ballot. The decision to move to use of Australian ballot voting must be made by the town at an open town meeting, however. The law allows towns to choose Australian ballot voting for elected officials, for appropriations--budgets and special articles requesting money, and perhaps for other public questions.

There are two ways by which these questions can be warned: the select board on its own motion can include an Article on the Warning of an Annual or Special Town Meeting asking the voters if the town shall vote to adopt Australian balloting for deciding public questions. The second option is that a petition signed by 5% of the voters requesting such an article on the Warning must be submitted to the town clerk. The Warning for this year's Annual Meeting has already been approved by the select board and it is too late for a petition to get this question on the Warning for March meeting this year. Petitioners may, however, submit a request for a Special Town Meeting anytime during the year and the article concerning Australian balloting can be discussed and voted on during that Special Town Meeting.

At some point in the Town of Waterbury's history, such an article made it onto a warning for a town meeting, as the town now elects its governing boards and officers by Australian ballot, not by voice vote. I know that choice was made more than 30 years ago because when I came here in 1988, the town was already using the Australian ballot to elect its board members and officers.

I do not know whether the town ever considered voting its budgets or other public questions by Australian ballot, but I do know that a vote on that Article, if it was ever taken up at town meeting, did not pass for we still decide budgets and public questions at open town meeting today.

I am not taking sides on this issue. There are good arguments for and against open town meeting and Australian balloting. Waterbury does have a history of fairly robust and well attended town meetings. There were about three hundred voters at the special town meeting a few weeks ago to discuss the potential contract with the state police. In my time here, I believe most annual meetings held in the morning of the first Tuesday in March, have had attendance that averages 150-200, during the floor vote portion of the meeting. When there is an article of particular interest or a controversial issue that needs to be discussed, attendance is even higher.

There are around 4,000 voters on Waterbury's voter checklist. During a normal, non-controversial year, 800 or so come out to vote to elect town and school boards and officers and to vote by Australian ballot on the school budget. That indicates that about 600-650 come to vote in addition to the 200 or so who attended the open town meeting. When a presidential primary election coincides with town meeting day, upwards of 1,800 have voted using the Australian ballot.

There is no question that more people will be able to participate and have their votes count if the town decided all questions, including the budget, by Australian ballot. Perhaps that fact alone is reason enough to move to Australian ballot voting. Much will be lost, however, and that needs to be considered as well.

Our open town meeting happens once every year. On occasion, like this past January 23rd, an issue arises when the select board or the public decides a special meeting is necessary to vote on the issue rather than waiting for Annual Meeting to roll around. Open town meetings allow the citizens of this town to come together to discuss issues of importance to the community. The town's budget is presented, not simply as a "yes or no" ballot question such as "Do you approve the town's budget for 2018 in the amount of \$3,500,000? Instead it is presented as a plan that can be questioned, discussed and amended.

A few years ago, the budget presented by the select board to the town meeting was amended—the line item for recreation director was increased by \$6,000 or so in order to make the position "full-time". After it passed a second motion was made and approved directing the select board to find \$6,000 of offsetting cuts in the remainder of the budget to neutralize the decision to add money for the recreation director's position. That process of amending the budget to tailor it to meet the needs of the community cannot be accomplished when budgets are voted by Australian ballot. Voters can simply approve or reject a budget when using that system.

If a budget is rejected, the governing board has little information as to why the voters said "no". Was the tax rate associated with the budget too high? Perhaps voters did not want to buy the new truck that was included in the budget. Maybe voters were disappointed a program or position they hoped would be included was not and they voted "no" because they wanted something more or they simply voted "no" to protest government spending, in general.

At the recent special meeting concerning police services, members of the public questioned the select board about the reasons they were recommending appropriating money and seeking authority to contract with the state police for police services. One member of the public made a motion to add money to the request. He argued for hiring a police chief this year to allow the

chief to begin building a local police department. He supported the contract with the state police, but believed the community would be better served by having its own department. He allowed that it takes time to hire personnel and build a department from the ground up and said the contract with the state would provide the opportunity to have necessary police services at the present time while the town began building that local department he supported. Some in the room agreed with him, but in the end his amendment was voted down. If voting were done by Australian ballot, that amendment and none of the discussion would have been available to the voters for their consideration.

Someone suggested that if the town moved to deciding public questions by Australian ballot that the select board could hold a meeting before the election to answer questions. That, in fact, would have to occur as the state law requires it. While questions can be asked and answered at the informational meeting and while voters can state their opinions or preferences, no changes through an amendment process can be made to the question that will appear on the ballot. Voters will have the choice to vote “Yes” or “No” on their Australian ballots.

If “no”, the governing board will go back to the drawing board to develop a new proposal. Perhaps based on information gleaned at the pre-election informational meeting, the board will lower the budget by \$10,000 or perhaps by 30% or maybe they’ll add \$5,000. In the end, a new election will be held and fewer people will go out to vote. The budget may pass or not. If not, the process starts again.

Articles that stand on their own at town meeting, like the single police services related article that was considered at the special meeting a few weeks ago, or articles requesting funding for a piece of highway equipment or an appropriation to a social service agency sometimes are approved, sometimes are approved after amendment and sometimes are rejected by voters. Seldom is a budget rejected outright at an open town meeting, however. If the public doesn’t like it, suggestions generally will be made as how the budget should be changed to get the support of the public who are present at the meeting. When considered at an open town meeting, it is likely the budget will pass, at the end of the day, even if it has been amended.

While the law requires towns and school districts to have an informational meeting before an Australian ballot election, turn out at those meetings is abysmally low, here and across the state. Generally, only a few die-hards go out to attend a meeting where only information will be disseminated and no binding action can be taken. I know this for a fact because when I go to the annual meeting of our school district, which is for information purposes only, I am most always joined by a only a handful of others.

Comments made at those information meetings are made to the board after it has already decided to send the budget to voters for their consideration. Even if the comments are cogent and convincing, the opportunity for the board to change the budget it is presenting to voters has already passed. It is also unlikely those comments will be taken into consideration by many voters when casting their Australian ballots as so few attend the informational hearings and one cannot act on information that one has not received.

In order to influence the decision making of a public body where its budget is voted by Australian ballot, the public must engage with its elected board well before that informational meeting. It requires calling them on the phone, writing a letter or an e-mail or attending a meeting of the board while it is building its budget. Again, from long experience working for the public and with boards, the number of people who attend a select board or school board meetings to participate in the annual budgeting process can be counted on one's fingers.

If the public's sole desire is to give the greatest number of town voters the chance to vote on the town's budget and other public questions, asking the town to move to Australian ballot voting may be the best option. However, paraphrasing a widely known quotation, democracy works best if the electorate is informed. As so few engage with their elected boards throughout the year, and especially at budget time, an open town meeting does allow those who show up to vote the opportunity to ask questions about the budget and the public questions proposed by the select board.

In my opinion, Australian balloting allows many people to vote up or down on the work product of five elected governing board members and the professional staff that informs them. A significant proportion of those who will cast vote will have taken little opportunity to engage with their elected officials about the issues. In most instances the only information they have about the issues is what they have gleaned from a newspaper story or from a conversation had with a friend or neighbor. That is not all bad, but sometimes the information is incomplete and it may be inaccurate.

An open town meeting, on the other hand, allows a couple of hundred townspeople to question the elected officials of the town and its staff to determine for their friends and neighbors who cannot attend whether the budget and the programs and services it provides are worthy of public support. If answers to questions don't make sense or if the proposed spending cannot be justified, those present can reject the budget and can vote deny a special project, program or appropriation that is presented as a stand-alone article. Or as I have stated above, those in attendance can use the information the board presents to find a different solution—a budget amendment to add a program or to cut a service.

There is no solution to this dilemma which will be perfect for everyone. Few, who are not elected officials themselves, want to attend the number of select board or school board meetings it takes to be fully informed about budgets or other public issues. Many who pay attention to a reasonable degree, want to be able to vote on a budget or a public question, but cannot take the time away from jobs or day to day life, in general, to attend an open meeting held on a weekday morning. Others, who are able to attend an open town meeting want to be able to ask a question and get an answer in a timely manner that will allow them to use that information to make a decision that could be "yes", "no" or "not that, but this".

Front Porch Forum and other virtual "public squares" allow all of us the opportunity to ask questions or to make constructive criticism about our local government and the legal process for decision making that is in place in our town. We can post our comments and concerns and we can even demand a change in how we govern ourselves. To affect the changes we as a town may

want, however, requires engagement with the select board and with fellow town residents in an arena where decisions about governance can be made—select board meetings and town meetings.

If voters are serious about moving to an Australian ballot to decide budgets and public questions, attending a select board meeting and bringing others who share your concerns, to make a request for an article to be placed on a town meeting warning, is the easiest first step. If you are unable to do that or if your request is denied by the board, you can circulate a petition requesting an article on a town meeting warning where voters will consider adopting the Australian ballot process. If the petition is signed by 5% of the town's registered voters (about 200 voters), it can be filed with the town clerk and the select board will be required to place the issue before voters at a regular or special town meeting. After that of course, the issue will be presented to voters at an open town meeting where it will be discussed and voted on. If Australian ballot is approved at the town meeting and assuming it withstands a rescission vote, the Australian ballot will be used at the next and every subsequent town meeting until and unless the town votes by Australian ballot to eliminate its future use.

Who said civics and keeping a democracy was easy?