



**Town of Arlington
Legal Department**

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To: Select Board

Cc: Adam Chapdelaine, Town Manager
Stephanie Lucarelli, Town Clerk
Board of Registrars
John Leone, Town Moderator
Resident Petitioners

From: Douglas W. Heim, Town Counsel *DWH*

Date: January 25, 2019

Re: Annual Town Meeting Warrant Articles

I write to provide the Board a summary of the following yet to be numbered warrant articles to assist in the Board's consideration of these articles at its upcoming hearing on January 28, 2019.

ARTICLE

BYLAW AMENDMENT/TOWN MEETING SPEAKING TIMES

To see if the Town will vote to amend Title I, Article 1, Section 7(C) of the Town Bylaws ("Town Meetings: Regulation of Speakers, Time Limits") to reduce the time limit for speakers at Town Meeting for the first time on the floor from seven minutes to five minutes, and for the second time from five minutes to three minutes; or take any action related thereto.

(Michael Jacoby Brown and 10 Registered Voters)

This resident petition article calls for a straightforward amendment to the Town Bylaws to reduce the default time limits for Town Meeting speakers by two minutes. I expect Mr. Jacoby Brown to present his rationale for decreasing speaking times at hearing. Permit me to note both that Town Meeting may of course extend speakers' time by vote of same, and that the Moderator is vested with authority to ensure the good conduct of the meeting.

Were the Board inclined to endorse this article, an appropriate motion would be:

VOTED: That Title I, Article 1 (Town Meetings), Section 7(C) "Time Limits" be and hereby is amended by striking the word "seven" in the first paragraph and replacing it with "five;" and further striking the word "five" in the second paragraph and replacing it with the word "three," so as to read as follows:

C. Time Limits

No person shall speak, or otherwise hold the floor, for the first time on any subject for more than seven five minutes, unless, prior to beginning his or her presentation, the person requests of the Town Meeting a specific extension of time, and the request is granted by a majority vote of the Town Meeting members present and voting.

No person shall speak, or otherwise hold the floor, for a second time on any subject for more than five three minutes.

ARTICLE

EXTENDING LOCAL VOTING RIGHTS TO ALL LEGAL ARLINGTON RESIDENTS

To see if the Town will vote to authorize and request the Select Board to file a petition with the General Court to enable legal permanent residents of the United States who are also Arlington residents to vote in elections for Town Offices and local ballot questions; or take any action related thereto.

(Inserted at the request of Benjamin Rudick and ten registered voters)

This resident petition article proposes to extend voting rights to legal non-citizen residents of the Town in *Town elections only*. I anticipate that Mr. Rudick will provide the Board with supporting information on this article, permutations of which have been considered and/or passed by a variety of towns and cities throughout the Commonwealth.

Qualifications for voting are set forth by the Commonwealth in G.L. c. 51 sec. 1, which provides:

Section 1: Qualifications of Voters

Section 1. Every *citizen* eighteen years of age or older, not being a person under guardianship or incarcerated in a correctional facility due to a felony conviction, and not being temporarily or permanently disqualified by law because of corrupt practices in respect to elections, who is a resident in the city or town where he claims the right to vote at the time he registers, and who has complied with the requirements of this chapter, may have his name entered on the list of voters in such city or town, and may vote therein in any such election, or except insofar as restricted in any town in which a representative town meeting form of government has been established, in any meeting held for the transaction of town affairs. Notwithstanding any special law to the contrary, every such citizen who resides within the boundaries of any district, as defined in section one A of chapter forty-one, may vote for district officers and in any district meeting thereof, and no other person may so vote. A person otherwise qualified to vote for national or state officers shall not, by reason of a change of residence within the commonwealth, be disqualified from voting for such national or state officers in the city or town from which he has removed his residence until the expiration of 6 months from such removal.

The Legislature and Governor must approve a Home Rule Petition authorizing the Town to extend voting rights, which at most, could afford non-citizen residents the ability to vote in elections for local offices and local ballot measures.¹

As noted above, a number of municipalities have contemplated extension of non-citizen voting rights. In 2010, Brookline Town Meeting passed a version of the following:²

AN ACT AUTHORIZING CERTAIN LOCAL VOTING RIGHTS FOR PERMANENT LEGAL RESIDENTS RESIDING IN BROOKLINE

Be it enacted, etc., as follows:

Section 1. Notwithstanding the provision of section one of chapter fifty-one of the General Laws, or any other general or special law, rule or regulation to the contrary, permanent legal residents eighteen years of age or older who reside in Brookline may, upon application, have their names entered on a list of voters established by the Town Clerk for the Town of Brookline and may thereafter vote in any election for local office, including but not limited to Selectmen, School Committee, Town Meeting, and Library Trustees, as well as local ballot questions distinct to Brookline.

Section 2. The Brookline Board of Selectmen, in consultation with the Town Clerk, is authorized to formulate regulations and guidelines to implement the purpose of this act.

Section 3. For the purposes of this act, a permanent legal resident is a non-U.S. citizen with primary residence in Brookline who has been given the privilege, according to the immigration laws, of residing permanently as an immigrant with the issuance of a "green card" from the Bureau of Citizenship and Immigration Services.

Section 4. Nothing in this act shall be construed to confer upon legal resident aliens the right to run for public office, or the right to vote for any state or federal office or any state or federal ballot question.

Section 5. This act shall take effect upon its passage.

or act on anything relative thereto.

¹ The Town cannot afford non-citizen residents voting rights relative to State offices or ballot questions or Federal offices by special legislation.

² Upon information and belief, the version passed by Town Meeting also required the majority of voters to support a local ballot question following approval by the State.

However, it must be noted that the Legislature has yet to pass any iteration of special legislation permitting non-citizen voting despite the action of Town Meetings and city government counterparts.

A series of bills in the Legislature, including one recently co-sponsored by Rep. Dave Rogers in the 190th Session (H.388), propose to enable cities and towns to extend voting rights to legal, non-citizens on substantially similar terms. Those efforts have previously been studied by the Committee on Election Laws, but it is my understanding that fresh effort is likely to emerge in the House in the 191st Session.