

Lynn Bielawiec

From: Michael Wilkinson
Sent: Wednesday, January 10, 2018 2:51 PM
To: Lynn Bielawiec
Subject: Somers and voting
Attachments: DOC409.PDF

Lynn, can you forward below and attached to Charter Revision Commission. Thanks!

Kim in our Office spoke with the Registrar of Voters in Somers recently and they do allow people who are not residents but own property and pay more than \$1,000.00 in taxes to vote in budget referendums. They keep a copy of the grand list at the polls and check the names against that. He said it is part of their Charter. Attached is some additional information that Town Clerk Sheila Bailey found on the issue. It mainly seems to occur in Towns that have a Town Meeting format.

Town of Somers

Town of Somers, CT
Wednesday, January 10, 2018

Chapter C. Charter

CHAPTER VII. Town Meeting

§ 7-2. Organization and procedure.

- (a) The First Selectman shall call the meeting to order at the advertised time and the meeting shall choose a moderator. The Town Clerk shall serve as clerk. In his absence, the meeting shall choose a clerk.
- (b) Electors of the town and other persons qualified by the General Statutes may vote at Town Meetings. Unless otherwise required by this Charter, Town Meeting action shall be by majority vote of those present and voting.

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gs. The warning of each town meeting district or other public community acts for which such meeting is to be posting, upon a signpost or other such town and at such other place or a printed or written warning signed showing a like warning in a newspaper, such posting and such publication ng, including the day that notice is ay intervene between such posting eting, but not including the day of ual meeting, designate any other erior place, at which such warnings day of such meeting, cause a copy who shall record the same. Notice posting, upon a signpost or other h city or borough or at such place ision, a written or printed warning y the warden or clerk in the case newspaper published within the herein, at least five days previous is given and any Sunday and any ting and such publication and the y of holding such meeting.

in the municipality and substituted posting on clinal grammatical change.
1; 37 C. 392; 44 C. 157; 52 C. 483; 58 C. 488; Town clerk's record that meeting was legally our of meeting presumed to be a proper hour. 27; 36 C. 83; 53 C. 577; 58 C. 488. Town may thod of notice, while by its vote the society ry. 15 C. 327. A validating act of the General bounty" validating acts, so held. 32 C. 47; 37 addressed "to the inhabitants" is valid. 32 C. tion. 44 C. 158; 51 C. 22. 5 days before the arned voted a guarantee; a subsequent legal eld not to be a ratification. Id.; see 121 U.S. acting under it. Id. Meeting voted to adjourn ss restrictive in terms, a subsequent board of s an appropriation. 58 C. 486. Town may by sufficient as to action required by law. 77 C. . 331. Warning to consider water company's h company for laying the water main. 97 C. 111 C. 341. Cited. 152 C. 237; 185 C. 556;

ion of a room to the ... school" did not warn ilding of an addition to the school. 13 CS 116.
sts, causes to be published or in eeting of a town, city, borough, clesiastical society shall make

return, in writing, to the person whose duty it is to keep a record of such meeting, showing the notice given of such warning, and such return shall be kept on file and recorded at length with the warning or doings of such meeting.

(1949 Rev., S. 494; 1953, S. 212d.)
As to necessity of recording warning, see 121 U.S. 121.
Recorded return of notice of warning best evidence of contents of warning. 97 C. 633.
Town not charged with the neglect of its officers to file sufficient notice of town meeting. 29 CS 59.

Sec. 7-5. Place. In any town, the place of holding town meetings may be determined by a majority of the voters present and voting at any town meeting specially warned and held for that purpose.
(1949 Rev., S. 529; 1953, S. 207d.)
See Sec. 9-1 for applicable definitions.

Sec. 7-6. Eligibility to vote. At any town meeting other than a regular or special town election or at any meeting of any fire, sewer or school district or any other municipal subdivision of any town incorporated by any special act, any person who is an elector of such town may vote and any citizen of the United States of the age of eighteen years or more who, jointly or severally, is liable to the town, district or subdivision for taxes assessed against him on an assessment of not less than one thousand dollars on the last-completed grand list of such town, district or subdivision, or who would be so liable if not entitled to an exemption under subdivision (17), (19), (22), (23), (25) or (26) of section 12-81, may vote, unless restricted by the provisions of any special act relating to such town, district or subdivision.
(1949 Rev., S. 496; 1953, 1955, S. 209d; 1963, P.A. 642, S. 5; 1972, P.A. 127, S. 3; P.A. 02-130, S. 15.)
History: 1963 act corrected erroneous references to subsections of Sec. 12-81; 1972 act changed voting age from 21 to 18; P.A. 02-130 replaced "citizen" with "citizen of the United States", effective May 10, 2002.
See Sec. 9-1 for applicable definitions.
See Sec. 9-360 re penalty for fraudulent voting.
See Sec. 9-365 re employers' threat or punitive action relative to employees' vote.
Freehold estate ratable, but not rated, does not qualify. 2 D. 504. Cited. 184 C. 200; 212 C. 338; 234 C. 513.
Cited. 36 CA 584.
Requisite value necessary to vote determined without reference to existence of mortgage on the property; where husband and wife are joint owners, each is entitled to vote if assessed value is not less than \$2,000; history of statute reviewed. 19 CS 234. Cited. 43 CS 297.

Sec. 7-7. Conduct of meeting of towns, societies and other municipal corporations. Vote by ballot or voting machine; when. All towns, when lawfully assembled for any purpose other than the election of town officers, and all societies and other municipal corporations when lawfully assembled, shall choose a moderator to preside at such meetings, unless otherwise provided by law; and, except as otherwise provided by law, all questions arising in such meetings shall be decided in accordance with standard parliamentary practice, and towns, societies and municipal corporations may, by ordinance, adopt rules of order for the conduct of their meetings. At any such town meeting the moderator shall be chosen from the last-completed registry list of such town. Two hundred or more persons or ten per cent of the total number qualified to vote in the meeting of a town or other municipal corporation, whichever is less, may petition the clerk or secretary of such town or municipal corporation, in writing, at least twenty-four hours prior to any such meeting, requesting that any item or items on the call of such meeting be submitted to the persons qualified to vote in such meeting not less than seven nor more than fourteen days thereafter, on a day to be set by the town meeting or, if the town meeting does not set a date, by the town selectmen, for a vote by paper ballots or by a "Yes" or "No" vote on the voting machines, during the hours between twelve o'clock noon and eight o'clock p.m.; but any municipality may, any provision

Topic:

LOCAL GOVERNMENT (GENERAL); VOTING; PROPERTY TAX; BUDGETS; MUNICIPAL FINANCE;

Location:

MUNICIPAL FINANCE;



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2006-R-0469

(Revised)

NONRESIDENT PROPERTY OWNERS' ELIGIBILITY TO VOTE ON A TOWN BUDGET

By: Kristin Sullivan, Associate Analyst

You asked about the law allowing individuals who do not reside in a town, such as Stafford, to vote on its budget. Specifically you want to know whether (1) it is a state law, (2) a town has the authority to raise the \$1,000 threshold contained within it, and (3) nonresident property owners' voting rights have been challenged in court. You also want to know if Massachusetts and Rhode Island have similar laws.

SUMMARY

Section 7-6 of the Connecticut General Statutes, not local law, authorizes United States citizens who own property in a Connecticut town and are liable for taxes of at least \$1,000 on the property to vote at town meetings. The law applies to a town with a town meeting form of government, unless a special act directs otherwise, and whether or not the property owners are residents. A town with a town meeting form of government generally passes its budget at its annual budget meeting. Thus, nonresidents who owe property taxes in an amount that equals or exceeds the minimum threshold are qualified to vote. (However the law prohibits nonresidents from voting at a town's regular or special election.)

Since state law allows nonresident property owners to vote at town meetings, towns do not have the authority to raise the \$1,000 threshold. Only the General Assembly may do so.

There have been no cases in Connecticut that challenge the \$1,000 minimum threshold or nonresident property owners' voting rights. However, nonresident property owners have initiated several lawsuits after being precluded from voting. One case, *Massad v. City of New London*, serves as precedent limiting the circumstances under which nonresident property owners may vote on a charter

town's budget if the charter contains a residency requirement for voting eligibility (43 Conn.Supp. 297, affirmed 36 Conn.App. 584 (1995)).

In contrast to Connecticut, neither Massachusetts nor Rhode Island allows nonresident property owners to vote on a town budget. To qualify to vote on a budget or other matters at a town meeting in Massachusetts or Rhode Island, an individual must be a town resident (Mass. Gen. Laws Ann. §§ 39-10 and 51-1 and R.I. Gen. Laws §§ 17-1-2 (13), 17-1-3, 17-1-3.1, and 45-3-6).

MASSAD V. CITY OF NEW LONDON

Facts

The plaintiffs were nonresident owners of property in New London who owed at least \$1,000 in property taxes. On June 15, 1992, at its regular meeting, the city council approved a budget and tax rate ordinance that set the mill rate for the city. On June 29, 1992, a petition was filed with the city clerk to repeal the ordinance or request that it be submitted to the electors by referendum. The plaintiffs and other nonresident property owners signed the petition. On June 30, 1992, the council voted to conduct a referendum. On July 7, 1992, the plaintiffs sought to register to vote on the referendum, which was scheduled for August 11, 1992. The registrars of voters denied the petition because of the New London charter provision stipulating that electors be residents of the municipality.

The plaintiffs brought an action in Superior Court against the City of New London, its registrars of voters, and its city counselors challenging the denial of their petition to vote on a town budget referendum and tax rate ordinance. The parties made cross motions for summary judgment, which identified the following issues: whether the (1) budget referendum called by the defendants constituted a town meeting under CGS § 7-6 and (2) defendants violated the equal protection clauses of the Fourteenth Amendment to the United States Constitution or Article First, Section 20 of the Connecticut Constitution by refusing to allow the plaintiffs to vote on a budget referendum and tax rate ordinance.

Holding and Reasoning of the Court

The Superior Court denied the plaintiffs' motion for summary judgment and granted the defendants' motion for summary judgment. It held that the (1) referendum did not constitute a "town meeting" within the meaning of CGS § 7-6 regarding entitlement to vote and (2) city's residency requirement for voters in referendum did not violate the equal protection provisions of the state or federal constitutions.

On December 6, 1994 the plaintiffs appealed the summary judgment claiming that the trial court incorrectly determined that the defendants' actions did not violate the equal protection clauses. But on January 17, 1995, the Appellate Court affirmed the trial court's ruling.

Though the plaintiffs owned property in New London and met the \$1,000 threshold in

CGS § 7-6, the trial court found, and the Appellate Court agreed, that a rational basis existed for city excluding nonresidents from voting in the budget referendum and tax rate ordinance and thus, the residency requirement did not violate nonresident property owners' equal protection rights. The court found that residents had greater individual interests in the city's development and welfare than nonresidents, and nonresidents would be likely to vote for a lower tax rate due to their lack of personal and direct benefit from town expenditures. The court reasoned:

The New London charter provides in article II, § 6: 'Every elector of this state, qualified to vote in the town of New London, residing within the territorial limits of the city of New London and registered according to law shall have the right to vote at all city elections.' It also provides in article IV, §§ 30-34, and article V, §§ 35-38, relating to referendums and referendum petitions, respectively, that referendums are to be submitted to the electors.

'Elector' means any person possessing the qualifications prescribed by the constitution and duly admitted to, and entitled to exercise, the privileges of an elector in a town....' General Statutes § 9-1(e). Article sixth, § 1, as amended by Article IX of the Connecticut Constitution prescribes the qualifications of electors to embrace: 'Every citizen of the United States who has attained the age of eighteen years, who is a bona fide resident of the town in which he seeks to be admitted as an elector and who takes such oath, if any, as may be prescribed by law, shall be qualified to be an elector.'

Thus, it is evident from a reading of the city charter, in combination with the statutes and the state constitution, that there are no provisions for non-resident, 'qualified taxpayers, such as the plaintiffs here, to vote in town elections, regular or special, or in referendum measures of any sort, whether on appropriations, budgets, authorization of the sale, or purchase or lease of any land or setting a tax rate (pgs. 306-307).

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general distribution in the office of Town Clerk and the Town Manager, and, at least five (5) days prior to said Annual Budget Referendum as set forth in Section C9-10 hereof, the Council shall cause to be published in a newspaper having a circulation in the Town a summary of the proposed budget showing anticipated revenues by major sources and proposed expenditures by functions or departments and shall also show the amount to be raised by taxation. The budget shall become effective when passed at the Annual Budget Referendum and an official copy shall be filed with the Town Clerk. Within ten (10) days after the Annual Budget Referendum, the Council shall fix the rate in mills, which shall be levied on all taxable property in the Town for the ensuing fiscal year. The resolution adopting the budget may provide for appropriation by department or function, and such appropriations need not be in greater detail than to indicate the total appropriation for each department or function. The Council shall be deemed to be the budget-making authority.

§ C9-8. Obligations of the Council on the Capital Improvement Plan.

The Council shall hold one (1) or more public hearings on the capital improvement plan prior to or in conjunction with the public hearing set forth in Section C9-7 hereof. The Council shall publish in one (1) or more newspapers having a general circulation in the Town the general summary of the capital program stating the time and places where copies of the capital program are available for inspection by the public. The Council shall adopt the capital program with or without amendment after the public hearing for inclusion in the annual budget.

§ C9-9. Annual Budget Presentation.

Prior to the Annual Budget Referendum, the Town Council shall arrange for an Annual Budget Presentation to be held no later than one week prior to the Annual Budget Referendum. Notice of the Annual Budget Presentation shall be advertised in a daily newspaper having a circulation within the Town at least five (5) days prior to such Presentation. Copies of the proposed budget will be made available in the town clerks office no later than one week prior to the Annual Budget Presentation. At the Annual Budget Presentation, the Council will present the Budget to be voted upon at the Annual Budget Referendum. Prior to such referendum the Council shall have no authority to modify the Budget from that presented at the Annual Budget Presentation. The Annual Budget Presentation is intended to provide information and encourage public discussion, and is in addition to prior public hearings relating to the development of the Budget at which public hearings public comment and participation is encouraged.

§ C9-10. Annual Budget Referendum.

The Annual Budget Referendum shall be held on the first Tuesday of May at such place and time as the Council may determine. Registered voters only shall vote to approve or reject the Budget proposed by the Town Council with the result being determined by a simple majority of those voting at referendum. Additional referenda, as required, will be held every other week on Tuesday thereafter until a budget is approved. Notice of the referendum to be held on the first Tuesday of May shall be advertised in a daily newspaper having a general circulation within the Town at least five (5) days prior to such referendum, notice for subsequent referenda shall be advertised in a daily newspaper having a general circulation within the Town at least three (3) days prior to each such referendum. An official copy of the annual budget as finally adopted shall be filed with the Town Clerk. In the event

Tolland

Appointees: individuals appointed by the Town Council or Town Manager to serve in a position authorized by this Charter, including the Town Attorney and Director of Health, but excluding town employees.

Appointment: the official act of designating a person to serve on a town board or commission, or to fulfill the position of Town Attorney or Director of Health as authorized by this Charter.

Biennially: occurring every second year.

Body Politic and corporate: the municipal corporation of the Town of Tolland.

Constitution and General Statutes: the State Constitution and Connecticut General Statutes, as may be amended from time to time. Also referred to as the Constitution and General Laws of the State of Connecticut.

Elected at Large: elected to represent the entire population of the Town of Tolland.

Employee: an individual who is paid by the town through a payroll system of the town or who is paid for services under contractual or purchasing arrangements.

Employment Decisions: any action(s) associated with employment of individual(s) including but not limited to hiring, dismissal, suspension, promotion, demotion, compensation and discipline of such employee.

General Statutes: the official current state statutes, as may be amended from time to time. Also may be referred to as the Connecticut General Statutes and the General Laws of the State of Connecticut.

Initiative: the process by which registered voters petition the council for action with the intention of going to referendum.

Minority representation: the requirement that the number of members of any board or commission from any single political party be limited, as set forth in the Connecticut General Statutes.

Non-registered Voter: a U.S. citizen of at least eighteen years of age qualified to vote at public hearings by virtue of having property in the Town of Tolland assessed at \$1,000.00 or greater, and who is individually responsible for the payment of town property taxes.

Ordinance: a law approved by the town council by affirmative vote with enforcement powers as prescribed by the Connecticut General Statutes.

Organic law: the fundamental law that defines the organization of the town's government.

Petition: a written request to a board or council for action on some matter therein laid before it.

Political party: a party representing residents in the Town of Tolland and whose status is properly registered through the town clerk's office in the Town of Tolland.