

K-3

**URSILLO, TEITZ & RITCH, LTD.
Counsellors At Law**

2 Williams Street
(at South Main Street)
Providence, RI 02903-2918
Tel (401) 331-2222
Fax (401) 751-5257

Michael A. Ursillo
Andrew M. Teitz, AICP*
Scott A. Ritch*

andyteitz@utrlaw.com

Nancy E. Letendre, AICP **†
Jeanne M. Scott (Of Counsel)*
Christina Senno*
Also admitted in MA *, CT†

MEMORANDUM

TO: Jeff Caron and Brian Medeiros, Co-Chairs, FTMCAC
FROM: Andrew M. Teitz, Town Solicitor
DATE: December 3, 2010
SUBJECT: Initial Questions

You have asked the following questions and my answers are set forth below.

1) Can a "Vote for One" ballot question where the high vote getter wins be implemented?

Yes, legally there does not appear to be any provision in Rhode Island law that requires a majority of all votes cast. In multi-candidate races, such as the recent Governor's race, we have winners with only a plurality. Therefore, the same thing could apply to budget amounts on a ballot.

2) Does giving the electors in a Referendum the same powers as FTM electors (current Charter sect 304) make the budget referendum equivalent to a FTM? Related Questions are:

Yes and no. A budget referendum would be equivalent in effect, but not necessarily by procedure. Section 304 is not really relevant to the question of a budget referendum.

A) Would a budget referendum be governed by election law? (Notice requirements, state review of "ballot questions").

No. R.I.G.L. § 45-3-25 (a) provides for the board of elections to furnish a sufficient number of voting machines for use in connection with votes taken at any municipal budget referenda

at the request of a city or town council. But, Subsection (b) explicitly provides: "Nothing in this section makes the provisions of title 17 applicable to municipal budget referenda." Title 17 is the title dealing with elections.

B) If election then Board of Canvassers certify election and approved budget automatically enacted? Or, does TC have to pass a Budget Resolution.

In the absence of a language to the contrary, the budget would be automatically enacted. You could put language in the Charter to require further Town Council action.

C) If election can budget ref be used as a special election (double-duty for charter changes/fill vacant seats/bonds)?

Yes, legally, but all those other items would have to satisfy the RI Board of Elections and meet its various time deadlines.

3) Can language that limits such as 'Not to Exceed' be implemented on the referendum ballot for the levy amount/vote?

Yes, theoretically, as long as they were not confusing if there were more than one choice, as set forth in "A" above.

You have also inquired about me attending a FTMCAC meeting to discuss these matters. At present, I am available the following evenings in December for a 7 PM meeting: 14, 20, 21, and 22. As discussed, I am also available for 6 PM on the 13th, prior to the Town Council meeting.

AMT/del

cc: Hon. Tiverton Town Council, c/o Nancy Mello, Town Clerk
Hon. James Goncalo, Town Administrator