



# Opinions

Office of the Vermont Secretary of State

Vol. 11, #3

March 2009

## 2009 Centennial Award Recipients Announced

See page 3.

## After Town Meeting

*A Checklist for Town Officials.*

See page 9.

## Quote of the Month

Good leaders must first become good servants.

*Robert Greenleaf*

## In this Issue

Quote of the Month.....	1
Voice From the Vault.....	2
Centennial Awards.....	3
Opinions of Opinions.....	4
Tip of the Month.....	6
Municipal Calendar.....	7
After Town Meeting.....	9
Upcoming Events.....	10
Civics Behind the Scenes...	11

## A Message from the Secretary

Annual town meeting is the time when many local officials are asked to make the decision to re-up – to run again for office. It is not always an easy decision. Serving in local office can be challenging as well as rewarding.



The decision to run for public office is especially hard this year. There is no getting around it – these are tough times we are living in and those of us in leadership are being called upon to make some pretty hard decisions. Selectboard members, school board members and others will have to face the difficult task of navigating the demands for cheaper government while trying to respond to the increasing need for services. We can expect that there will be more late taxes and requests for abatement, and less money to fill potholes and fix roofs.

Whether you are in town government, business, working with a church or some other nonprofit, the challenge is the same. How do we lead during tough times? Here are some things I try to keep in mind:

First, be mission driven. By keeping in mind the big picture we can continue to move forward without getting derailed by the immediate challenges we may face. Of course, good leaders will constantly reassess whether it is the appropriate mission and whether there are more efficient and effective ways to accomplish the goal.

Second, don't get bogged down by the naysayers. In every town and in every organization we have them. In order to get through tough times we need to believe that we can. It is the leaders' job to be optimistic and to focus on solutions rather than on problems.

Third, it is important to communicate. Especially when you are serving the public, the more information you can share about the challenges faced by the community, the more likely you will have support when it comes time to make the tough decisions.

And, finally, you have to keep your sense of humor. We know that it is hard to survive in local government without being able to laugh a little.

In Vermont we are lucky to have so many local leaders willing to serve when times are tough. To those of you who are newly elected this month, and to those of you who are veteran officials back to serve yet another term, we wish to welcome you. As you are called upon to do your jobs, please know that we are here to be of assistance. We can answer your questions and direct you to other resources that might be helpful to you and your towns. To those local officials who will not be returning to office after Town Meeting Day we wish to say, on behalf of the people of Vermont, "Thank you for your leadership and we hope you will stay involved!"

Deborah L. Markowitz, Secretary of State

# Voice from the Vault

## Gregory Sanford, State Archivist

### A Moving Experience

It has been noted that as an interior decorator I tend to follow an early compost style. To my everlasting chagrin on more than one occasion a visitor to my office has felt moved to observe, "I thought an archivist would have a neat office."

Consequently as I pack up my office in anticipation of moving to Middlesex I am constrained to become something of an archeologist, working my way through layers of stuff. Why am I packing? The Redstone staff of the Vermont State Archives and Records Administration will be relocating to our new offices at the old record center in Middlesex.

This is part of the ongoing construction and renovations that are occurring at Middlesex and will unite the Redstone and Middlesex staff in a single location. While the construction of the new vault will not be done, pending funding, until November 2009, the renovation of the office spaces and reference area will be completed by mid-February. The move includes the record analysts (Tanya, Scott, and Katie); Louise, our Administrative Procedures Act clerk who doubles as our Legislative Clerk processing original acts and resolves; Kathy our notary supervisor/reference room supervisor; Christie, our reference/processing person; and myself. To avail yourself of those services you will now go the Middlesex office starting the week of March 16<sup>th</sup>.

Since we will not be able to move the records from the Redstone vault until the vault work is completed later in 2009, access to those records will be by appointment. As plans are tightened we will provide information through our website (<http://vermont-archives.org/>).

All that, as I write this column, is in the future; right now I have to deal with the detritus of over 20 years at Redstone. In some ways my office cleaning traces the evolution of VSARA. For example, crowded on my bookshelves are volumes such as **Beneath the Footnote** and **Words Into Type** that are vestigial remnants of the days when this was

the State Papers Division and my job title was Editor of State Papers. In that former world the office was primarily engaged in the annotation and publication of 18<sup>th</sup> century government records. These books will be left behind.

There are also a few scattered volumes on paper conservation. These books date to the 1970s when the publication program was largely set aside in favor of conserving our 18<sup>th</sup> century records. There used to be a small conservation lab as well, but that was dismantled as we ended the item by item conservation of documents. Now those books will be left behind as well.

More book shelves are weighted with professional archival literature, studies and journals, reflecting our transformation into the State Archives. These tomes will make the trip and provide useful information and context for managing archival records.

Stepping across the hall for a moment are shelves containing disposition

orders and other records capturing the expansion of the Archives into VSARA. The records are primarily associated with the old Public Records Division and provide documentation of the decisions of Public Records' records management activities. Though under VSARA new approaches are being implemented for records management the legacy records help document the over 4,000 record series and 10,000 disposition orders established by Public Records, which will remain until superseded, and provide a limited but still useful view of the world of agency records.

Returning to my clutter, the remaining shelves hold an overflow of reference books. These include Vermont Reports, which hold Supreme Court decisions, various biographical compilations, mostly from the 19<sup>th</sup> century, of government officials, and some reports from previous records projects, such as the indices to newspapers and town records generated by the Work Progress Administration during the New Deal.



While we don't hold newspapers (they can be found at the Department of Libraries), the indices are occasionally useful in researching an issue, providing, for example, dates for when certain events may have occurred. There are additional reference materials relating to our records, including studies of government and of topics such as glebe lands. We are not a reference library but the reference books are helpful to staff in developing context and meaning to certain records. There is also a small collection from my own reference library providing national contexts for things like voting and the evolution of women's rights. Almost all of these will make the trip to Middlesex, though it does force a rethinking of the purpose of our reference library and what is really needed, and by whom.

What usually attracts the visitor's eye is the jumble of boxes scattered around the walls of the room. These are projects, some done, some in progress, and some halted because of an immediate lack of resources, usually time. All of these will be organized, appraised, and where appropriate moved.

Left behind will be memories of over two decades of working here: Sitting with the late Cola Hudson as he shared memories of legislators captured in our photo collection. Watching

Kim Royar develop a census of wolves and other animals by going through old bounty records or Charlie Cogbill building a database on pre-settlement forests by noting what trees were blazed as part of old town surveys. Working with Peter Comart to develop a project for the Redstone grounds that helped launch the Vermont Youth Conservation Corps or watching Dick Mallary carefully and wonderfully puzzling through the visual clues in a farm scene photograph to give a likely date for when the picture was taken. Some memories have become well-burnished stories, like my standing argument that the vault door was not four hour fire-rated. I finally noticed a metal tag at the bottom of the door saying it was two hour rated. The triumph was short-lived as two workmen arrived and changed the label to say four hours.

It has been fun; there is much of Redstone I will miss. This is off-set by the prospect of moving to a facility that can finally accommodate our vault needs, improve our reference space and allow our new division to work together at a single site. I look forward to acquiring new memories and spinning new stories. And I look forward to seeing you at Middlesex.

## **Centennial Businesses to be Honored**

**The 2009 Vermont Centennial Business Awards are scheduled for Thursday, March 5, at 4:00 p.m. at the Vermont State House.**

**This year's honorees include:**

Bryant Grinder - Springfield - est. 1909  
Panton General Store - Panton - est. 1908  
Lake Morey Resort - Fairlee - est. 1905  
Burlington Drug Company - Milton - est. 1891  
JW & DE Ryan - Vergennes - est. 1887  
Northfield News - Northfield - est. 1878  
Trow and Holden - Barre - est. 1860  
Goodrich's Sugarhouse - Cabot - est. 1835  
Molly Brook Farm - West Danville - est. 1835  
Reed Supply Co - St. Johnsbury - est. 1828  
Jericho Center Country Store - Jericho - est. 1807

**for more information go to [http://www.sec.state.vt.us/centennial\\_business.html](http://www.sec.state.vt.us/centennial_business.html)**

# Opinions of *Opinions*

## Secretary of State Deb Markowitz

**1. New warning is required to consider articles that have been passed over.** Articles that are voted to be either “passed over” or “postponed indefinitely” cannot be raised at a special or future annual meeting without a full warning of a new article. Likewise if an article is “tabled” (it could be removed from the table during that meeting) it cannot be considered at a subsequent special or annual meeting without being warned as an article for the new meeting.

**2. Reconsideration generally requires a petition of at least five percent of the voters.** A petition signed by at least five percent of the legal voters of the town or school district can be submitted to request reconsideration of an article within 30 days following the town or school meeting. Note that a new law permits the town to vote to require signatures by as much as 20 percent of the voters for a petition to reconsider an article voted at an annual or special meeting. 17 V.S.A. § 2661(b). If a proper petition is submitted in a timely manner, the legislative body (selectboard or school board) must schedule and warn a special meeting to be held not later than 60 days after receipt of the petition to vote on the requested article. Municipalities are therefore wise to avoid committing themselves to any contract until the 30 days for reconsideration has passed.

**3. Election of officers may not be reconsidered.** While 17 V.S.A. §2661 provides a method for reconsideration of public questions and budgets, the election of officers cannot be reconsidered by filing a petition with the legislative body. The only way to challenge or contest an election of an officer, is by filing a petition with the appropriate superior court. (17 V.S.A. §2603) The statute sets out that you must allege either errors sufficient to change the outcome of the election, fraud in the process sufficient to change the result, or that for any other reason the election is not valid.

**4. Town officers take office at town meeting.** Newly elected town officers take office on town meeting day. Some officials must take an oath before they officially take office. This can be done by the clerk at town meeting, or at any time thereafter. 17 V.S.A. § 2646. An official who is required to take an oath of office (by either swearing or affirming) and who refuses to do so may not take office, thereby creating a vacancy.

**5. Union school officers take office on July 1<sup>st</sup>, except for moderator.** “Union district officers elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of one year or until their successors are elected and qualified, except that if the voters at an annual meeting so vote, moderators elected at an annual meeting shall assume office upon election and shall serve for a term of one year or until their successors are elected and qualified.” The law also provides that school directors elected at an annual meeting shall assume office upon election and shall serve a term of three years or until their successors are elected and qualified. 16 V.S.A. § 706k.

**6. Voters may adjourn meeting to a later date.** If voters want to continue the meeting at a later date to consider one or more articles, it is best to make a motion to adjourn to a date and time certain so that the meeting does not need to be warned again. This motion can be used in the event of bad weather, other emergencies, or when the voters need more information that will be available at a later date. We have had a number of calls regarding school budget votes this year. If any legal voter (school board members or other voters) want the budget to be considered at a later date, they may want to first move to suspend the rules so that the budget article can be moved to be the second to the last article just before “other business”—this takes a two-thirds vote to suspend the rules to change the order of the articles. Then just before the budget article is read, a motion can be made to adjourn to a date and time certain. The motion to adjourn must include a date and a time—we also suggest that it name the place of the adjourned meeting. If the motion to adjourn does NOT contain a date and time certain, the next meeting will require the full 30 to 40 day warnings.

**7. The town clerk is responsible for preparation of town meeting minutes.** 24 V.S.A. §1152. Even if the town clerk is not seeking re-election, it is the responsibility of the clerk whose term is ending to make a record of the town meeting. The record or minutes must be approved and attested to by any two of the following: moderator, selectboard or justices of the peace. The clerk shall request this approval within seven days after each town meeting and this request shall be given prompt consideration.

**8. Failure to nominate a candidate will result in a vacancy to be filled by the selectboard.** At a town meeting in a town that does NOT use Australian ballot for election of town officers, if no one is nominated from the floor, the office remains vacant and the selectboard must appoint until an election is had. The selectboard or moderator cannot “force” the town meeting to keep nominating until someone accept the nomination by stating that the next article will not be considered until the election has been had. If there are no nominations for an office, the selectboard appoints. If at a later date other interest arises in the office, five percent of the legal voters can always petition for a special election.

**9. Union school bond vote ballots may not be counted by town.** The board of civil authority of each town within a union district is responsible for determining the eligibility of persons to vote, the supervision of the election and the transportation of ballots in its district to a central point designated by the board of school directors. It may not, however, count the union school ballots. For a bond vote, state law requires the ballots of all of the participating towns to be commingled before they are counted. The counting is then done by representatives of the boards of civil authority of the member towns all together, under the supervision of the union district clerk. 16 V.S.A. § 706w.

**10. Roll call vote should be reflected in meeting minutes.** Minutes of board meetings do not need to reflect which board members have voted in favor of or in opposition to a motion, unless a roll call vote is requested by a board member prior to the vote on the motion. 1 V.S.A. §312(b)(1)(D). If a roll call is requested, the public meeting law requires that the minutes indicate how each board member voted on the motion. If no roll call is requested so the minutes do not reflect the vote of individual members, it is still public information if a board member or other attendee of the meeting decides to tell someone how a particular board member voted. The voting was done in a public session, and there are no prohibitions to discussing how members voted. In fact, a board member’s voting record may be a factor for town voters in deciding whether to re-elect a particular candidate.

**11. Board may only pick legally qualified people to fill vacancies.** When the selectboard fills a vacancy on a board or for a public office, the appointee must be legally qualified to serve. This means the person must meet all the statutory requirements to be elected to the position. For example, if a selectboard member resigns creating a vacancy, the board must fill the vacancy with a person who is a legal voter in the town. 17 V.S.A. §2646. If the position is one for which there are no statutory requirements, such as library trustee, then the selectboard may appoint a non-resident or even a resident who is not a U.S. citizen. For some boards, the statutes allow certain members to live out of town (see planning commission.) Therefore, the selectboard needs to check on the qualifications for each position before making an appointment.

**12. The selectboard may accept and/or purchase property without voter approval.** There is no law requiring the selectboard to ask the voters for approval prior to accepting a donation or making a purchase of land or buildings. Note that a purchase of land can only be made without voter input where there is already money in the budget to pay for the purchase (for example money in the highway fund could be used to buy land for a salt shed.) See 10 V.S.A. § 6302 (acceptance of donated property). If the board has to borrow money to pay for the purchase it must get voter approval in accordance with 24 V.S.A. § 1786a.

**13. The selectboard may only sell property after notice to voters and opportunity for a town vote.** When the selectboard wishes to sell town property it has to post a notice of the terms of the proposed sale in three public places and publish the notice at least 30 days prior to the proposed sale. If a petition signed by five percent of the voters objecting to the sale is received within the 30 days then a special meeting must be called to vote on the proposed sale. In this situation the board may only complete the conveyance if the voters fail to disapprove of the sale. 24 V.S.A. § 1061. Exceptions to these requirements apply to sales involving town highways, public water, sewer or electric systems, or real estate used for housing or urban renewal projects.



**14. Only the selectboard (or town manager) can enter into contracts that bind the town.** Insofar as the law gives the selectboard general oversight of town affairs it is the board that has authority to enter into binding contracts for the town. There are also a number of specific statutory provisions that make it clear that it is the selectboard's role to contract for the town. The board can delegate this function to the town manager or to other employees in particular situations; however a contract entered into by an official or employee of the town who is not authorized to do so will be void. *Lakeside Equipment Corp. v. Town of Chester* 172 Vt. 527 (2000); *Courchesne v. Town of Weathersfield*, 174 VT 453 (2003). 24 VSA § 872, 934, 1092, 1236, 2692.

**15. Board may authorize chair or vice-chair to sign decisions or orders.** Whenever any written decision or order issued by a board, commission, committee or authority of any municipality must be signed by the board, the law permits this decision or order to be signed by the chair or vice-chair on behalf of the issuing body. 24 V.S.A. § 1141. In order to take advantage of this law the board should vote at its organizational meeting, or at some other time, to authorize the chair or vice chair to sign on its behalf.

**16. The selectboard may authorize one or more board members to act on behalf of the board to pay bills.** The law permits the selectboard to vote to authorize one or more members of the board to examine and allow claims against the town for town expenses and draw orders for such claims to the party entitled to payment. The orders drawn by these board members should be specific about the purpose for which they are drawn and will authorize the treasurer to make the payments. The full selectboard must be provided with a record of orders drawn under this provision of law whenever orders are signed by less than a majority of the board. 24 V.S.A. § 1623.

**17. Meeting minutes will authorize treasurer to pay bills.** When the selectboard submits to the town treasurer a certified copy the selectboard minutes, properly signed by the clerk and chair or by a majority of the board, showing to whom, and for what purpose payments are to be made by the treasurer, then the treasurer will have full authority to make the approved payments. 24 V.S.A. § 1623.

**18. The town clerk controls town vault.** 24 V.S.A. § 1178 makes it clear that the town must have a vault or safe for the records in the town clerk's custody. Insofar as the town clerk is solely responsible for the care and preservation of the records of the town, the clerk is responsible for the security of the town vault, and it is up to his or her to control access to the vault. We generally recommend that the combination to the vault be given to the clerk's assistant as well as to the local fire chief, police chief and/or the chair of the selectboard so that, in the event of an emergency, the appropriate personnel can ensure the security of the records.

**19. The selectboard controls town buildings.** The selectboard has control over the town buildings. This means that the board may decide how the various spaces are used, whether and when repairs are made, etc . . . However, because the clerk has control over the records of the town the clerk has total control over the town vault. In some towns the selectboard feels the office must be made available to other local officials at times that the clerk is not ordinarily there. In such instances the board must work with the clerk to ensure that all of the records in her custody and the equipment of the office are protected. This might mean getting locking file cabinets and password protect programs on the town computer.

**20. Spouse of town auditor may not serve on school board even if school district hires a CPA.** Vermont law provides that an auditor shall not be a town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of their official duties be eligible to hold office as auditor. 17 V.S.A. § 2647. This means that the town auditor cannot be married to a person serving as a school director even in districts where the school hires professional auditor pursuant to 16 VSA § 562(4). In such a situation one spouse would be required to resign his or her office.

**21. Not every local official must get paid.** While some officers, like clerk, treasurer and tax collector have fees set out by statute, Vermont law states that unless compensation is fixed by law or by vote of the town or town school district, local officials cannot demand payment for their services to the town. However, the law provides that if an official makes a request for payment the auditors must report the claim as well as the nature and extent of the services at town meeting. 24 V.S.A. § 931.

**22. Town or selectboard may set salary.** A town may vote to compensate any or all town officers for their official services. 24 V.S.A. § 932. However, when a town does not set a salary or stipend for an officer (or for town employees) the selectboard may fix the salary. Note that they may not set their own salary – but the selectboard’s salary can be fixed by the auditors at the time of the annual town audit. Or, if the town has voted to eliminate the office of auditor and the voters fail to fix the compensation to be paid to members of the selectboard, selectboard members shall be compensated at the rate at which they were compensated during the immediately preceding year. 24 V.S.A. § 933.

**23. Board may choose to rotate chair.** In one town, no board member wished to serve as chair so the board members agreed to rotate the position. There is no law that would prevent this, although it might make sense not to rotate the chair from meeting to meeting since this might be confusing for the public and for town officers and employees who have to work with the board.

**24. Hourly employee should be paid when required to attend board meetings.** If the selectboard asks an hourly employee, such as the road foreman, to attend its board meetings then the employee should be paid for his work. If the employee is a salaried employee, attendance at these meetings can be required as part of what is expected to earn his or her wages.

**25. Zoning administrator should step down on matters that affect his or her own interest.** It would be an impermissible conflict of interest for the zoning administrator to issue a permit in any matter where he or she might have a personal interest. In such a case an interim administrator should be asked to step in. If the administrator mistakenly issued a permit when there could be a conflict the selectboard should ask the interim administrator to review the decision to ensure that it conformed to the bylaws. 24 V.S.A. § 4448.

**26. Selectboard does not have to advertise before reappointing zoning administrator to a new term.** No law requires the selectboard to advertise before appointing or reappointing a zoning administrator. Rather, the planning commission nominates a person to be appointed by the selectboard. The planning commission should have a policy or procedure for vetting potential candidates. Once they have made their choice they send one or more nomination to the selectboard. The selectboard may choose to make the appointment or may ask the planning commission to come up with additional choices. 24 V.S.A. § 4448.

**27. The zoning administrator should not serve on the planning commission.** The law specifically provides that the zoning administrator “may hold any other office in the municipality other than membership in the board of adjustment or development review board.” 24 V.S.A. § 4448. However, because the planning commission nominates the zoning administrator and helps evaluate his or her performance, and because the zoning administrator generally provides staffing assistance to the planning commission, we believe it is best practice for the zoning administrator not to also serve as a member of the planning commission.

**28. Selectboard may adopt an attendance policy for the planning commission, zoning board of adjustment (ZBA) and development review board (DRB).** In some towns regular attendance by board members can be a problem. There is no reason why the selectboard cannot adopt a policy of removing appointed commissioners and board members for failure to attend a set number of meetings in a given time period. The law permits the board to remove planning commissioners without cause, so long as it is a unanimous decision. And the board may remove DRB and ZBA members for cause. The policy can establish non-attendance as cause for removal. 24 V.S.A. §§ 4323; 4460.

*In our monthly Opinions, we provide what we believe the law requires based upon our legal judgment, years of observing Vermont's local government practices, and Vermont Court decisions. This information is intended as a reference guide only and should not replace the advice of legal counsel.*

## Tip of the Month

### Post General Election Voter Purges

It is now a good time for every board of civil authority (BCA) to authorize your town clerk to purge previously challenged names from your voter registration checklist. All voters who were sent a challenge letter before the November 2006 General Election who have never responded to the challenge letter and who have not voted in any election since the letter was sent, may now be purged from the voter registration checklist with BCA approval. 17 V.S.A. §2150(d) Each town clerk can now print a list of all of voters who are eligible for batch purge to provide to your BCA. After the BCA meets to approve the names, the town clerk can log into the statewide checklist, and click Batch Purge. You’ll see a new button, “Print List.” Click it and you’ll have a list for your BCA to review and approve.

We have had very positive feedback from town and city clerks who have used this feature since the 2008 General Election. The purging of voters is required by federal and state law and is an important process to help us improve the accuracy of the Vermont voter registration checklist.

*If you have a tip to share, contact John Cushing at [jcushing@town.milton.vt.us](mailto:jcushing@town.milton.vt.us).*

# Municipal Calendar

## March 2009

1 - First day for town clerk in towns with fewer than 5,000 registered voters to direct two election officials to open, sort, and check-in absentee ballots. 17 V.S.A. § 2546(a)

2 - Voters, family members, authorized persons or health care providers may request early or absentee ballots until 5:00 p.m. or the closing of the town clerk's office on the day before the election. 17 V.S.A. § 2531 (a) Clerks must make a list of all early or absentee voters available upon request at their office. 17 V.S.A. § 2534

2 - Board of Civil Authority must appoint a presiding officer if the town clerk or other regular presiding officer is unable to preside at the Australian Ballot portion of town meeting or if more than one polling place is used. 17 V.S.A. § 2452

2 - Presiding officer must notify the election officers of their hours and duties. 17 V.S.A. § 2455

2 - The presiding officer of each polling place must also post a copy of the warning and notice, sample ballots and the current checklist in a conspicuous place in each polling place before the polls open on election day. 17 V.S.A. § 2523(a) and (b)

2 - The presiding officer shall make sure that signs informing voters of procedures for depositing ballots are placed on or near the ballot boxes before the polls open on election day. 17 V.S.A. § 2523(b)

2 - Prior to the day of the election, Board of Civil Authority must appoint assistant election officers for town meeting. 17 V.S.A. § 2454

2 - Last day for legislative body to hold public informational hearing on any public question to be voted by Australian Ballot at town meeting. 17 V.S.A. § 2680(g)

3 - Town Meeting Day (first Tuesday in March) 1 V.S.A. § 371 (a), 17 V.S.A. § 2640(a)

3 - A meeting of the legal voters of each town shall be held annually on the first Tuesday in March unless the town charter changes the date or the voters have voted to begin on one of the three days preceding the Tuesday. 17 V.S.A. §§ 2631, 2640(a) and (b)

3 - Towns using Australian ballot must open polls no earlier than 5:00 a.m. and no later than 10:00 a.m. (opening hour set by board of civil authority). 17 V.S.A. § 2561(a)

3 - (Before polls open) In towns using Australian ballot, town clerk must give election officials a list of those voters who have already cast early or absentee ballots. 17 V.S.A. § 2548(a)

3 - Clerks must make a list of all early or absentee voters available upon request in each polling place as soon as it opens. 17 V.S.A. § 2534

3 - (During polling hours) Presiding officer must ensure that there is no campaigning of any kind and no campaign literature displayed, placed or distributed inside the polling place. On walks and driveways leading to a polling place, no candidate or other person may physically interfere with the progress of a voter to and from the polling place. 17 V.S.A. § 2508

3 - For those who became eligible to vote after the first Wednesday prior to Town Meeting and had notified the town clerk of intent to apply for addition to the checklist, the town clerk shall act on applications until polls are closed. 17 V.S.A. § 2144(b), (c)

3 - Moderator opens business meeting at the time established by the legislative body (unless town voted otherwise at a preceding meeting) 17 V.S.A. §§ 2655, 2657

3 - In towns using Australian ballot, as soon as possible after the polls close, the presiding officer must examine entrance and exit checklists and prepare a statement of discrepancies. 17 V.S.A. § 2583(a)

3 - In towns using Australian ballot, presiding officer directs election officials in counting ballots. 17 V.S.A. §§ 2581, 2582

3 - In towns using Australian ballot, presiding officer must seal all ballots, exit checklist(s) and tally sheets in ballot bags. The entrance checklist must be kept out of the ballot bags and placed in a secure location. 17 V.S.A. §§ 2583(a), 2590(a), 2689

3 - (Immediately after vote is counted) Under the direction of the legislative body, the town clerk shall announce and post the results of any charter amendments. 17 V.S.A. § 2645(b)

4 - (No later than 24 hours after polls close) Presiding officer and one other election official shall transfer the totals from the summary sheets to the return and both shall sign the return 17 V.S.A. § 2588

8 - (Within five days after town meeting) Town clerk must certify votes on financial actions to town treasurer and to the chair of the legislative body. 24 V.S.A. § 1167

9 - (Within six days after town meeting) Town clerk is to report to the Director of Property Valuation and Review on method adopted at town meeting for collection of taxes. 32 V.S.A. § 5167

10 - Last day for selectboard or town clerk to warn a run-off election if there was a tie vote for any Australian Ballot race at town meeting (within seven days after election). 17 V.S.A. § 2682(e)

13 - Last day for a losing candidate for local office in a municipality using the Australian ballot system of voting to request a recount (within 10 days after the election). 17 V.S.A. § 2683(a)

13 - Deadline for a voter to file a request for a recount with the town clerk of any issue voted by Australian Ballot (within 10 days after the election). 17 V.S.A. § 2688

13 - Last day for a local candidate who has made expenditures or accepted contributions of \$500 or more to file a campaign finance report with the town clerk. 17 V.S.A. § 2822

13 (Within 10 days after town meeting) Last day for town clerk to certify to secretary of state facts of origin and procedure followed for each municipal charter amendment proposed. Clerk shall also certify the result of any vote required before an act of the general assembly takes effect. 17 V.S.A. §§ 2663, 2645(b)

18 - Last day that a legal voter may contest the local election results from the town meeting (within 15 days after the election). 17 V.S.A. § 2603(c)

19 - First day a run-off election may be held (15 days after the warning of the run-off election). 17 V.S.A. § 2682(e)

#### **APRIL 2009**

1 - Last day for dog or wolf-hybrid licensing. 20 V.S.A. § 3581(a)

1 - Base date for setting appraisal value and determining ownership of real and personal property. 32 V.S.A. § 3482

1 - Last day for town clerk to furnish listers with transfer book for preceding 12-month period. 32 V.S.A. § 3485(a)

1 - Last day a run-off election may be held (twenty-two days after warning; warning within seven days after election). 17 V.S.A. § 2682(e)

2 - Last day for voters to file petitions for reconsideration or rescission of articles voted on at town meeting (within 30 days of the meeting). 17 V.S.A. § 2661(b)

15 - Last day for U.S. Congressional candidates to file FEC quarterly reports for the April quarter (Jan. 1-Mar. 30). 2 U.S.C. § 434(a)(2)

15 - Last day for legislative body to notify the Commissioner of Children and Families of appointment of town service officer. 33 V.S.A. § 2101(a)

20 - Last day for return of property inventories to listers. 32 V.S.A. § 4404

25 - State Withholding Tax Return is due (actual date by which return must be postmarked is shown on the printed form) if reporting less than \$2,500 per quarter. More than \$2,500 requires monthly report; more than \$9,000 requires semi-weekly report. 32 V.S.A. § 5842

30 - Last day for listers to receive applications for tax exemption due to disabled veteran status. 32 V.S.A. § 3802(11)

30 - Last day to file Form 941 (Quarterly Withholding Return) with the IRS.

***The Municipal Calendar is provided by the Vermont League of Cities and Towns/Chittenden Bank and the Secretary of State's Office.***

# After Town Meeting - A Checklist



1. **FINISH THE MINUTES:** The town clerk is obliged to prepare the minutes of town meeting and have them approved by two people from among the following officers-selectboard member, moderator, or justices of the peace. This must be done within seven days of the meeting. 24 V.S.A. § 1152.



2. **GET ORGANIZED:** "Forthwith," the statute announces, the selectboard must meet, elect a chair, a clerk (of the board), and let the town clerk know your decision. At this meeting, you will also need to appoint a tree warden and may choose to appoint three fence viewers; a poundkeeper; inspectors of lumber, shingles and wood; and weighers of coal. 24 V.S.A. § 871. The same process should be followed by any board, including auditors, listers, the board of civil authority, the board for abatement of taxes, planning commission, and zoning board of adjustment, and any others. Take up the issue at your first meeting, elect a chair, set your regular meeting schedule and let the town clerk know about it.



3. **SETTLE:** Immediately after town meeting, if not before, auditors need to "settle" with former town officers. If a new delinquent tax collector has been elected, for instance, the former collector must pay over all funds collected to date and make a complete accounting of the taxes still owed. 24 V.S.A. § 1578. All papers in the collector's hands are also to be turned over to the successor collector.



4. **GET SWORN:** Town clerks, select board members, constables, listers, grand jurors and fence viewers and the school board must be sworn in before taking office. 24 V.S.A. § 831. See the town clerk for forms, or look at the oath in Chapter II, Section 56 of the Vermont Constitution, in the first volume of Vermont Reports.



5. **GET BONDED:** School directors, constables, road commissioners, collectors of taxes, treasurers, and town clerk must be bonded before taking office. 24 V.S.A. § 832. The selectboard sets the amount. This is usually done through your insurance company. The town or school district pays for the bonds, not the officers. 24 V.S.A. § 835.



6. **TELL WHO WAS ELECTED:** Newly elected town clerks must file the certificate of their election with the county clerk, signed by the moderator of the meeting, within five days of the election. File a copy of your oath of office as well. 24 V.S.A. § 1151. The clerk should also write the state treasurer to tell him the name of the new town treasurer. 24 V.S.A. § 1166. Actually, this must be done before July 1, but why not do it now and get it out of the way? Within five days of town meeting, the clerk should also send each lister's name, mailing address, and length of term to the commissioner of taxes. 24 V.S.A. § 1168. Send the name and address of the constable to the county clerk. 24 V.S.A. § 1169.



7. **APPOINT ASSISTANTS:** Town clerks and treasurers must have assistants. They should be appointed by the clerk and treasurer following the beginning of each new term, and the appointment recorded. 24 V.S.A. §§ 1170, 1573. Send the county clerk a copy of the appointment of the assistant town clerk and of the assistant's subscribed oath. 24 V.S.A. § 1172.



8. **LEARN THE OPEN MEETING AND PUBLIC RECORDS LAWS:** Read them. They are found back to back in the first volume of the Vermont Statutes Annotated, at 1 V.S.A. §§ 310-320. Everything is open unless you can find a reason to close it in these laws. Don't meet with a quorum of your board without public notice. That's against the law. See the Pocket Guide To The Open Meetings Law as well as our publication A Matter of Public Record: A Guide to Vermont's Public Records Law on our website for details.



9. **LEARN HOW TO DEAL WITH THE PUBLIC:** You are a public officer. That means you are available to help, answer questions, find official paperwork, and anything else people ask of you. There are limits, of course. You don't need to be abused. But as long as the public remains civil, you should try to help.



10. **LEARN HOW TO ASK FOR HELP:** Everybody helps everybody in Vermont. Call those who held the office before you. Call those who hold the same office but in another town. Call us. Call the League of Cities and Towns. Call state offices. There's no reason not to ask for help. Everything is complicated at first.

# Upcoming Events

## Town Officers Education Conferences

Workshops will be offered on a variety of topics of interest to municipal officials, including local land use officials. These events are sponsored by the UVM Extension Service. For more information contact Mary Peabody at 802-223-2389 or email at [mary.peabody@uvm.edu](mailto:mary.peabody@uvm.edu).

- April 9 - Lyndon State College
- April 13 - St. Michael's College, Colchester
- April 28 - Lake Morey Inn, Fairlee
- May 6 - Rutland Holiday Inn

---

## BCA/JP Trainings

Secretary of State Deb Markowitz and municipal law attorney Charles Merriman will provide an overview of the duties of justices of the peace, and will discuss the tax assessment appeal process and abatement. All interested municipal officials are encouraged to attend. (This is the same training that was offered this past January to new justices of the peace).

- Thursday, April 16, 5:00 to 6:30 pm - Waterbury State Complex, Room 100, Stanley Hall
- Tuesday, April 21, 3:30 to 5:00 pm - Milton Town Community Room, Centre Drive
- Thursday, April 23, 3:30 to 5:00 pm - Bennington Fire Facility, 130 River Street
- Thursday, April 30, 3:00 to 4:30 pm - Brattleboro Town Offices, 230 Main Street, Room 212
- Tuesday, May 5, 4:00 to 5:30 pm - Rutland City Hall, Aldermans' Chambers, 1 Strongs Avenue
- Thursday, May 14, 3:30 to 5:00 pm - Springfield Municipal Office, 96 Main Street
- Tuesday, May 19, 3:30 to 5:00 pm - Newport, Gateway Building, 84 Fyfe Drive, 1st Floor
- Wednesday, May 27, 3:00 to 4:30 pm - Caledonia Superior Court, 1126 Main Street, St. Johnsbury

***To register, please contact your local municipal clerk. Cost is \$25.00 for one person, \$50.00 for two or more attendees from the same town. Space is limited. Deadline is 7 days prior to event. Directions and any cancellation notices will be posted on our website at <http://www.sec.state.vt.us/municipal/>.***

---

## Selectboard Institute *(Sponsored by VLCT Municipal Assistance Center)*

**April 4, 2009**

- Location: Capitol Plaza Hotel, Montpelier
- Time: 8:30 am
- Contact: Amanda Moshinskie ([info@vlct.org](mailto:info@vlct.org))
- Phone: 802-229-9111
- Fax: 802-229-2211
- Price: TBA

The Selectboard Institute will focus on the fundamentals of municipal governance, such as understanding the municipal organization, essentials of municipal law, running effective meetings, and managing the town budget.

# Civics Behind the Scenes

## Missy Shea, Civics and Voter Outreach Coordinator

### Congratulations to the 2009 Democracy Award Winners!

On Thursday, February 12<sup>th</sup>, Secretary of State Markowitz honored seven Vermonters who have demonstrated an outstanding commitment to promoting the tenets of democracy. The diversity of recipients and their civic contributions was particularly inspiring this year.

The *National Association of Secretaries of State Medallion Award* was established by the National Association of Secretaries of State (NASS) in 2001 to honor individuals, groups, or organizations with a record of promoting the goals of NASS in one or more of the following areas: improving elections, with special emphasis on voter education and increasing voter participation; civic education, including the teaching, promotion, and study of this subject; and service to state government—specifically, as it relates to improving democracy in the state.

This year, the awards were presented to Kristie Bush, teacher at Montpelier's Union Elementary School for her dedication to teaching our youngest citizens about their civic role; Don Collins, former Franklin County state senator and educator; and WPTZ Television Newschannel 5 for its extensive and multi-faceted coverage of the 2008 election.

The *Vermont Secretary of State Enduring Democracy Award* honors individuals and organizations that have shown an outstanding commitment to promoting democracy in the Vermont.

Receiving this award were Dennis Bonanza, a teacher at the Community High School of Vermont who ran a voter registration drive at Marble Valley Correctional Facility; Bill Hoar, Barnet Town Clerk and Treasurer retiring after 39 years of service; Toni Little, Resident Advisor at Johnson State College who organized a campus-wide voter registration; and Ashley Wheeler, Miss Vermont 2008, who made youth political engagement the basis of her platform.



Pictured above are Toni Little, Don Collins, Kristie Bush, Gov. Howard Dean (guest speaker), Bill Hoar, Sec. Markowitz, Ashley Wheeler, Stephanie Gorin, and Dennis Bonanza.

All of the recipients, their families, and guests were honored with a reception that took place in the State House, and an awards ceremony in the beautiful Cedar Creek Room. There were a couple of special highlights during the event. Former Governor Howard Dean stopped by to say hello and congratulate the recipients, and Miss Vermont Ashley Wheeler belted out a gorgeous a capella version of "God Bless America."

The Democracy Awards are an important, meaningful, and fun way to recognize the wonderful and varied ways in which some folks give so much to their communities and Vermont at large by engaging in and teaching about civic responsibility.

# Mailing List Updates!

**Help us keep our mailing list up to date!**

***Let us know if:***

- your address needs to be updated,
- your name is misspelled, or
- you'd rather receive *Opinions* a week early via email.



Send us a note via fax: 802-828-2496,

email: [gcolbert@sec.state.vt.us](mailto:gcolbert@sec.state.vt.us),

or post: 26 Terrace St., Montpelier, VT 05609-1101.

Be sure to include the information from your current *Opinions* mailing label as well as any changes that you would like to have made.

***Thank you for helping us keep Opinions running efficiently!***

RETURN SERVICE REQUESTED

[www.sec.state.vt.us](http://www.sec.state.vt.us)

802-828-2363

Montpelier, VT 05609-1101

26 Terrace Street

Redstone Building

March 2009

Office of the Vermont Secretary of State

# Opinions

PRSR STD  
U.S. Postage Paid  
PERMIT NO. 147  
MONTPELIER, VT  
05609-1101