



Opinions

Office of the Vermont Secretary of State

Vol. 10, #9

October 2008



2008 Vermont Centennial Nonprofit Awards

See page 11 for the
list of recipients!

Quote of the Month

In the game of life it's a good idea to have a few early losses, which relieves you of the pressure of trying to maintain an undefeated season. — *Bill Baughan*

Special Elections Edition of *Opinions of Opinions*

See page 4

In this Issue

Quote of the Month.....	1
Voice From the Vault.....	2
Tip of the Month.....	3
Opinions of Opinions.....	4
Civics Behind the Scenes.....	8
Upcoming Events.....	8
Municipal Calendar.....	9

A Message from the Secretary

Last week we honored 26 of Vermont's oldest nonprofit organizations at our fourth annual Centennial Nonprofit Awards ceremony. We established the Centennial Nonprofit Awards to acknowledge Vermont's 100 year nonprofits for enriching Vermont's cultural, community and economic heritage.

Of Vermont's nearly 8,000 nonprofits there are two that are celebrating their 100th anniversary this year, and there are nearly 200 others that are over 100 years old. The nonprofits we honored included agricultural societies, a summer camp, a humane society, libraries, a college, churches and religious societies, small all-volunteer cemetery associations, and a variety of civic organizations. All of these nonprofit organizations represent the dedication of tens of thousands of individual Vermonters who have joined together to pursue some larger good.



It is interesting to think back to what the world was like when our centennial nonprofits were established. In 1908 we had a governor from Newport, Vermont – George Prouty, whose biggest claim to fame during his two years in office was a celebration of the 300th anniversary of the "discovery" of Lake Champlain in 1609 by Samuel de Champlain. Teddy Roosevelt announced he would not seek a third term as president and Howard Taft was elected.

In the late 1800s there was a general exodus from Vermont to states that were experiencing more of the industrial revolution. But, by 1908 things were going pretty well in Vermont - primarily due to the rising fortunes of milk. As farmers produced more they were able to live a better and less isolated life. Cars were more common and electricity became more available in rural areas. And many people – for the first time – saw a moving picture show.

Let's come back to the present. Many of the challenges facing our communities at the turn of the 20th century still exist at the turn of the 21st century. How do we ensure that everyone has the basic necessities of a good life – a warm home, healthy food, access to medical care, a good education? How do we support the arts and the institutions that protect and preserve our history and promote our way of life? Now, in 2008 – we see that our nonprofits retain a vital role in our communities.

While national trends suggest fewer Americans participate in civic life, we can feel proud that Vermonters volunteer at higher than average rates. Vermont is also home to the largest number of charitable nonprofits per capita of any state. Vermonters clearly value the opportunity to contribute to their communities through nonprofit organizations. And clearly, the nonprofit sector is an important contributor to the quality of life in our state.

We know that it takes a lot of work to keep an organization afloat for even just a few years. I think we can all agree that it is a remarkable feat to survive as a nonprofit for over 100 years! We salute our Centennial nonprofits whose commitment to their missions has withstood the challenges of time!

Deborah L. Markowitz, Secretary of State

The Essential Services of Government

The international collapse of financial markets and a declining economy and job market forced Vermont state government to cut programs. The question was, what services should be cut? In his 1933 inaugural Governor Stanley Wilson explained the problem.

“The great increase in the cost of our government aside from war time expenditures and those due to the [1927] flood has come about because the people acting through their representatives in previous legislatures have been constantly demanding that more be done for them through state agencies. We speak of essentials of government. The actual essentials of state government are few. Not long ago the state spent nothing for highways, public health, care of the insane, care of tubercular persons, public welfare, conservation, agriculture, forestry, industries, and supervision of public service corporations and but little for education and debt service. If we should eliminate expenditures for these endeavors now, we could run state government for a tenth of its present cost.

For practical purposes we must now define the essentials of state government to be those endeavors which are either necessary for the continuance of the constitutional functions of the state or which may properly be handled by the state and which the people had rather pay for and have the state carry on than to go without the service or provide for it through local taxes. ...To shift burdens from the towns to the state does not relieve the burden of taxation, although it may effect a different distribution of that burden and may secure greater efficiency. To cut off a state endeavor that is deemed essential will not relieve the burden, it will simply cast it on the several communities.

Probably we have no state endeavors that do not have merit. Some are absolutely essential to the continuance of our functioning as a state. Others are essential according to modern standards. Some are desirable only if we can afford them.”

Governor Wilson’s need to reduce the cost of government sounds familiar as does his rather plaintive ruminations on what constituted the “essentials of state government” and which services to cut. Wilson’s statement that “not that long ago the state spent nothing on highways,” etc. did not recognize the incremental growth of state responsibilities for the services he noted. For example, the 1777 Constitution gave the courts jurisdiction over “the Care of Persons and Estates of those who are non *comptes mentis*.” The 1779 “Act for relieving...Idiots; impotent, distracted and idle Persons” required state support for the mentally ill who could not be provided for by either their families or towns. In 1835 the state began to periodically make appropriations for the Brattleboro Retreat and in 1841 made the first general appropriation for the insane poor. In 1884 the state assumed responsibility for the support of mentally defective paupers and in 1891 opened the Vermont State Hospital for the Insane in Waterbury.

The same incremental growth of state services occurred with education. For example the state provided free textbooks starting in 1894; took over the State Normal Schools (now the Vermont State Colleges) in 1896; created a state school fund of \$1.2 million in 1906; and between 1925 and 1933 routinely appropriated money for a Community School House Fund which provided towns with matching funds of up to \$100 to improve rural schools. Such long term incremental growth applied to all the services Wilson mentioned.

In a few cases Governor Wilson actually expanded the costs of some of the services he enumerated. He supported appropriations to forestry and highways in order to create jobs for unemployed Vermonters. He also had the commissioner of forestry employ men to cut wood on state land to be distributed to the unemployed for heating their homes.

The incremental growth of essential services was not linear and at various times state support was reduced. Starting in the 1923, for example, education experienced a series of cuts reducing the clerical staff of the Department of Education from 10 to six and reducing the department’s cost of administration from \$31,000 to \$29,000 by 1928. Still, local pressure for educational

support continued and by 1932 state expenditures for education had grown by 21½ percent since 1924 (during the same time period state expenditures for highways grew by 186 percent).



Wilson noted the tensions among services that could be provided more effectively by the state rather than by individual municipalities and the risk of dumping the costs of some services on the towns. Under Vermont's one town/one representative apportionment system the poorer rural towns had long used their vast legislative majorities in the House of Representatives to centralize the collection and redistribution of funding for services. In the 1890s the legislature passed levies on town grand lists for the support of highways and education to the advantage of the poorer towns. In 1931 those smaller towns supported the inauguration of a state income tax rather than levies on the grand list in order to alleviate local property taxes. They also supported creation of a state highway system in 1931 and other measures that increased the state's responsibilities and costs for essential services. It was not until the reapportionment of the house in 1965 that the smaller communities lost their ability to shift costs from the towns to the state.

In turn the state, despite its Republican fealty, was quick to respond to federal programs by passing enabling legislation to benefit from New Deal programs. Wilson, for example, successfully encouraged the legislature to pass enabling legislation so Vermonters could take advantage of housing loans through the Federal Home Loan Bank. Wilson also supported new sources of taxation and celebrated a new tax on electric energy that generated \$239,154 in 1932, further noting that the "tax has not been passed on to the consumers through increased rates."

While it is easy to draw parallels between Wilson's Vermont and ours, it is his core question that remains important to us today: what are the essential services of government?

To read Governor Wilson's 1933 inaugural speech, visit our website at: <http://vermont-archives.org/govhistory/gov/govinaug/index.htm>.



Tip of the Month

Several clerks have told us that they print up small signs (with large print) to place on the Entrance Checklist table that say:

Even though we may know you, Vermont state law requires that you state your full name loudly and that one election official must repeat your name out loud.

Clerks find that this helps voters be aware that stating their names is required and not intended to annoy or invade their privacy.

If you have a tip you would like to share, please contact John Cushing, VMCTA President, at jcushing@town.milton.vt.us

SPECIAL ELECTIONS EDITION OF “OPINIONS OF OPINIONS”

1. Voted absentee ballot cannot be returned to voter once received by clerk. If an early voter mails or returns in person a voted ballot in the sealed, signed envelope and the unused ballot envelope to the town clerk, the voter cannot ask for the ballot back so he can “change his mind.” 17 V.S.A. §2543. The law states that “once an early voter absentee ballot has been returned to the clerk in the sealed envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason.” It is just as if the ballot had been deposited in the voted ballot box on Election Day.

2. Spoiled absentee ballot can be returned and new ballot will be given to voter. If an early voter discovers that (s)he has made a mistake and spoiled a ballot prior to returning the ballot to the clerk, (s)he can return all of the spoiled ballots and envelopes to the town clerk and request another set of ballots to vote, just the same as a voter in the polling place can request up to three sets of ballots if (s)he spoils or makes a mistake in marking or tearing the ballots. 17 V.S.A. §2568

3. There is no restriction on who may return absentee ballot on behalf of voter. Anyone - a neighbor, a delivery boy, even a candidate - can return voted ballots sealed in the voted ballot envelope with the signature of the voter to the town clerk (or polling place on Election Day) before the 7 p.m. closing of the polls. Vermont statutes do not limit the means by which voted ballots are returned. Although it may seem unusual, it is permissible.

4. Sick voter may not have ballot delivered unless request was made prior to Election Day. In order for a voter to have a ballot delivered to herself on Election Day the voter must be either sick or disabled, and the request for ballot delivery must have been made by 5:00 p.m. or the close of the clerk’s office on the day before Election Day. 17 V.S.A. § 2531. This means that a person who falls ill on Election Day will be out of luck unless she can make it to the polls, or unless she had already received an absentee or early voting ballot.

5. When voter dies after casting absentee ballot the vote still counts. If a voter who has requested an absentee ballot dies prior to Election Day, but the voted ballot has been properly returned to the town clerk with the certificate and signature completed by the voter, the ballot should be commingled and counted with all of the other ballots. The statute provides that absentee voters shall be treated as “present and voting” on Election Day. 17 V.S.A. §2550. Therefore all absentee ballots properly voted and mailed prior to the death of the voter should be counted.

6. Ballots are delivered by politically balanced pairs. Vermont law requires that absentee ballots be delivered to disabled or sick voters by politically balanced pairs of justices of the peace or other legal voters designated by the BCA. No pair shall consist of two justices from the same political party. The non-justices are picked from lists of registered voters submitted by the chairs of the town committees of political parties, and from among registered voters who in written application to the board state that they are not affiliated with any political party. No candidate or spouse, parent, or child of a candidate is eligible except justices of the peace to deliver absentee ballots unless the candidate is running unopposed. 17 V.S.A. § 2538, 2546.

7. BCA members can be added to work on an election to create party balance on the board. The town political committee or three voters may make a request to the board of civil authority to have additional members added to the board of civil authority if there are less than three members of a major party serving on the BCA. The procedures are set out in 17 V.S.A. §2143. If a written request is filed with the town or city clerk, the legislative body shall appoint from a list of names submitted by the underrepresented party to bring the number of representatives from the party up to three members. Note that these BCA members may only perform election related duties.

8. Clerk should set reasonable rules for poll watchers. Poll watchers generally come to the polls to see who has come in to vote (they have their own checklist and take notes as people check in) so that at the end of the day candidates can be sure to get their voters to the polls. Sometimes poll watchers can distract election workers which can lead to errors. Consequently we suggest that the presiding officer set reasonable rules for poll watchers. (These should be told or be given in writing to each poll watcher so they know what is expected of them.) Some suggested rules include:

- No cell phones in the polling place (for all election workers – not just poll watchers)
- No talking to voters



- No politicking in the polling place
- No talking to election workers when voters are present
- Sit or stand behind guardrail or tape-marks on floor

No one has the right to see the entrance checklist during the election except the election workers, except in towns with less than 500 voters on the checklist when a written request has been made at least 12 hours before the polls open. We also suggest that the presiding officer instruct the election workers to speak loud enough for the poll watchers to hear them, and to instruct the poll watchers to let the presiding officer know as soon as there is a problem with audibility.

9. No political literature, buttons, or other political materials can be handed out or displayed inside the polling place. 17 V.S.A. §2508. However, any voter can bring a small brochure, card, or paper into the voting booth with him or her to assist the voter in casting his votes. The voter must remove the literature and take it out of the polling place when he or she has finished voting. We strongly suggest that presiding officers arrange to have either an election official or volunteer check the voting booths frequently to make sure that no literature has been left in the booths.

10. Registered voters in Vermont shall not lose residence for voting purposes solely by living outside of the United States. Until the voter returns to reside in the United States, the voter can remain on the checklist and vote by absentee ballot in the town in which the voter last resided, regardless of his or her reason for living outside of the United States.

11. However, once a person moves back to the United States, the person must register to vote in the jurisdiction of his or her current residence. For example, if a member of the armed forces has been in Germany for 20 years and then retires and moves back to the United States, that person must register to vote in the place in which he or she now resides. If you send a challenge letter as part of your purging process and the person returns your form giving another town or state as his or her residence, you can remove that person from your checklist.



12. A citizen who wishes to be added to the checklist cannot refuse to take the voter's oath. When the court struck down Vermont's durational residency requirement as unconstitutional, the court found that the constitutional requirement to take the voter's oath was fine. A voter only need to take the oath once, but each citizen must take it before being added to the checklist for the first time in Vermont. (If you move to another town in Vermont, you do not need to take the oath again.) The law was changed effective July 1, 2008, so now a voter or any person over 18 can complete and sign the form to attest that the new voter has sworn or affirmed the oath. The form must be received by your town clerk before the new voter can receive an absentee ballot or vote in person for the first time in Vermont.

Opinions of Opinions

1. Board should adopt a policy that outlines rules for using public buildings. It is a best practice for each legislative body, selectboard, school board, or other public body that owns buildings, to adopt a policy outlining its requirements for use of town or school property by other groups. It is constitutionally permissible for a board to prohibit any and all use by outside groups. However, it is not good policy, and may cause discrimination claims, to allow use of the buildings by certain categories or types of groups and not other groups, unless there is a real difference in the type of use being requested. For example, it is reasonable and acceptable to limit use of certain rooms or spaces to groups of less than 30, or to meetings ending not later than 9 p.m. However, it may be discriminatory to allow the boy scouts to meet in a room, but to turn down a political caucus or a religious organization.

2. BCA may raise or lower value of property when deciding tax appeal. As tax appeals are being held in a number of towns, remember that on appeals from the listers decision to the board of civil authority, the BCA may increase, decrease or sustain the appraisal. 32 V.S.A. §4409. Once the taxpayer raises the issue of the property's valuation, the BCA must make findings to support what the BCA believes to be the correct valuation of the property, even if that amount is higher than the listers' assessment. The same is true for further appeals to the state board of appraisers or the Superior Court.

3. Appeal from lister's determination of tax exemption goes to Superior Court not BCA. The initial decision about whether a property qualifies for tax exemption is made by the listers. The statutes do not set out an appeal process, and do not expressly authorize the BCA to hear appeals of this issue. 32 V.S.A. Chapter 125. Although it is logical that an appeal of a determination of exemption could go to the BCA, the law does not give the BCA authority to decide tax exempt status. Rather, the statutes authorize the BCA to address issues of value and equalization. Whenever the law does not articulate an administrative appeal, the rules of civil procedure provide for an appeal to Superior Court. And, indeed, there are many cases decided by the Superior Court (and Supreme Court) involving whether a particular exemption is appropriate.

4. Property tax exemptions for volunteer fire department property must be voted at town meeting. There is no automatic tax exemption, but law permits a town to vote to exempt the property and buildings owned and used by a volunteer fire department. 32 V.S.A. §3840. The exemption can be voted for ten years the first time and thereafter for five-year periods. The Vermont Listers Handbook provides a good discussion of property tax exemptions including a chart giving the source of funding for education property tax liability for locally voted exemptions. The handbook also includes a chapter on properties that are exempt under state or federal law, and another chapter on exemptions that must be voted by the town.

5. Building rented by church for recreational program is not exempt from property tax. The law permits property owned or “kept” by a church to be exempt from local property taxes if it is used for specific purpose listed in the law. Even if rental property can be considered property “kept” by the church, the recreational center would not be exempt because the law does not exempt property held by a church for recreational uses. 32 V.S.A. § 3832(2) It is an open question whether it may be possible to exempt the property from taxation through town vote. That is because although property used for recreational purposes may be exempt by vote of the town, the use of property is generally determined by looking at the owner – not the occupant. In this case the owner is using the property as rental property, which is not exempt. 32 V.S.A. § 3832(7)



6. Property purchased by a church after April 1st is not exempt until the next tax year. Although churches and other property used for religious purposes are exempt from property tax, when a church purchases property this exemption does not begin to apply until April 1st following the purchase. The law does not provide a mechanism for changing exempt status in the middle of a tax year. Indeed, a church cannot even seek abatement of these taxes since the change in status of the owners is not a statutorily recognized reason to grant abatement. 24 V.S.A. §1535 Only when the listers prepare the next year’s grand list, the property can be listed as exempt under 32 V.S.A. §3802(4) and 3832.

7. BCA has flexibility when scheduling tax appeal hearings. 32 V.S.A. §4404 requires tax appeal hearings to start within the 14 days after the last date allowed for a notice of appeal, but it does not require that the hearing be completed on that date. This means that the BCA can use the initial hearing to set a schedule of hearings to be held at later dates. The BCA must then “continue” the hearing to each subsequent date. Note that whenever a hearing is postponed at the request of an applicant rather than convened and then continued to a date certain as described above, the board should obtain a waiver from the appellant. It is within the discretion of the BCA to allow postponement to a later date at the request of the appellant or insist on going forward on the scheduled date.

8. BCA must hold hearing even in absence of appellant. If a person bringing a tax appeal to the BCA chooses not to attend the hearing, the BCA must still hold the hearing, consider the appellant’s written submission, inspect the property and render a decision. However, if the appellant refuses to allow an inspection of the property (both interior and exterior of any structure), then the appeal will be considered withdrawn. 32 V.S.A. §4404(c) If this were to occur the applicant must be clearly told the consequence of his denial of inspection and a follow up letter indicating that the appeal was deemed withdrawn should be sent to him or her.

9. Acting zoning administrator reviews application for zoning administrator’s property. When a zoning administrator has a conflict of interest, or needs a permit for his own property, or is absent for any reason the planning commission may nominate and the selectboard can appoint an acting zoning administrator “who shall have the same duties and responsibilities as the administrative officer in the administrative officer’s absence. If an acting administrative officer position is established, or, for municipalities that establish the position of assistant administrative officer, there shall be clear policies regarding the authority of the administrative officer in relation to the acting or assistant officer.” 24 V.S.A. §4448.

10. The age requirements for state representative and state senator are not clear in the Vermont Constitution. In discussions with staff at Legislative Council and the Office of the Attorney General we agree that Vermont’s constitution and statutes do not clearly articulate if a person must be 18 in order to qualified to serve as a house member or a senator. However, the law is clear that the decision is to be made by the house, for house members, and the senate, for members of the senate. 17 V.S.A. §§ 2605, 2606.

The consensus of several attorneys familiar with the General Assembly is that if a person is 18 before the beginning of the session, the House or Senate would likely find that person qualified to serve. If a person was not yet 18 in January when the session begins, it is more likely that the House or Senate would find that person not qualified to serve.

Our office does not have any authority to determine a candidate's qualification to be on a ballot. If petitions and a consent form are properly submitted, the name will be placed on the ballot. It is possible that the House or Senate may adopt rules or that legislation may be proposed to address the age qualification issue in the future.

11. When a candidate wins and then withdraws, a vacancy is created that must be filled according to statutory procedures. In all elections for office in Vermont, including justice of the peace, if the candidate who received the most votes and is elected decides that he or she does not want to serve in the position, the candidate's withdrawal or declination of the office creates a vacancy that must be filled according to statutory procedures. It is never possible to have a person decline an election so that the person receiving the next highest amount of votes becomes the winner.

12. Town clerk and town treasurer are separate offices. Unless a town's charter provides otherwise, the position of town clerk and the position of town treasurer MUST be listed separately on the March town meeting ballot. Of course the same person may run for both offices. There has been some confusion about this rule because in many towns the same person holds both offices.

13. Terms of office for clerk and treasurer is either one or three years. The term of office for town clerk or town treasurer is one year unless the town has voted to make it a three-year term. If a town wants to switch back to a one-year term, the selectboard can place an article on the annual town meeting to change back to rescind the change to a three-year term and go back to a one-year term for either office. 17 V.S.A. §2646(2) and (3).



14. Runoff required if tie vote for justice of the peace or local official. If a recount for justice of the peace or local official ends up with a tie vote, then a runoff election must be held pursuant to 17 V.S.A. §2682(e). This happened in a justice of the peace race in 2004. The town warned a runoff election as required by the statute, and the final election result occurred on November 30, 2004, in plenty of time for the beginning of the justice of the peace term on February 1, 2005.

15. Selectboard may borrow for highway equipment without vote. The municipal financing law was amended as of July 1, 2001, so that a selectboard can now approve borrowing for purchases of highway equipment without going back to the voters for approval. 24 V.S.A. §1786(a). This is a very limited delegation of powers and can only be used for equipment to maintain or construct highways or bridges within the town.

16. Unused highway funds may be carried into the next fiscal year, but they may only be used for highway purposes. 19 V.S.A. § 312 provides that "the funds raised from town highway taxes shall not be used for any purpose other than that for which the tax was voted, subject to the provisions of this chapter. If in any year money so voted is not expended, it shall be applied for the same purpose the following year." Accordingly, unlike other town funds which may not be carried forward from year to year, a town with excess highway funds may spend them in the next year without additional voter approval.

17. Selectboard can decide to pave a road without town vote. It is the responsibility of the selectboard to construct and maintain the roads of the town. Although there is a public process involved when a board wishes to change the classification of a town highway, no public process is required (beyond a decision made during a public meeting of the board) when the board decides that a particular road should be paved. 19 V.S.A. § 304.

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.

Civics Behind the Scenes

Missy Shea, Civics Education & Voter Outreach

I've been here at the Secretary of State's office just shy of two years. That means that I haven't yet been through a complete election cycle. It also means that I am in the middle of my first one as I write this article. Talk about trial by fire! An historic presidential race, a competitive gubernatorial contest, and anticipated record turn-out at the polls!

And, all of the above is in addition to the **Vermont Votes for Kids** election year civics education materials we have available, free of charge. Please make sure your favorite



students and local school know about the **Democracy In Action** pages, available without cost and delivered directly to the school through our partnership with several newspapers throughout the state. **Democracy In Action** is a six-week news page series that provides valuable, nonpartisan articles about topics like the election process, voting history, and engaged individuals who have used the system to make a positive difference. Please check with the daily newspaper in your area, or contact Cheryl Thibeault at

the Burlington Free Press by calling 802-651-4825, or through email, cthibeau@bfp.burlingtonfreepress.com.

Another exciting component of the Vermont Votes for Kids educational program is the statewide **Student Mock Election**. Town clerks and teachers all around Vermont have contacted our office to request ballots and other supplies to support their mock election. It's not too late, so if your school hasn't planned for their student mock election, please get in touch and we'll help you get started. Much like reading every night to young children helps them become life-long readers, research shows that giving kids opportunities to practice democracy, such as voting in a mock election, helps them become life-long engaged citizens.

Voting is the most basic democratic act. And our office has plenty of programs and supplies available to encourage and support this year's hyper-energized election for just about every age on the citizen spectrum!

It is very exciting and incredibly busy at 26 Terrace Street these days, and I am happy to be a part of it! For more info, check out the Vermont Secretary of State's Elections and Kids' Pages at www.sec.state.vt.us or contact Missy Shea, mshea@sec.state.vt.us, 802.828.1296

Upcoming Events

Planning and Zoning Forum

Start Date: Thursday, October 30

Start Time: 8:30 AM

Place: Capitol Plaza Hotel in Montpelier, VT

Cost: Unknown

Contact: Amanda Moran at Vermont League of Cities and Towns

Phone: 802/229-9111

Email: info@vlct.org

Summary: Planning officials from around the state will gather to discuss hot topics in planning and zoning regulation. Please join us for a discussion of topics ranging from successful public participation strategies to stormwater and alternative energy source regulation.

Register online:

<http://www.vlct.org/eventscalendar/upcomingevents/?event=185>

Vermont Statewide Housing Conference

Start Date: Tuesday, November 18

Start Time: 8:00 AM - 4:00 PM

Place: Sheraton Hotel and Conference Center in South Burlington, VT

Cost: \$40 (early-bird). Fee includes lunch.

Contact: John Fairbanks at VT Housing Finance Agency

Phone: 802.652.3424

Email: jfairbanks@vhfa.org

Register online: <http://www.vhfa.org/conference/>

Summary: Vermont's largest housing event. This year's conference will have a major emphasis on community planning for housing development, including a special track of three workshops aimed at local planning professionals and at members of zoning boards, planning commissions, development review boards, and other governmental organizations who make decisions regarding housing in their communities. Those workshops will cover topics including density and design, the regulatory environment, and getting Vermont communities "housing-ready." There will also be workshops covering cottage development, green building, costs of development, housing and the economy and building local support for housing.

Municipal Calendar

OCTOBER 2008

5 - Last day to post the warning and notice for the general election (30 days before the election). 17 V.S.A. § 2521(a) The checklist must also be posted in two or more public places in the town in addition to being posted at the town clerk's office in towns with over 5,000 population. In towns with less than 5,000 population, the checklist must only be posted one place in addition to the clerk's office. 17 V.S.A. §§ 2141, 2521(a) In towns that divide their checklist, that portion of the checklist that applies to the district should be posted.

6 - Town clerks will receive general election ballots by this date (not later than 30 days before the election). Clerks should store the ballots, except those used for sample ballots and early or absentees, in a secure location until the date of the election. 17 V.S.A. §§ 2479, 2103(13)

13 - Columbus Day. 1 V.S.A. § 371(a)

15 - Last day for town clerks to post sample ballots (for the general election) in the same places that have previously posted copies of the warning, notice, and checklist. (20 days prior to the election.) 17 V.S.A. § 2522(a)

15 - Last day for U.S. Congressional candidates to file FEC quarterly reports for the October quarter (Aug. 25-Sept. 30). 2 U.S.C. § 434(a)(2)

23 - Last day for U.S. Congressional candidates to file FEC 12-day pre-general election reports (Oct. 1-Oct. 19). 2 U.S.C. § 434(a)(2)

25 - (At least 10 days before the election) Vote tabulators must be tested using official ballots that are clearly marked "test ballots." 17 V.S.A. § 2493(b)

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

27 - Candidates for state office, state senator, state representative, political parties, and political committees who have made expenditures or received contributions of \$500.00 or more must file campaign finance reports with the secretary of state by 5:00 p.m. 17 V.S.A. § 2811(a)(1). Candidates for the state senator or state representative must also file such reports with the clerk of the candidates' respective senate or house district (the same clerk where the candidate files nominating petitions). 17 V.S.A. § 2811(e)

27 - Candidates for county office (probate judge, assistant judge, state's attorney, sheriff, high bailiff and justice of the peace) who have raised or expended \$500 or more must file a ten-day pre-general campaign finance report with the county clerk. If a filing deadline falls on a Saturday, Sunday or legal holiday, then the deadline shall be extended to the next business day. 17 V.S.A. §§ 2821(a)(2) and 2103(13) Copies of these reports must be forwarded by the county clerk to the secretary of state within five days of receipt. 17 V.S.A. § 2821(c)

27 - During the 8 days preceding the election and on election day, the clerk shall divide the list of ill and physically disabled voters into as many equal parts as there are pairs of designated justices, and deliver those lists to the justices, together with early or absentee ballots and envelopes. 17 V.S.A. § 2538(b)

29 - Last day, until 5:00 p.m., to apply for addition to the checklist in order to vote in the general election. Clerks' offices must be kept open from 3:00 p.m. to 5:00 p.m. to receive applications. 17 V.S.A. § 2144(a) 29 - Last day, until 5:00 p.m., for people who are not eligible to register by this date but who will be by election day to file a written notice of intent to apply with the town clerk. 17 V.S.A. § 2144(b) and (c)

29 - Last day for town clerks to receive a request for an application for addition to the checklist accompanying an early or absentee ballot request. 17 V.S.A. § 2532(b) and (c)

30 - Last day for Town Clerk to forward to the Board of Civil Authority a list of voters added to the checklist (at least five days before election). 17 V.S.A. § 2144b(d)

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

NOVEMBER 2008

1 - Last day for the board of civil authority to designate pairs of justices of the peace, assuring political balance in each pair, to deliver early or absentee ballots to ill and physically disabled voters (not later than three days before the election). 17 V.S.A. § 2538(a)

3 - 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. 17 V.S.A. § 2531(a) Clerks must make a list of early or absentee voters available upon request in their offices. 17 V.S.A. § 2534

3 - 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)

3 - The presiding officer shall also ensure 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)

3 - Board of civil authority must appoint a presiding officer if the town clerk or other regular presiding officer is unable to preside at the election or if more than one polling place is used. 17 V.S.A. § 2452.

3 - Prior to the day of the election, board of civil authority must appoint assistant election officers. 17 V.S.A. § 2454.

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

4 - General Election. 17 V.S.A. § 2103(15).

4 - Clerks must make a copy of all early or absentee voters available at their office and in each polling place as soon as it opens. 17 V.S.A. § 2534.

4 - Before polls open, 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).

4 - Before polls open, the presiding officer must post copies of the warning and notice and the sample ballots. Signs should be placed on or near the ballot boxes explaining procedures for depositing ballots. 17 V.S.A. § 2523.

4 - Polls must be open no earlier than 5:00 a.m. and no later than 10:00 a.m. (opening hour set by board of civil authority). Polls remain open until 7:00 p.m. 17 V.S.A. § 2561(a).

4 - 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.

4 - For those who became eligible to vote after the first Wednesday prior to Election Day 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).

4 - 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).

4 - Presiding officer directs election officials in counting ballots. 17 V.S.A. § 2581, 2582.

4 - Presiding officer must seal all ballots, exit checklist, and tally sheets. 17 V.S.A. § 2583(a), 2590(a), 2689. **The entrance checklist must be kept out of the ballot bags and placed in a secure location.**

5 - 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.

6 - In a manner prescribed by the Secretary of State and within 48 hours of the close of polls, the town clerk shall deliver one certified copy of the official return of vote to the secretary of state, representative district clerk, senatorial district clerk and county clerk. 17 V.S.A. § 2588

PLEASE OVERNIGHT YOUR OFFICIAL RETURNS (ORV) TO THE OFFICE OF THE SECRETARY OF STATE, 26 Terrace Street, Montpelier, VT 05609-1101.

11 - At 10:00 a.m. all canvassing committees (statewide, county, senatorial, and representative) must meet to tally returns. 17 V.S.A. § 2592(g) and (h) The committee shall prepare certificates of election and send or deliver these to the candidates elected, except the statewide committee shall prepare the certificates but not sign them. Each canvassing committee shall also file a canvassing report of its findings with the Secretary of State. 17 V.S.A. § 2592(m)

14 - Deadline for filing ten-day post election campaign finance reports by candidates for local office (probate judge, assistant judge, state's attorney, sheriff, high bailiff and justice of the peace) who have expended or received \$500.00 or more. Local candidates shall file these reports with the town clerk. 17 V.S.A. § 2822

14 - Last day for a losing candidate to request a recount (within 10 days after the election). 17 V.S.A. § 2602(b)

14 - Candidates for state office, state senator, state representative, political parties, and political committees who have made expenditures or received contributions of \$500.00 or more must file campaign finance reports with the secretary of state by 5:00 p.m. 17 V.S.A. § 2811(a)(1). Candidates for state senator or state representative must also file such reports with the clerk of the candidates' respective senate or house district (the same clerk where the candidate files nominating petitions). 17 V.S.A. § 2811(e)

14 - Last day for statewide and general assembly candidates who have not made expenditures and received contributions of \$500.00 or less to file statement with the Secretary of State's office that candidate has not made expenditures or received contributions of more than \$500.00.

19 - Last day that a legal voter may contest the results of the general election (within 15 days after the election). 17 V.S.A. § 2603(c)

27 - Thanksgiving Day. 1 V.S.A. § 371(a)

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

Congratulations to the 2008 Vermont Centennial Nonprofit Award Recipients!

The following nonprofits were honored at a ceremony at the state house on September 25. This program, implemented by the Secretary of State's office, recognizes nonprofits for their longevity and contributions to Vermont's heritage. Any nonprofit that has been in continuous operation in Vermont for 100 years or longer is eligible to participate.

Visit www.sec.state.vt.us/centennial_nonprofit.html for more information.



First Baptist Church of Bristol - est. 1794
First Church in Barre Universalist - est. 1796
Barre Congregational Church - est. 1799
President and Fellows of Middlebury College - est. 1800
Bethany Church, United Church of Christ - est. 1808
Lyndon Center Free Baptist Church - est. 1843
Wells River Library Association - est. 1849
South Congregational Church of St. Johnsbury - est. 1851
St. Albans Cemetery Association - est. 1852
Roman Catholic Diocese Of Burlington, Vermont - est. 1853
Whitingham Ladies Benevolent Society - est. 1858
Unitarian Church of Montpelier - est. 1866
Lyndon Institute - est. 1867
Orleans County Fair Association - est. 1867
Union Agricultural Society (Tunbridge World's Fair) - est. 1867
First Baptist Church Of Brattleboro - est. 1870
Poplar Hill Cemetery Association of East Montpelier - est. 1872
Saint Mary Star of the Sea Parish of Newport - est. 1873
Sisters of Saint Joseph, Inc., Rutland - est. 1873
Windham County Humane Society - est. 1887
Lake View Cemetery Association, Inc., Shoreham - est. 1890
Vermont Society of the Sons of the American Revolution - est. 1890
Vermont State Firefighters' Association - est. 1890
Holton Home, Inc., Brattleboro - est. 1892
Branchview Cemetery Association, South Royalton - est. 1908
Camp Billings, Inc., Fairlee - est. 1908

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,

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

802-828-2363

Montpelier, VT 05609-1101

26 Terrace Street

Redstone Building

October 2008

Office of the Vermont Secretary of State

Opinions

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