



Opinions

Office of the Vermont Secretary of State

Vol. 12, #2

February 2010

Are You Ready for Town Meeting?

Page 10

Opinions - a focus on Town Meeting issues

Page 4

Quote of the Month

There are two ways of
spreading light:
To be the candle...
or the mirror that reflects it.

—Edith Wharton

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.....	7
Municipal Calendar.....	8
Upcoming Events.....	9
Are You Ready?.....	10

A Message from the Secretary

As Vermonters we value civic responsibility, we cultivate self reliance and we cherish community life. The tradition of town meeting is at the very center of these values.

For over 200 years, Town Meeting Day has been an important political event in Vermont. But we all know how fragile this form of direct democracy can be. That's why it is so important to give Vermonters the tools they need to participate in town meeting, and why it is important to teach our children about this civic tradition.



I want to remind you about the resources we have created to encourage all Vermonters to participate in town meeting. *A Citizen's Guide to Vermont Town Meeting* is a short publication designed to help citizens understand the history of town meeting and how town meeting works today. Our town meeting website is a resource for citizens and local officials and includes the *Citizen's Guide* as well as a *Handbook for Moderators* and many other resources. You can view the website at: www.sec.state.vt.us/townmeeting/index.html.

In addition to our town meeting website, we have made available to Vermont schools materials that are designed to educate our children about the tradition of town meeting. Our middle school booklet, *Town Meeting – A Vermont Tradition* includes suggestions for classroom activities and articles designed to stimulate classroom discussion about the pros and cons of Australian ballot voting versus floor meetings, and whether it is appropriate to be discussing state and national social and political issues as part of town meeting. *Town Mouse and Country Mouse Go To Town Meeting*, designed for children in 3rd – 5th grade, walks the children through town meeting and Australian ballot voting, highlighting the differences between these two forms of voting. It also includes fun activities and a teacher's guide with ideas for classroom discussions and activities. Finally, *The Town Meeting Coloring and Activity Book* was designed as an early elementary curriculum and includes basic information about Vermont's town meeting with easy to color pictures and other activities.

For free copies of *The Citizens Guide to Vermont Town Meeting*, the *Moderator's Handbook* and the town meeting curriculum materials contact Missy Shea at 802-828-1296. These booklets are also available online at <http://www.sec.state.vt.us/publications.html>.

Deborah L. Markowitz, Secretary of State

Voice from the Vault

by Gregory Sanford, State Archivist

Combing the Archival Record

Thanks to my daughter Dosia, I recently encountered a series of excerpts from self-help books of the Italian Renaissance. For example, to improve your memory, when you nap take your shoes off, cover your head with a light cloth and, upon waking, comb your hair with an ivory comb and eat six raisins and six juniper berries. Ondis, the woman who (usually) tolerates me, suggested that I was reaching a point where a comb, much less an ivory one, was superfluous and why bother with juniper berries when we could drink gin. While these modifications seemed reasonable, my memory has not achieved the anticipated improvements.

One of the advantages of records is that we don't have to rely exclusively on memory. By combing through archival records, for example, one can extend one's memory beyond the boundaries of personal experience and recollection.

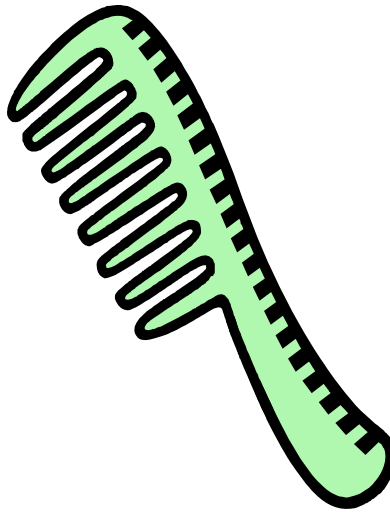
What inspired these thoughts are the current studies and reports on improving government efficiency and effectiveness in a time of reduced resources and looming deficits. These studies include the Joint Legislative Government Accountability Committee's work with the Public Strategies Group; the Vermont Commission on Judicial Operations; and the Tiger Teams examining certain executive branch units.

One does not have to comb through the records for very long before encountering similar studies. A quick sampling includes 1957's Commission to Study State Government (the "Little Hoover Commission"); 1969's report on the "Reorganization of the Executive Branch" by the Committee on Administrative Coordination; 1977's Governor's Cost Control Council; 1991's Vermont Information Strategy Plan; and 1998's Blue Ribbon Commission on State Government Performance and Work Force Needs (which, in turn, drew on the 1994-95 Performance Restructuring Pilot Project and the 1997 Study on the Function and Structure of Government).

And that quick combing barely scratches the surface of studies on government. Such periodic government navel contemplation is absolutely fascinating to me. It provides glimpses, over time, of how we define essential services, how we view government organizationally, and how (or if) we implement recommendations from the studies.

Economic downturns and growing demands for services against limited resources inspired many studies. These quests for "efficiencies" and "effectiveness" were frequently coupled with a sense that government structures had become too unwieldy. The 1957 Little Hoover Commission bemoaned the "administrative sprawl" of over a hundred independent agencies that lacked "cohesion...direct lines of responsibility and accountability" and often resulted in "overlapping and duplication of effort." It recommended that the "major departments of state government" be reassembled and streamlined "to gain increased efficiency and economy." The 1977 Governor's Cost Control Council examined "efficiency in administration," "increased responsiveness to the public," and both better "continuity in planning" and improved "interdepartmental planning and coordination." The 1998 Blue Ribbon Commission on State Government Performance and Work Force Needs sought to "increase efficiency and to improve citizen...satisfaction while controlling costs."

It is possible to see antecedents to current recommendations in these previous reports. The 1998 Blue Ribbon Commission on State Government Performance, like the 2010 Challenges For Change report, called for performance-based budgeting. One of the Vermont Information Strategy Plan (VISP) reports called for a technology-based client-centric approach to the delivery of human services, foreshadowing another current recommendation.



The studies reveal changes in organizational thinking. Many studies called for re-structuring agencies and departments to improve lines of responsibility while eliminating or consolidating some boards and commissions. The Little Hoover report called for creating an agency of administration by drawing together the divisions of accounting, budget and management, personnel, public buildings, public records, purchasing, and taxes. It also called for the elimination of all smaller agencies “carrying on related functions.”

Other studies view government from a functional, as opposed to structural, perspective, usually in connection with the use of information technologies (IT). This linking of function and IT dates back to at least the Little Hoover Commission’s recommendation for centralized data processing to support certain functions across departments. One of the strongest ties between functional analysis and the effective use of IT came out of the Vermont Information Strategy Plan (VISIP) launched by Governor Snelling in 1991.

A collective view of the reports can also reveal the ebb and flow of ideas. While Little Hoover recommended grouping financial functions together to be supported by centralized data processing, the 1977 Cost Control report bemoaned that “combining the functions of centralized

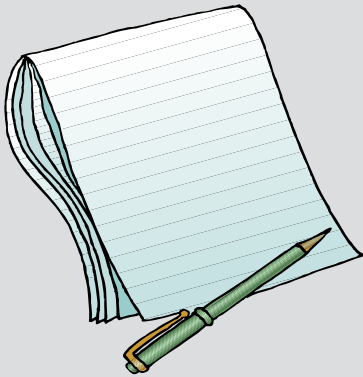
budget control, management analysis, data processing systems’ development and facility operation into a single department has hampered the efficient use of these statewide services.” The report called for a separate Department of State Information Systems “to improve relations between the data processing operations and user agencies.” The role of information technologies in these reports deserves its own study.

There is much to be learned from these government studies of government and from the subsequent efforts to implement their recommendations. Reading the reports, however, leaves one feeling almost quixotic because they reveal an unintended irony. Many, such as the Blue Ribbon Commission, realized that improved government performance will only come “if state agencies engaged in an ongoing strategic planning process...guided by uniform principles and considerations.” The fact that every few years a special commission or committee echoes that recommendation suggests that a sustained planning process continues to elude us.

Many of the reports mentioned above can be found on our web page under “Spotlight on Records:” <http://vermont-archives.org/research/spotlight/records.htm>.

Tip of the Month

Contributed by Colleen Haag, Clerk-Treasurer in Shelburne



With so many voters opting to vote by absentee ballot, Colleen Haag prepares her absentee ballot envelopes well in advance of the election, before things get too busy in the office. The town of Shelburne has eighth grade students who come into the office for civic service learning a few hours a week. These students stamp (or label) the town’s return address on the outer envelopes and stuff an inner certificate envelope and a return envelope in each one. They leave the flap open so that all the town needs to do during absentee ballot mailing is stuff a ballot in each one. Consider partnering with a school to receive some extra help in the office and offer a valuable service learning opportunity for students!

If you have a tip to share, contact Alison Kaiser at akaiser@townofstowe.vermont.org

Opinions of *Opinions*

by Secretary of State Deb Markowitz

Special Focus on Town Meeting Day Issues

1. Majority vote is required to elect officials at floor meeting. Vermont law requires local officials to receive a majority of all votes cast in order to be elected during an open town meeting. 17 V.S.A. §2660. Candidates who receive a plurality of votes will be elected in towns that use the Australian ballot to vote for officers. In a floor vote, if no candidate receives the majority in the first paper ballot, then another vote must be taken. If no person has obtained a majority by the end of the third vote, then the moderator shall announce that the person who received the least votes in the last vote shall no longer be a candidate, and continue voting in like fashion until a candidate receives a majority.

2. Write-in candidate needs at least 30 votes or one percent to be elected. The law sets a minimum threshold for a person seeking election on a write-in campaign. If the person receiving the most votes is a write-in candidate in an Australian ballot election, the person must have received at least 30 votes OR the votes of one percent of the registered voters, whichever is less. 17 V.S.A. §2682c).

3. Political party designation for local office rare – but possible. Few communities include political party designations for local offices. In most cases it is done because the municipal charter provides for such listing. However, the law permits political party designations if the town has voted to provide for such listings, or in the absence of such a vote, if the legislative body votes to permit political party designations.

4. Upon the request of seven voters, paper ballots are used for non-election articles. If at least seven voters support a request that paper ballots be used for voting during a special or annual meeting, then paper ballots must be distributed and used, except when the vote is for candidates for office. 17 V.S.A. §2658. This request must be made separately for each article. Generally one person makes the motion to call for paper ballots and the moderator looks to see whether there are six people who would “second” the motion.

5. Guardian may not register or vote on behalf of charge. There is no power of attorney or guardianship order that allows the person with the power of attorney or the guardian to register to vote on behalf of the other person OR to cast a vote for the other person. A person may receive assistance in completing an application to the checklist but the citizen that is applying must sign the application for him or herself. When a person is physically unable to sign their names on the voter registration form, they may mark an X or take an oath swearing to the statement on the form. This mark or oath has to be witnessed and attested to by someone such as a town clerk, a notary public, a justice of the peace, etc. Similarly, a family member or authorized person can request that an absentee ballot be sent to another voter, but each voter must vote his or her own ballot. A voter can also ask for assistance from any person of his or her choice, but no one can “substitute” vote for another.



6. Non-voters may only speak at Town Meeting with permission of the assembly. Only legal voters of the town can speak at town meeting unless there has been a motion to suspend the rules and permit non-voters to address the group and the motion has passed by two-thirds of the voters. It is a good practice when making such a motion to include some parameters in the motion, such as non-voters may speak to an issue only once, for a time not to exceed five minutes, etc.

7. Moderator may reject amendment if not germane. The moderator can only allow amendments to articles that are reasonably related to the article as warned. The purpose of the town meeting warning is to enable voters to know what issues are going to be decided. Because no decisions can be made on issues that were not warned, it would not be a valid act of the town to amend an article so that it is no longer relevant or germane to the original Article. See *Kaeser v. Town of Starksboro*, 116 Vt 251 (1950)

8. Voters may challenge ruling of moderator. During a traditional floor voting town meeting, any voter can challenge any ruling on points of order by the moderator by requesting that the issue be put to the vote of the assembled voters. Many wise moderators will encourage voters to challenge a ruling when they are in doubt by prefacing the ruling such as “The chair is doubtful, but will rule that” This encourages a voter to rise to challenge. Robert’s Rules provides that any voter can rise to ask that the ruling be voted upon by the voters present. It is difficult for any moderator to know every rule and anticipate every type of motion that may be presented. Robert’s Rules thus allows the majority of those voters present to decide what is fair and just under the circumstances.



9. Voters may limit debate by two-thirds vote. In order to limit debate on a motion a vote of two-thirds is required. A motion to limit debate takes precedence over all debatable motions and can be applied to any or all pending debatable motions. Of course, it is out of order when another voter has the floor. The motion itself must be seconded and is not debatable. Simply moving the previous question can also close debate. This also requires a two-thirds vote.

10. Absentee ballots must be available 20 days before Town Meeting. Towns that hold Australian ballot voting must make early and absentee ballots available at least 20 days prior to town meeting. 17 V.S.A. § 2681a.

11. Electorate sets date of annual meeting. The school board cannot change the date of the annual school meeting on its own motion. Rather, it must be voted by the electorate. The voters must authorize changing the date of an annual school district meeting by voting at an annual or special meeting on an article: “Shall the _____ Town school district hold its annual meeting on _____.” 16 V.S.A. §422.

12. Town and town school district moderators are separate offices. The town school district must elect a moderator as the first order of business at its floor meeting or by Australian ballot, if the district has voted to elect all officers by Australian ballot. Although the same person may serve as Town Meeting moderator and school district moderator, separate candidacies — and in Australian ballot districts, separate petitions — are required.

13. A town vote to move to Australian ballot applies to the following meeting. If a town wishes to change the way it elects its officers, or votes its budgets, or public questions, it must place an article on the warning as directed in 17 V.S.A. § 2680. If the article to change to Australian ballot passes, the town or district will begin using the Australian ballot at its next special or annual meeting for officers or public questions, and at the next annual meeting for budgets.

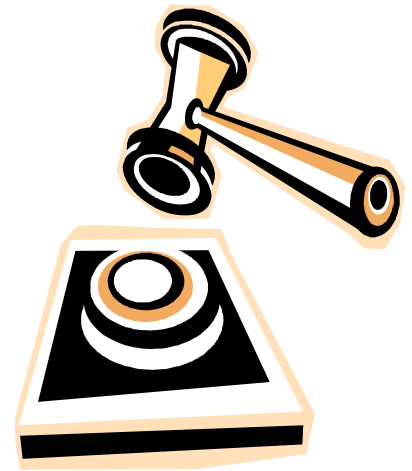
14. Town clerks must provide union school district clerk with updated checklist. Vermont law requires town clerks whose towns are members of a union school district to be open for voter registration on the Wednesday before the union school district elections. After the checklist is updated, the clerk must provide an authenticated copy of the checklist to the clerk of the union school district. 16 V.S.A. § 706u. Note that section 706u incorporates by reference the provisions of Title 17 that require the town clerk to have office hours on the Wednesday before each election to allow residents to register to vote.

15. Person cannot serve in two incompatible offices. There is no limit to the number of offices that a person can petition to be added to the ballot in a town that elects by Australian ballot, and no limit to the number of offices a person can be nominated for at a town meeting that elects from the floor. However, if elected, a person can only accept and serve in offices that are compatible (where there is no statutory conflict). A person will need to either resign or not accept one of the offices that create an incompatibility.

16. Election to incompatible offices creates vacancy. When a person is elected to more than one position in the town or school district and the positions are incompatible, the person must resign from one of the positions. This creates a vacancy that must be filled according to statutory procedures, usually by the selectboard posting a notice of a vacancy and then making an appointment. Under Vermont law, the runner-up or next highest vote getter does not move up or become the winner.

17. Vermont statutes prohibit dual office holding in the following situations:

- No official who expends or manages money for the town can be an auditor or the spouse of an auditor. 17 V.S.A. § 2647 provides that “an auditor shall not be town clerk, town treasurer, selectman, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner or 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.” The law creates an exception to this rule for towns having not more than 25 legal voters. In these towns “an auditor shall not audit his own accounts kept and rendered in some other official capacity, nor shall the husband or wife of any town official audit his or her spouse’s official accounts.” 17 V.S.A. § 2648.
- A “selectboard member or school director shall not be first constable, collector of taxes, town treasurer, auditor or town agent. A selectman shall not be lister.” 17 V.S.A. § 2647.
- 17 V.S.A. § 2647 provides that “a town manager shall not hold any elective office in the town or town school district.”
- “A member of a school board may not be regularly employed by the school district or by a school district within the same supervisory union or by the same supervisory union during the board member’s term of office.” 16 V.S.A. § 558. In certain circumstances this rule may be waived by the commissioner of education.
- Assistant clerk who records selectboard’s orders may not also be treasurer or related to treasurer. 24 V.S.A. § 1622.
- Official whose name is on the ballot may not help run the election (with some exceptions). A local official may not serve as an election official if the official’s name appears on the ballot of the Australian ballot system unless the official is the only candidate for that office (printed names only, not including write-ins) or unless the office is that of moderator, justice of the peace, constable, town clerk, clerk-treasurer, ward clerk, or inspector of elections. 17 V.S.A. § 2456.



18. Some dual offices are not prohibited by law but nevertheless raise questions of conflict. Note that there are many dual roles that are not prohibited by statute which can nevertheless raise conflicts of interest. For example, nothing would prevent a selectboard member from serving on the road crew or as town clerk or as fire chief. However, it would be a conflict of interest for this board member to participate in decisions related to his or her pay or conditions of employment in the second office. Board members who hold these types of dual offices must take steps to avoid even an appearance of self dealing by not participating in decisions that could be seen as a conflict of interest.

19. Moderator should review rules at the start of Town Meeting. At the beginning of Town Meeting, it is a best practice for the moderator to review the basics of Robert’s Rules and the procedures that will be used in the meeting. This helps voters to be able to participate fully in the meeting. It is especially important for the moderator to remind the voters that any person present can rise to challenge the ruling of the moderator on any procedural issue, and have the procedural issue decided by the voters present.

20. Moderators should not comment on legality of article. It is best practice for moderators at the annual meeting to refrain from speaking to the legality of an article or to give an opinion about the legal effect of taking action on or passing over an article. Even a well-intentioned comment about the legality or impact of an article could be misunderstood as showing partiality for or against an article. If there is truly no one else in the room that can answer a question, and the moderator feels compelled to enter the discussion, the moderator should call for a moderator pro tem to take over, and step down while he or she participates in the debate.

21. Only legal voters can be elected to town office. To be eligible for election as a school board member, a person must be a legal voter in the school district. 16 V.S.A. § 558. Likewise, a town shall choose from among its legally qualified voters for selectboard, town clerk, town treasurer, and a number of other town offices. 17 V.S.A. § 2646. So long as the person is on the checklist by the day of election he or she is eligible for election. The town clerk must add the names of all eligible persons who have properly completed and submitted applications to the checklist before 5:00 p.m. on the Wednesday before the election.

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

by Missy Shea, Civic Education and Voter Outreach Coordinator

Writing for this February issue of Opinions, it occurs to me that the timing produces a convergence of three historic events which comprise the cornerstone of a solid understanding of what civic education ought to represent. On Monday, January 18th the nation celebrated Martin Luther King, Jr.; February 12th marks the birth of Abraham Lincoln; and Tuesday, March 2nd is Town Meeting Day across Vermont. Not only do each of these events speak to the importance of civic education, they also speak to the greater importance of imparting to our youth the imperative civic responsibility of every subsequent generation. Toward the end of his "I have a dream" speech, King said:



"And this will be the day — this will be the day when all of God's children will be able to sing with new meaning: 'My country 'tis of thee, sweet land of liberty, of thee I sing. Land where my fathers died, land of the Pilgrim's pride, From every mountainside, let freedom ring!' And if America is to be a great nation, this must become true."

It is through the school system that we can access our youngest citizens. King's dream can only become true if we teach our children the definition of "sweet land of liberty." And we can only teach them this by example - by acting and engaging in civically-minded ways and traditions to keep safe the tenants of democracy.

Lincoln, too, believed in civic engagement. In a speech at the Wisconsin State Fair, before the Agricultural Society in 1859, Lincoln said:

"It follows from this that henceforth educated people must labor. Otherwise, education itself would become a positive and intolerable evil. No country can sustain, in idleness, more than a small percentage of its numbers. The great majority must labor at something productive."

Although Lincoln was at the time speaking of farming, he could easily have been talking about civic engagement. Certainly a democratic nation cannot sustain idleness in more than the smallest percentage of its citizens. This is certainly the case for Vermont Town Meetings.

Town meetings date back to the colonial era. Communities in the northeast, who were not represented in Parliament, established the practice as it was their only opportunity for representative government. Today, adults have two ways to use Town Meeting to positively influence the civic education of our nation's children. First, we can and must attend, engage, and participate, thereby modeling for our kids society's expectations for adults. Second, there is the annual school meeting, which takes place within the Town Meeting structure. For many towns, the school budget is larger than the town budget. And in Vermont, it is through the schools that we teach our children about democracy, and it is through the passing of the school budget that we sustain the resources - teachers, materials, the building - to support our kids through their development into full-fledged democratic citizens.

Let us take inspiration from Martin Luther King, Jr., and Abraham Lincoln, and let us use the institution of Vermont Town Meeting to support the civic education of the next generation.

For more information about civics education programs offered by the Secretary of State's Office, visit www.sec.state.vt.us/kids.

Municipal Calendar

February 2010

- 1 - Last day to hold first public hearing on charter amendments if article is to be voted at town meeting. First public hearing shall be at least 30 days before the meeting. 17 V.S.A. §§ 2103(13), 2645(a)(3)
- 1 - Deadline for tax collector to turn over monies collected and settle account with treasurer. 24 V.S.A. § 1532
- 1 - Last day for listers to file corrected grand list for preceding year in order to render it valid. 32 V.S.A. § 4112
- 5 - (25 days before Town Meeting) Auditors must meet by this date to examine and adjust town finances. 24 V.S.A. § 1681
- 5 - (25 days before Town Meeting) Town officers must settle accounts with auditors to be eligible for re-election. 24 V.S.A. § 992
- 10 - First day for legislative body to post warning for public informational hearing (to be held on or after 2/20/10) on any public question to be voted by Australian ballot at town meeting. 17 V.S.A. § 2680(g)
- 10 - Last day for any municipality that has enacted special weight limits, which are other than state legal limits for highways and bridges, to file complete copy of the limitations with the Department of Motor Vehicles. 23 V.S.A. § 1400b(a)
- 10 - Last day for the legislative body to file with town clerk annual statement of description and measurement of all Class 1, 2, 3 and 4 town highways and trails then in existence, including special designations. 19 V.S.A. § 305(b)
- 10 - (Not later than 20 days before election in towns using Australian ballot) In Australian ballot towns, ballots for local offices and public questions shall be prepared by the town clerk and available. 17 V.S.A. § 2681a(a)
- 16 - (At least two weeks before Town Meeting) Town clerk must have liquor ballots printed if liquor issue is on Town Meeting agenda and if town does not use Australian ballot. 7 V.S.A. §§ 161, 163
- 20 - First 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)
- 20 - Last day for legislative body to post warning for public informational hearing on any public question to be voted by Australian ballot at Town Meeting. 17 V.S.A. § 2680(g).
- 20 - (At least 10 days before Town Meeting) Legislative body must mail or otherwise distribute Town Meeting warning in annual town report by this date to avoid publishing warning in newspaper. 17 V.S.A. § 2641(b)
- 20 - (At least 10 days before Town Meeting) Auditors' report, or the findings of the public accountant employed in accordance with 17 V.S.A. § 2651b, must be distributed. 24 V.S.A. § 1682
- 20 - (Not later than 10 days prior to the election) Last day for town clerk to post sample ballots for municipal election in at least two public places within the town and in or near the clerk's office. 17 V.S.A. § 2522(a)
- 20 - Voting machines must be tested using official ballots that are clearly marked "test ballots" (at least 10 days before the election). 17 V.S.A. § 2493(b)
- 22 - (During the eight days immediately preceding election day and on election day) In towns using Australian ballot, town clerk must give each pair of justices one part of the list of ill or physically disabled applicants to be visited together with early or absentee voter ballots and envelopes for each. 17 V.S.A. § 2538(b),(c)
- 22 - A local candidate who has made expenditures or accepted contributions of \$500 or more shall file a campaign finance report ten days prior to the election. 17 V.S.A. §§ 2822, 2103(13)
- 24 - Last day, until 5:00 p.m., to apply for addition to the checklist to vote at town meeting. Town clerks' offices must be open from 3:00 p.m. to 5:00 p.m. to accept applications. 17 V.S.A. § 2144(a)
- 24 - Last day, until 5:00 p.m., for people who are not eligible to register by this date but who will be eligible by election day to file a written notice of intent to apply with the town clerk and to request an early or absentee ballot. 17 V.S.A. § 2144(b) and (c)
- 24 - Last day to receive a request for an application for addition to the checklist accompanying an early or absentee ballot request (by 5:00 p.m.). 17 V.S.A. § 2532(b) and (c)
- 25 - (Five days before Town Meeting) Treasurer must settle accounts with auditors. 24 V.S.A. § 1578
- 25 - 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 town meeting). 17 V.S.A. § 2144b(d)
- 25 - Town meeting warning must be published in newspaper by this date if town report has not been distributed otherwise (five days before the meeting). 17 V.S.A. § 2641(b)
- 27 - Last day for the board of civil authority to designate pairs of justices of the peace, assuring a political balance in each pair, to deliver early or absentee ballots to ill and physically disabled voters (not later than three days prior to the election). 17 V.S.A. § 2538(a)
- 28 - (No sooner than 48 hours before polls open) First day for town clerk in towns with less than 5,000 registered voters to direct two election officials to open outer envelopes, sort, and check absentee ballots. 17 V.S.A. § 2546(a)

1 - 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 this day. 17 V.S.A. § 2531(a).

1 - Clerks must make a list of all early or absentee voters available upon request at their office. 17 V.S.A. § 2534

1 - 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

1 - 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)

1 - 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)

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

1 - 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)

2 - 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. §§ 2640(a) and (b), 2631

2 - 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

9 - 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)

12 - 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)

12 - 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

12 - 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

12 - Last day for town clerk to certify to the secretary of state each proposal of (charter) amendment showing the facts as to its origin and the procedure followed. 17 V.S.A. § 2645(b)

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

18 - 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)

31 - Last day a run-off election may be held (22 days after warning; warning within seven days after election). 17 V.S.A. § 2682(e)



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

Upcoming Events

Town Meeting Tune-Up

February 17, 2010

Sponsored by VLCT Municipal Assistance Center

Location: Capitol Plaza Hotel, 100 State Street, Montpelier, VT

Time: 8:30 am

Contact: Jessica Hill (info@vlct.org)

Phone: 802-229-9111

Fax: 802-229-2211

Price: PACIF members \$55, VLCT members \$80, Non Members \$125

A parliamentarian's paradise, this annual workshop is designed for moderators and selectboard members, both seasoned and new. It will focus on the statutory requirements for town meeting, Robert's Rules of Order, and best practices for making it through Town Meeting unscathed.

Are You Ready for Town Meeting?

Getting Ready at the Polls

Town clerks should furnish presiding officers with one or two certified copies of the checklist, depending on whether the town has opted not to use an exit checklist. 17 V.S.A. § 2507.

Town clerks must also deliver sufficient quantities of the ballots to the presiding officer. 17 V.S.A. § 2479. Local ballots must be available at least 20 days prior to the election for absentee voters.

The presiding officer should assign specific duties to each election official, ensuring that the election officials work in pairs, with each pair containing members from different political parties if possible. 17 V.S.A. § 2562.

Opening/Closing Polls

In an Australian ballot election, the presiding officer declares the polls open on the day of the election between 5 a.m. and 10 a.m. (the specific time is set by the board of civil authority or by the voters), and declares the polls closed at 7 p.m. 17 V.S.A. § 2581.

Town meeting begins at a time designated by the legislative body, unless the town has voted a specific time at a previous meeting. 17 V.S.A. § 2655.

Public Discussion and New Rules for Politicking in the Polling Place

A 2008 change in the law permits “public discussion of ballot issues and all other issues appearing in the warning, other than election of candidates” at a floor meeting, regardless of location of the polling place. 17 V.S.A. § 2640(c). This was added to Vermont law in order to permit voters at a floor meeting to have discussions about issues that appear on the ballot for Australian ballot vote. Although public questions may be discussed, there can be no campaigning for candidates at a floor meeting when the Australian ballot vote is taking place in the same building. The law provides that in an Australian ballot election, the presiding officer should ensure that within the building containing the polling place no campaign literature, stickers, buttons, information on write-in candidates or political materials are placed, handed out, or allowed to remain and that no candidate, election official or other person distributes election materials, solicits voters or otherwise campaigns. 17 V.S.A. § 2508.

Outside the building, the presiding officer must ensure that voters can enter and leave the polling place without interference from candidates or other citizens. 17 V.S.A. § 2508. The provisions of this section apply equally to election of candidates as to votes on public questions, including the budget, if done by Australian ballot vote. For items to be voted at a floor meeting the moderator may permit the distribution of literature (including campaign materials), information and political materials.

Neither the warning, the notice, nor the ballot itself shall include any opinion or comment by any town body or officer or other person on any matter to be voted on. 17 V.S.A. § 2666.

Maintaining Order at Town Meeting

In traditional town meetings the moderator must follow reasonable and necessary procedures to ensure that people who are not voters of the town do not vote. 17 V.S.A. § 2656. The clerk should make a copy of the voter checklist available to the moderator.

The moderator must preserve order in the conduct of business and debate. If a person, after notice, continues to be disorderly and refuses to withdraw from the meeting, the moderator may order him to be removed by the constable or some other person. 17 V.S.A. § 2656. A person who disturbs town meeting may be fined \$200 by the district court.

Remember that while Robert's Rules of Order or some other rule of order must be followed at town meeting, these rules have been modified by state law. For example, the assembly must not reconsider articles already voted once consideration of another article has begun; when a vote declared by the moderator is immediately questioned by one voter, the moderator shall divide the meeting, and if requested by seven voters, the moderator must take the vote by paper ballot; the assembly may take no binding action during the "other business" portion of the meeting; the moderator shall allow sufficient time for voters to cast paper ballots whenever that method of voting is to be used. 17 V.S.A. §§ 2660(d); 2661(a).

Accessibility of Town Meeting

The legislative body must take reasonable measures to ensure that elderly or disabled voters may conveniently attend town meeting. Sign language interpreters must be provided, if necessary. 17 V.S.A. § 2667 and the Americans with Disabilities Act. Town meeting must be held in an accessible location.

The board of civil authority must take reasonable measures to ensure that disabled and elderly voters may conveniently and secretly cast their votes. A voter who declares to the presiding officer that he or she needs assistance to vote may bring a person of his or her choice into the voting booth or the voter can ask the presiding officer to direct elections officials to assist the voter. Those rendering assistance may not divulge information about the choice of the voter or manner in which the vote was cast. 17 V.S.A. § 2569. Any voter may ask that a pair of election officials carry a ballot to an elderly or disabled person in order to permit that person to mark his or her ballot while in a motor vehicle adjacent to the polling place. 17 V.S.A. § 2502.

Election of Officers

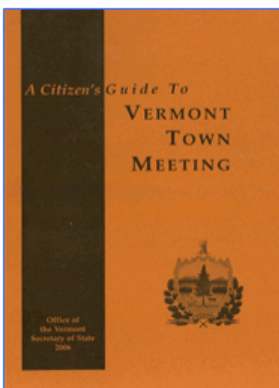
In order to be elected as a write-in candidate in an Australian ballot election when no other candidate has received a greater number of votes, a candidate must receive 30 votes or the votes of one percent of the registered voters of the town, whichever is less. 17 V.S.A. § 2682(c).

The offices of selectboard, lister and auditor must be elected by paper ballot (unless it is done by Australian ballot). The offices of road commissioner and water commissioner, if elected, must also be elected by paper ballot. 17 V.S.A. § 2646.

When there is a single candidate in an election being conducted on the floor of town meeting, unless any voter opposes this, the town may agree to ask the clerk to cast one ballot for the candidate. 17 V.S.A. § 2660(b).

A majority of those present and voting is required to elect an officer by paper ballot during a floor town meeting. This means that if there are three candidates, none of whom receive a majority of the votes by the third ballot, you must eliminate the candidate with the least votes and repeat the procedure until someone receives a majority of the votes. 17 V.S.A. § 2660(c).

The law for election of local officials was amended effective July 1, 2007, for any race in which there is a tie vote. It now provides that "if one of the candidates that are tied withdraws his or her candidacy within five days after the election, the town clerk shall certify the other tied candidate as the winner, and there shall be no runoff election." 17 V.S.A. § 2682(e).



**Town Meeting resources are available
at www.sec.state.vt.us/townmeeting
or call 802-828-2148
for more information.**

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

February 2010

Office of the Vermont Secretary of State

Opinions

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