

# Opinions

Office of the Vermont Secretary of State



Vol.8, #1

January 2006



## A Message from the Secretary

Vermont received a wonderful gift this year – just in time for the holidays: the return of over 600 of our National Guard troops who had been deployed in the Middle East. Amongst these was Williston Town Clerk, Deb

Beckett who has been away for well over a year. Welcome home Deb!

Few Vermonters were untouched by the deployment of Vermont Army National Guard members. With well over 1,000 of Vermont's citizen soldiers trading in their civilian lives for service in the Middle East they left a tremendous hole in the lives of their families, coworkers and friends. They also left a real hole in our communities.

As we celebrate the safe return of these brave men and women, let's continue to send our thoughts and prayers to those who have not yet come home. Let us also remember that for many guardsmen and women there will still be challenges ahead as they reintegrate back into their "normal" lives.

This is the time of year when I like to count my blessings. In my life there is a great deal to give thanks for. I have a loving husband, and three beautiful children who are happy and healthy. I have good friends and bright, energetic and committed staff. And, this year, I

am particularly thankful for the safe return of so many Vermonters, some of whom I am honored to count as friends.

I wish all of you a happy and healthy New Year and pray for the safe and speedy return of all of our service men and women.

Deborah L. Markowitz, Secretary of State

### In this Issue...

Voice from the Vault.....	pg. 2
Civics Behind the Scenes/ Quote.....	pg. 3
Opinions.....	pg. 4
VT Public Service Awards.....	pg. 8
Tip of the Month.....	pg. 9
Calendar.....	pg. 10
Tune up for Towns.....	pg. 11

# Voice From the Vault

By Gregory Sanford

## End of the Year Ponderings on iPods and Progress

The deadline for January's *Opinions* deadline finds me at home, enjoying a week off between Christmas and New Year's. The living room still contains wrapping paper, boxes and the other detritus of Christmas morning. After presents were exchanged and admired, my younger daughter started instant messaging her friends to compare notes. Various types of mobile phones competed with iPods as the most celebrated present. Later, taking my daughter and her friends to basketball practice, I listened as they compared the capabilities of their phones and the storage capacities of their iPods (those who could store 1,000 songs gained a certain cache over those who had to limp along with only 500 selections).

The joy these 14 year-olds found in their technological talisman occasioned growing anxiety on the part of their chauffeur, who earned his car and gas money by being an archivist. While my profession grappled with how to save e-mail as records (and while some officials still challenged whether e-mail was a record), here was a generation that had already passed e-mail by in favor of instant messaging. Instant imaging is gaining a foothold among adults (according to one recent survey about a third of American adults use it) and within the workplace. How are we going to manage it?

The conversations about mobile phones added to my anxiety since my daughter's friends' idea of a "phone" embraced text messaging, video and photo and other record-creating capabilities that are also being integrated into the workplace. Indeed, it is not impossible to envision a workplace in which PCs have been replaced by hand-held devices, which we may still call "phones" much like some continue to refer to backing up computers as "archiving."

Nor could I share in the exuberance over iPods since I had just spent several months in a losing effort to convince various officials that CDs were not an archival medium. So while those officials, persuaded by vendor claims that CDs would last 50 years, committed to the use of compact disks for storing archival records, my daughter's friends were abandoning their CDs for iPods.

But 'tis the season and all that and soon thoughts of the future, as glimpsed in a child's Christmas, were replaced by reflections on the year soon ending. Thanks to the support and concern of more legislators and officials than I can enumerate, numerous opportunities opened up during 2005. Money was appropriated for the site selection and initial planning for a new archives and research facility. The lack of adequate space has been the single greatest barrier to establishing an effective archival management program for state government. We simply do not have the space to accept archival records and what space we do have is becoming unsafe. The week before my vacation a sewer line above the vault cracked, though luckily the problem was caught before we had a repetition of last year's flooding of the vault.

The legislature also created opportunities to work with all three branches on establishing strategic plans for managing their records. While this work is only in its initial phase, it is helping us understand how records are created, used, accessed and preserved across government. While our emerging view of the current state of record keeping is not uniformly encouraging, it does provide us with the information and contacts needed to act effectively.

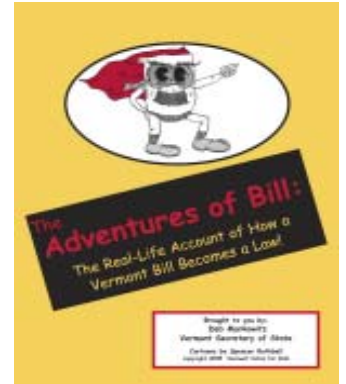
Our work was greatly aided by the addition of another archivist to the staff this year. Tanya Marshall, who had been working with us through the court administrator's office on the judicial record program, became a full-time member of the staff this summer. We were also assisted this past year by Anne Ostendarp, a noted archival consultant, who worked on the executive agency record program prior to taking an archival position in California.

A year and a half ago the Archives finally received sufficient statutory authority to begin a true archival management program. This past year saw great strides in giving life to those new authorities. In the coming year we hope to begin implementing some of the strategies we developed this year. In the meantime I will keep a close eye on what technologies emerge among my daughters and their friends.

# Civics Behind the Scenes

by Janel Johnson, Civics Outreach Coordinator

Happy New Year! As the Legislature convenes in the State House we are happy to announce the arrival of our newest publication *How A Bill Becomes A Law* - designed for 6<sup>th</sup> – 8<sup>th</sup> graders. This comic-like booklet makes learning about Vermont's legislative process a whole lot of fun! In this book students discover just how many people it takes to make a bill become a law and see how they can become involved. We encourage you to order copies for the town offices.



We also want to remind you of our other publications for Vermont students which are free of charge. Last summer we published *Vermont History Facts & Fun* for 3<sup>rd</sup> – 5<sup>th</sup> graders. This 24-page activity book is designed to make it fun to learn about Vermont history, geography, symbols and people. The book includes lots of games and puzzles to engage students as they learn about the Green Mountain State.

Finally, we have begun filling orders for the Vermont Town Meeting Activity books as well. Many of you have used these in the past with school children and we hope you do so again! There are three levels to these booklets:

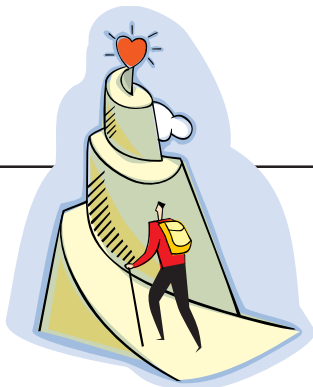
- *Vermont Town Meeting Coloring & Activity Book*  
Suggested Level: K-3<sup>rd</sup> Grade
- *Town Mouse & Country Mouse Go To Town Meeting* (plus Teacher's Guide)  
Suggested Level: 4<sup>th</sup> – 6<sup>th</sup> Grade
- *Town Meeting Day: A Vermont Tradition* (plus Teacher's Guide)  
Suggested Level: 7<sup>th</sup> – 12<sup>th</sup> Grade

For questions about any of these titles, or to order these booklets, please contact me at [jjohnson@sec.state.vt.us](mailto:jjohnson@sec.state.vt.us) or (802) 828-1296. Thanks!

## Quote of the Month

“It’s not the years in your life that count,  
it’s the life in your years.”

Abraham Lincoln





# Opinions of Opinions

**1. Nominating Petitions For Australian Ballot Due January 30th.** In towns that use Australian Ballot to elect officers, nominations of the municipal officers must be by petition. The petition is due by 5:00 on January 30 (the sixth Monday preceding the day of election).

The candidate must also file a written consent with the clerk by 5:00 on the Wednesday following the filing deadline (Feb. 1). Petitions can contain the name of only one candidate and must include the office and the particular seat to which the person wishes to be nominated. 17 V.S.A. § 2681. Petitions must be signed by 30 voters or 1 percent of the checklist, whichever is less.

**2. Voters May Only Sign One Petition For Same Office.** A voter may not sign more than one petition for the same office unless there is more than one nomination to be made. In such a case a voter may sign only as many petitions as there are nominations to be made for the office. 17 V.S.A. § 2681. This means that when the clerk is counting signatures he or she must discount a signature that appeared on a petition submitted early for that office. It is not up to the clerk to determine which petition the voter first signed.

**3. Filing deadlines that fall on the weekend move to the next business day.** For purposes of Vermont Election Laws, if a date for filing petitions, consent forms, or other documents falls on a Saturday, Sunday or legal holiday, then the deadline is extended to 5 p.m. on the next day which is not a Saturday, Sunday or legal holiday. We have had a number of calls regarding petitions for reconsideration or other petition filing deadlines. This is the rule for any filings which are covered by Title 17, and you must accept a petition on the next day. 17 V.S.A. §2103(13).

**4. Voter registration deadline that falls on a legal holiday moves to next business day.** Although not strictly a filing deadline, we think that similar reasoning can be used when the second Monday before an election falls on a holiday and the town clerks office is to be open from 10 a.m. to Noon. The clerk's office should be open from 10 a.m. until Noon on the Tuesday before the Election for the close of voter registration.

**5. Clerk must be open for registration prior to Union School votes.** Town clerks whose towns are members of a union school district must be open for voter registration on the second Monday before the union school district elections, and then must provide an authenticated copy of the checklist as updated to the clerk of the union school district. 16 V.S.A. §706u provides the particulars regarding the checklist for union district meetings. This section incorporates by reference the provisions of Title 17 which require the town clerk to have office hours on the second Monday before each election to allow residents to register to vote.

**6. No special petition language is required to petition articles for town meeting.** There is no special language that is required for citizens to petition the selectboard or school board to place articles on the warning for town meeting. 17 V.S.A. §2642 states that if 5 percent of the voters of the municipality file a petition with the town clerk that the warning shall include the article. Vermont Supreme Court cases tell us that an inclusion of a petitioned article is not mandatory if the article is frivolous, illegal, or pertaining to a matter which is not within the authority of the electorate of the town to decide. For wording, we generally suggest:

The undersigned petitioners, legal voters of the town of ANYWHERE, Vermont, hereby petition the Selectboard to include the following article on the warning for the next Annual town meeting on March 7, 2006:

Article 1. Shall the voters of the Town of Anywhere vote to... “include here the subject matter of the petition”, i.e., “increase the membership on the Selectboard from three to five members with the two new members each to serve a two-year term.”



**7. Selectboard should try to prevent voter confusion with more than one article on the same subject matter.**

The Selectboard should exercise its discretion in preparing articles for the warning in order to avoid two articles, one petitioned and one from the selectboard, which cover the same topic and confuse the voters. For example, in a town where the town has previously voted to elect the road commissioner, 17 V.S.A. §2651(a), if the selectboard wants to go back to appointing the commissioner and prepares an article for the warning “Shall the voters of the Town of Anywhere vote to have the road commissioner appointed by the Selectboard rather than elected,” then citizens in town hear that the selectboard is considering such an article so they circulate a petition which frames the same issue as “Shall the voters of the town of anywhere vote to continue to have the road commissioner elected by the voters?”, the Selectboard should realize that if both articles are included the voters could easily become confused and there could be two articles passed which have conflicting results. In such a situation, the selectboard could withdraw their proposed article and ask voters to “vote NO” on the petitioned article which would mean that the voters want the road commissioner to be appointed.

**8. Title 24 does not provide a specific route of appeal from a decision by the Board of Abatement.** If a taxpayer believes a Board of Abatement has abused its discretion in denying his request, case law in Vermont suggests that an appeal can be taken through Rule 74 or Rule 75 of the Rules of Civil Procedure. Appeals under these rules generally only permit reviewing the proceedings below for abuse of discretion. Because the statute is silent about an appeal, this limited review is the only review possible. Note also that the Vermont Supreme Court has held that abatement requests cannot be a substitute for an appeal of a property assessment by the listers which must be appealed through the grievance and tax appeal process.

**9. Legislative Body (Selectboard or School Board or Prudential Committee) Drafts Budget To Propose to Voters.** One of the legislative body’s most important duties is to draft the budget of the municipality. This budget is included in the warning and is then voted at town meeting. In most towns the legislative body asks for input from the various departments and from citizens. However, the ultimate decision about what to put before the voters for a budget vote is up to the legislative body.

**10. Budget Committee Requires Public Meeting with Notice.** The committee appointed by the selectboard to prepare a proposed budget for the board’s review is a public body subject to the open meeting law. This means that the committee must publicly announce its meetings at least 24 hours in advance by posting in the clerk’s office and two other public places, keep minutes and give the public who attend reasonable opportunity to be heard. 1 V.S.A. §§ 310, 312.

**11. Budget Committee May Act Without a Quorum.** A budget committee appointed by a board may act without a quorum unless the board or municipal charter provides otherwise. Vermont’s quorum rule requires that “when joint authority is given to three or more, the concurrence of a majority of such number shall be sufficient and shall be required in its exercise.” 1 V.S.A. § 172. Because the budget committee provides only a recommendation to the selectboard, this quorum requirement will not apply.

**12. Any committee or subcommittee requires a public meeting with notice.** This means that the committee or subcommittee must publicly announce its meetings at least 24 hours in advance by posting in the clerk’s office and two other public places, keep minutes and give the public who attend reasonable opportunity to be heard. 1 V.S.A. §§ 310, 312.



**13. Hunting club may not seek municipal appropriation.** Public money may not be used to support private groups, like a hunting club. Money may be appropriated for certain social service agencies listed in state law. These include, (but are not limited to) services for/involving transportation, day care, nutrition, senior citizens, etc. See 24 V.S.A. § 2691.

**14. Only social service agencies that serve the community may request special appropriations from the town.** The general rule is that a town may only spend taxpayer dollars for social service agencies that serve the community. According to 24 V.S.A. § 2691 a town or village may “appropriate such sums of money as it deems necessary for the support of social service programs and facilities within that town for its residents.” Note that, despite the statutory language, the Vermont Supreme Court has held that social service agencies physically located outside the municipality may be considered to be social programs within the village or town if the agency serves the residents of the municipality. *Addison County Community Action Group v. City of Vergennes*, 152 Vt. 161 (1989)

**15. Social service agency does not have to petition if selectboard agrees.** An organization’s request for a town appropriation can be placed on the ballot in one of two ways. An agency can bring a petition, signed by 5 percent of the voters, to the selectboard by the 40<sup>th</sup> day before the date of the meeting. 17 V.S.A. § 2642. In the alternative, the selectboard may, on its own motion, include in the warning appropriations for non-profits that serve the town. Some selectboards have an established policy about when it will include an appropriation request on the warning without petition. A typical policy is to automatically place on the warning the previous year’s appropriations. In these towns, any non-profit that had not previously been given funds by the town, or an organization that wishes an increase in funding must still petition the town to get on the ballot.

**16. Social service agencies can do a joint petition if they choose to work together.** The law permits those who petition for articles on the warning to design their own petition. This means that if they want to, multiple service agencies can work together to circulate a single petition that asks for appropriations for each of them. Although the law does not require it, we recommend that such petition be drafted with each agency as a separate article so that each agency appropriation is voted on separately.

**17. Auditors must be given access to records.** Town auditors must meet at least 25 days before each annual town meeting, examine and adjust the accounts of all town and town school district officers and all other persons authorized by law to draw orders on the town treasurer. 24 V.S.A. § 1681. However, many auditors begin their work in early January. The law provides that at any time in their discretion, town auditors may, and if requested by the selectboard, must, examine and adjust the accounts of any town officer authorized by law to receive money belonging to the town. Any town officer who willfully refuses or neglects to submit his or her books, accounts, vouchers or tax bills to the auditors or the public accountant upon request, will be ineligible to re-election and will be subject to possible fines or penalties. 24 V.S.A. § 1686.

**18. Auditor meetings must be noticed as public meetings.** Meetings of town auditors must be announced to the public as a special meeting of the board in accordance with the requirements of the open meeting law. 1 V.S.A. § 312. Town auditors may perform merely clerical functions outside of an open meeting (ie. checking accounts, reviewing books, etc. . .)



but best practice is to notice a public meeting of the board whenever a quorum of the board meet to perform auditing functions.

**19. Nonsmoking law applies to volunteer fire department.** The law prohibits “the possession of lighted tobacco products in any form . . . in the common areas of all enclosed indoor places of public access and publicly owned buildings and offices.” 18 V.S.A. § 1742. “Publicly owned buildings” are defined as “enclosed indoor places or portions of such places owned, leased, or rented by state, county, or municipal governments, or by agencies supported by appropriation of, or by contracts or grants from, funds derived from the collection of federal, state, county, or municipal taxes.” 18 V.S.A. § 1741.

**20. Selectboard may choose to plow some class 4 roads.** While the law requires a town to “keep its class 1, 2 and 3 highways and bridges in good and sufficient repair during all seasons of the year,” class 4 highways may be “maintained to the extent required by the necessity of the town, the public good and the convenience of the inhabitants of the town.” 19 V.S.A. § 310. This gives the selectboard flexibility to plow some class 4 roads but not others. We recommend that selectboards adopt a policy that describes the situations in which it will plow a class 4 road. A clearly enunciated policy will enable the residents who live on these roads to know what to expect and to know they are being treated equally. (An example of a policy to plow would be if it is necessary to provide school bus service to children living on the road.)



**21. Selectboard not bound by policy of previous board.** The selectboard may reconsider its road policy whenever it feels it is necessary. A board is not bound by a previous policy and may change it to reflect what the board believes is the best interest of the community. A person who lives on a class 4 road has no right to continued plowing even if the road has been plowed in the past.

**22. Town should not plow private roads.** The recommendation that towns not get in the habit of plowing private roads comes from the rule found in our constitution that public resources may not be used for private benefit. While it is tempting to plow private roads as a courtesy for residents, it is important for towns to make a consistent policy so that all residents are treated equally (remember property on a private road is listed at a lower value than those on the public highway – so they are paying less property taxes because they are not receiving the benefit of road maintenance at town expense.) Also note that a town that maintains private roads over a period of time may be deemed to have acquired the road through “dedication and acceptance.”

**23. Selectboard can erect or remove fences to minimize snowdrifts.** Vermont law gives the selectboard the authority to lay down fences on property adjoining the town highway – or to erect a snow fence on adjoining land when it determines that the road is liable to be obstructed by snowdrifts unless these actions are taken. 19 V.S.A. §§ 925, 927. The board must give notice to the owner or occupant of the land before taking these actions, and give the owner an opportunity for a hearing on the matter.

*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.*



# Vermont Public Service Awards

October 27 in Lyndon and November 2 in Rutland

We will publish winners from other areas in upcoming issues of *Opinions!*

## CALEDONIA COUNTY & SURROUNDING AREAS

### Danville

Ernest Balivet  
Martin Beattie  
George Cahoon, Jr.  
Howard Gadapee  
John Timothy Ide  
Jane H. Larrabee  
Leslie A. Parker  
Stephen M. Parker  
Lloyd H. Patterson

### Granby

Bruce Berryman  
Cara Berryman  
Barbara Brown  
Lynwood Brown  
Debra Bunnell  
Reginald Bunnell  
Fredrick Hodgdon  
Priscilla Hodgdon  
John Noble  
Nellie Noble

### Kirby

Deborah Gorham  
Wanda Grant  
Reginald Lussier  
John McClaughry  
Elby Willey  
Donald Wood

### Lyndon

Sheila Aronoff  
A. Richard Boera  
Ken Burchesky  
John H. Elliott, M.D.  
Martha Feltus  
Harriet Fletcher Fisher  
James "Butch" Forget  
Gregory Hopkins  
Cola H. Hudson  
Bruce James  
Nancy Lawrence  
William C. Thompson  
Alfred Toborg

### Peacham

Jeffrey Berwick  
John Sheehan

### Ryegate

Bruce Beauvais  
Dean Rowden  
Dale Wright

### Sheffield

Clarence Ash, Jr.  
Lewis Brill  
Garth Chesley  
Myron Corliss

### Charles Gilman

Leslie Ham  
Edward Jewell  
Kathy Newland  
Leslie Newland  
John M. Simons  
Lloyd Thompson

### Sutton

Elaine Bandy  
Scott Brill  
Dorreen S. Devenger  
Marlin W. Devenger  
Holly Heverly  
Laurel E. Holmes  
Reginald Jenkins  
John Newpher  
Johanna Pal  
Norbert Patoine  
Alan F. Seymour  
Larry Seymour  
Sharolyn Seymour  
Glen Stine  
Keith Ward

### Walden

Chris Bissell  
Diane Cochran  
Joanne H. Foster

### Roger Fox

Pat Frain  
Marvin Greaves, Jr.

### Waterford

Robert Badurski  
Edward Bates  
Charlotte Blodgett  
D. Carol Bonnett  
George Bullock  
David Coburn  
Howard Jones  
Kenneth Keach  
Michael Keach  
Charles Lawrence  
David Morrison  
Robert Payeur  
Clement Potvin  
Patricia Powers  
Clarence Priest, Jr.  
Bernard Willey  
Dorothy Willson

### Wheelock

Peter Miller  
Preston T. Smith

## RUTLAND COUNTY & SURROUNDING AREAS

### Arlington

Donald Brown  
Nathalie Caler  
Ronald Cole  
Linda P. Crosby  
Frederick Grout  
Raymond Grover  
Gary Gunther  
Brian Hawley  
Mark Hawley  
Patrick Hawley  
Frederick Hawley, III  
Chris Heins  
Tony Hover  
Gene Hoyt  
Gordon Hoyt  
Cyril Hoyt, Jr.  
Frederick W. Hoyt, Sr.  
John Jamieson

Richard Keough  
Richard King  
Ronald King  
Robert Mattison  
Norman Mattison, Sr.  
Anthony R. Mento  
Lawrence E. Molloy  
Traci Mulligan  
Randy Novotny  
Patrick Pickering  
Jack Ritchie  
Lyle Salter  
Kenneth Smith  
Keith Squires  
John Steel  
Roger Webster  
Arnold K. Wilcox  
Michael Wood  
Roger Wood

Joyce A. Wyman  
Theodore Zakrzewski  
George Zimmer

### Brandon

Robert Bailey  
Seth R. Clifford  
Wilda Harris  
Charles Jakiela  
Ruth Nichols  
Kjell Thompson

### Chester

Deborah Aldrich  
Carol L. Balch  
Thomas Bock  
Erron J. Carey  
George C. Cook

Aili R. Farrar  
Clair Hesselton  
Sandra K. Walker

### Dorset

Harold R. Beebe  
John H. "Hal" Coolidge  
James Faszholz  
Lucille Fay  
William J. Mahlmann  
Theron D. Troumbley  
Nathaniel "Terry" Tyler, III

### Fair Haven

Michael Barsalov  
David Eighmey  
James Heller  
Donald Howard  
Dennis Reid  
David Ward



**Hubbardton**

Paul Albro  
David Barker  
Donald Brown  
George W. Davis, Jr.  
Dwayne Gibbs  
Robert Gibbs  
Gregory Rickert  
Margaret Vittum

**Ira**

Donald Berg  
John Farrell, Jr.  
Donald Hewitt

**Manchester**

Philip Bourn  
Noel Coniglio  
Terry Fuller  
Lawrence Grant, Jr.  
Butch Hulett  
Marc Johnston  
Carroll "Fuzzy" Knight  
Tom Ouellette  
Don Pierson  
Mark Roberts  
Chuck Thompson  
Chris Towslee  
Scott Welsh  
Gary Wilcox

**Middletown Springs**

Laura Castle

**Pawlet**

Lawrence Beecher  
Michael Beecher  
Judith S. Coolidge  
Richard Dimick  
Richard J. Hulett  
Donald Lewis  
Marilyn Lewis  
Thomas Nelson  
Roderick Prevost  
Jim Reid, Sr.  
Ronald Taylor, Jr.

Ronald Taylor, Sr.  
Myron Waite  
Ivan Watrous  
Craig Watrous, Sr.

**Pittsfield**

John Barrows  
Mark Begin  
Sandra Begin  
Melvin Colton  
Ray Colton  
Robert Colton  
Ronald Coughenour  
Malvern Folsom  
Joseph Fuster  
Sarah Gray  
John Kennedy  
Ellen Martin  
Susie Martin  
Eugene E. Martin, Jr.  
Richard McGarry  
Richard Taylor

**Pittsford**

Bruce A. Babcock  
Richard A. Beriau  
Franklin G. Bovey  
William Bowman  
John Cadwell  
Peter A. Cady  
Matthew L. Candon  
Richard G. Conway  
Gordon R. Delong  
Edward W. Fox  
W. Joseph Gagnon  
Rachael Giddings  
Kenneth Haviland  
William Hemple  
Thomas F. Hooker  
Odell A.D. Johnston, Sr.  
Edward Keith, Sr.  
Stanley Markowski  
Bernard McMahon  
Marsha R. McMahon  
Dorothea J. Parker  
Raymond J. Parker  
Robert E. Parker

Donald Pickering  
Charles H. Shaw  
Robert L. Sird  
Joseph W. Sposta  
Anthony J. Tennien  
David Trombley

**Proctor**

Sidney Jones

**Rochester**

Homer Brown  
Mary O. Davis  
Marvin C. Harvey  
Richard S. Harvey  
Mary Ann Martin  
Thomas A. Simpson  
Norman R. Smith

**Rupert**

Eugene Ceglowski  
Donald S. Lewis  
Austin McKeighan  
Jay E. Wilson  
Jay E. Wilson, III

**Sandgate**

Charles Bentley, Jr.  
Suzanne Depeyster  
Ann Wuerslin

**Shrewsbury**

John Berryhill  
Herbert Carrara  
Barry Griffith  
Marilyn "Sally" Jones  
Tom Mitchell  
Al Ridlon, Jr.  
Al Ridlon, Sr.  
Robert Snarski

**Stockbridge**

Jon Benson  
David Brown  
Kent Butterfield  
Theodore Green, Jr.  
Richard Lunna

Thomas Michaud, Jr.  
Daniel Novotny  
Harry Whitaker

**Tinmouth**

Cecil Buffum, Jr.  
Gail Fallar  
Nelson Jaquay  
Glenn W. Merrill  
Hollis Squier  
Marshall Squier  
Truman Young

**Wallingford**

Warren Allen  
Joyce Barbieri  
Donald Belcher  
Dale Davenport  
Clifford Dawson  
Charles Gauthier  
Russell Haskell  
Todd Morse  
Richard Munson  
Gerald Reynolds  
Rita Reynolds  
Allyn Seward  
Stanley Seward  
Frederick Thurlow  
West Haven  
John Baldwin  
Brian Book  
Charles P. Book  
Harold Book  
Leland Ellis  
Thomas Fucile  
William Kuehn  
Henry Parrott  
Michael Pettis  
Donald Pettis, Jr.  
Carol Richards  
Joseph Stanionis

**West Rutland**

Frank J. Bruno  
Jayne L. Pratt  
Joseph Skaza  
Anthony J. Tumielewicz

---

## Tip of the Month

*This month's tip comes from VMCTA President, Clyde Jenne.*

"Let's worry less about 'political correctness' and be sure that we're all citizen correct in treating our townspeople with courteousness and respect."

To submit a tip, please email Clyde Jenne (VMCTA President) at [hartlandvtclerk@vermontel.net](mailto:hartlandvtclerk@vermontel.net) or mail it to: Clyde Jenne, Town of Hartland, P.O. Box 349, Hartland, VT 05048

# January/February 2006 Calendar

- January 1** New Year's Day. 1:371
- January 3** Legislature reconvenes (*second year of biennium*).
- January 6** (*60 days before Town Meeting*) Last day to warn the first public hearing if a charter adoption, amendment or repeal is to be voted at Town Meeting. 17:2641(a), 2645(a), (3)
- January 15** Last day for Tax Collector to deliver unpaid real and personal property tax lists to Town Treasurer. 32:5162
- January 15** Last day for Town Clerk to remit to State Treasurer an accounting of dog and wolf-hybrid licenses sold and remit the license fee surcharge for an animal and rabies control program. 20:3581(f)
- January 16** Martin Luther King, Jr.'s Birthday. 1:371
- January 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 \$2500 per quarter. More than \$2500 requires monthly report; more than \$9000 requires semi-weekly report. 32:5842
- January 26** (*Not less than 40 days before Town Meeting*) Last day to file petitions signed by at least five percent of voters with Town Clerk for articles to be included in Town Meeting warnings. 17:2642(a)
- January 26** (*40 days before Town Meeting*) The legislative body has its first opportunity to warn the meeting, post the warning and notice in two public places and in or near the Town Clerk's office. 17:2641(a), 2642
- January 26** (*40 days before Town Meeting*) Last day for Board of Civil Authority to designate polling places and, if necessary, divide the checklist according to geographic boundaries. 17:2501
- January 26** (*10 days before first public hearing*) Official copy of proposed charter amendments must be filed in Town Clerk's office if vote is to be taken on Town Meeting Day. 17:2645(a)(2)
- January 30** (*Sixth Monday before election*) 5:00 p.m. deadline for filing with the Town Clerk nominating petitions for town offices to be voted on by Australian Ballot. 17:2681(a)
- January 30** Last day for Town Clerk in municipality with fiscal year ending December 31 to publicly disclose fees kept as compensation for that fiscal year. 24:1179
- January 31** Last day for Auditors to post 10 days' notice of their meeting to examine town accounts. 24:1681
- January 31** (*Within 24 hours of receipt*) Town Clerk must return nominating petitions found not to conform, stating in writing the reasons why they cannot be accepted. 17:2681(e)
- January 31** Last day to mail W-2 Withholding Forms to employees.
- January 31** Last day to file Form 941 (*Quarterly Withholding Return*) with the IRS.
- February 1** Deadline for Tax Collector to turn over moneys collected and settle account with Treasurer. 24:1532
- February 1** Last day for Listers to file corrected grand list for preceding year in order to render it valid. 32:4112
- February 1** (*Wednesday after filing deadline*) 5:00 p.m. deadline for candidates to file written consent for the candidate's name to be on the ballot. 17:2681(a)
- February 1** (*Wednesday after filing deadline*) 5:00 p.m. deadline for a person to withdraw after he or she has consented to be nominated. 17:2681(d)
- February 1** (*Wednesday after filing deadline*) 5:00 p.m. deadline for candidates to file supplementary petitions if initial petition was not accepted. 17:2681(e)
- February 5** (*Not less than 30 days before Town Meeting*) Last day for municipality to post warning and notice of Town Meeting. 17:2521(a), 2641(a), 2642
- February 5** The most recent checklist of the town should also be posted at this time, wherever the warning and notice is posted. In towns that divide their checklist, that portion of the checklist that applies to the district should be posted. 17:2141, 2501, 2521(a)
- February 6** Last day to hold first public hearing on charter amendments if article is to be voted at Town Meeting. 17:2645(a)(3)
- February 10** (*25 days before Town Meeting*) Auditors must meet by this date to examine and adjust town finances. 24:1681
- February 10** (*25 days before Town Meeting*) Town officers must settle accounts with Auditors to be eligible for re-election. 24:992
- February 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. 23:1400b(a)
- February 10** Last day for Selectboard to file with Town Clerk annual statement of description and measurement of all Class 1, 2 and 3 town highways, then in existence, including special designations. 19:305(b)
- February 12** Lincoln's Birthday. 1:371
- February 15** (*In towns using Australian Ballot 20 days before election*) Under direction of the Town Clerk, ballots must be back from printer. 17:2681a(a)
- February 15** VLCT LOCAL GOVERNMENT DAY IN THE LEGISLATURE
- February 20** Washington's Birthday. 1:371
- February 21** (*At least two weeks before Town Meeting*) Town Clerk must have liquor ballots printed if liquor issue is on Annual Meeting agenda and if town does not use Australian Ballot. 7:163
- February 25** 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. 17:2680(g)



# Does Your Town Need a Tune-Up? Part 6

(Excerpted from *Tune Up for Towns*, a publication of the Office of the Secretary of State. To obtain the full publication, visit [www.sec.state.vt.us](http://www.sec.state.vt.us) or call 802-828-2148)

You go to the dentist twice a year for a checkup, usually not because you have a known problem but because you want to know if there is one you haven't noticed. Some annual checkup is also probably done on your furnace, your car, and your dog. So why not the town? Give your town a legal tune-up by review the checklist below.

Last month we provided a checklist of items to consider to ensure that you are following the legal requirements of Board of Civil Authority. This month's checklist will cover considerations for management of the town highways. As with last month's list, some of the items are not the law; they are simply recommendations based on others' bad experience. The list below is just the start.

## Highways: A Legal Tune up for Towns

- ☒ Is there a highway book where all surveys, certificates and other paperwork relating to highways is kept? (Not a legal requirement, but a darn good idea; if not a book, then is there some index to locating these records?)
- ☒ Have all highways been accounted for? Each town ought to have a record of all highways ever laid out and of their present status. A town should know not only which roads are clearly public, but ought to scope out the potential close calls. Knowledge is the best security here. Before working within the right-of-way, can you say for certain its width?
- ☒ Does the road commissioner understand the limits of his or her authority (i.e., that the selectboard controls the highway budget and makes all substantive decisions about highway work)?
- ☒ Is there any potential problem with stored salt, gasoline tanks, or other hazards that can affect the town's liability?
- ☒ Are all class 3 highways maintained, including winter plowing? Does the town plow private driveways? What is your class 4 highway policy? Is it clear to all landowners that they need a permit to work within the highway right-of-way?
- ☒ If the town has adopted a snowmobile ordinance relating to the use of the town highways, has it been reviewed recently to see if it is in line with the law? Have the highways been posted? See 23 V.S.A. § 3206(b)(2).
- ☒ Is the speed limit of all town highways properly set and posted? Is it time to review the policy throughout the town?

- 
- February 25** (*At least 10 days before Town Meeting*) Selectboard must mail or otherwise distribute Town Meeting warning in annual town report by this date to avoid publishing warning in newspaper. 17:2641(b)
- February 25** (*At least 10 days before Annual Meeting*) Auditors' Report, or the findings of the public accountant employed in accordance with 17:2651b, must be distributed. 24:1682, 17:2651b
- February 25** (*At least 10 days before municipal election*) Last day for Town Clerk to post sample ballots in the same places Clerk has previously posted copies of the warning, notice and checklist. 17:2522(a)
- February 25** (*At least 10 days before the election*) Voting machines must be tested using official ballots that are clearly marked "test ballots." 17:2493(b)
- February 27** (*10 days before the election*) Candidates for Town Meeting local election who are spending more than \$500 must file a campaign finance report with officer with whom nominating papers were filed. 17:2822, 2103(13)
- February 27** Last day for Town Clerk to receive a request for an application for addition to the checklist simultaneously with a request for an early voter or absentee ballot. 17:2532(b),(c)
- February 27** (*Second Monday before the election*) Town Clerk's office must be open from 10:00 a.m. or earlier until at least 12:00 noon for the purpose of receiving applications for addition to the checklist. 17:2144(a)
- February 27** Last day (*up to 12:00 noon*) for people who are not eligible to register to vote by this date, but who will be by election day, to file a written notice of intent to apply with the Town Clerk. 17:2144(b),(c)
- February 27** (*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 the exact number of ballots, envelopes, and list of ill or physically disabled voters to be visited. 17:2538(b),(c)

# 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 e-mail.



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

e-mail: [kmathieson@sec.state.vt.us](mailto:kmathieson@sec.state.vt.us),

or post: 26 Terrace St. Drawer 09, Montpelier, VT 05609-1101.

Be sure to include what your current *Opinions* mailing label says 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

January 2006

Office of the Vermont Secretary of State

# Opinions

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











