

# Opinions

Office of the Vermont Secretary of State



Vol. 8, #9

October 2006

## A Message from the Secretary



This past weekend I took some time to walk with my dog in the forest near my home. It was a perfect fall day. The sky was that deep, impossible shade of blue, the air was crisp and smelled vaguely of wood smoke, and the leaves crunched

beneath my feet. To my surprise, as I crested the hill we came upon a whole carload of tourists who had come to see the colors. We got to talking. When they found out that I had something to do with running the elections in Vermont they began to tell me some of their voting stories. One couple had a son serving in Afghanistan. They recounted the challenges and frustration of getting a ballot sent to him during the last election, and that, in the end, their son was out in the field and he missed the deadline for returning it to his state elections office.

This discussion drove home for me the belief that there is no more precious right in our democracy than the right to vote. In Vermont we work hard to make it possible for our overseas and military citizens to participate. We mail out ballots thirty days before the election, and we have found ways to be flexible, within the context of our state laws, so that ballots can be faxed or e-mailed overseas so that there can be a greater chance of them being returned and counted on Election Day. We have a special site on our website for overseas and military voters so that they can have easy access to all the information they need to register and vote by mail.

This past month I had the great honor of testifying before the Senate Armed Forces Committee about how, across the country, we might do a better job ensuring that our military and overseas voters have an opportunity to vote. I proudly

shared Vermont's experience and expressed optimism for the future. Technology, such as our innovative Vote-by-Phone system, offers the possibility of secure voting for our overseas and military voters without having to rely on the mail.

The fact that the senate committee was taking time during the waning days of its session demonstrates the importance of this issue and it underscores the importance of our commitment to ensure that the men and women who serve our country abroad have every opportunity to cast their vote in the election this coming November.

A handwritten signature in black ink, reading "Deborah L. Markowitz".

Deborah L. Markowitz, Secretary of State

### In this Issue...

Voice From the Vault.....	pg. 2
Opinions.....	pg. 4
Special Elections Opinions .....	pg. 8
Tip of the Month .....	pg. 9
On the Road to the Election .....	pg. 10
Upcoming Training Events .....	pg. 11
Quote of the Month.....	pg. 11
Election Calendar.....	pg. 12

## My Fellow Vermonters: Gubernatorial Inaugural and Farewell Addresses

Governor Samuel Crafts was disturbed by the nature of political campaigns. In 1828 he warned, “That the privilege of electing our rulers...should be the cause of such unprecedented agitation of the public mind, must...be a source of the deepest regret...If the highest officers in our government...are to be vilified—their characters traduced, their motives questioned, and their acts misrepresented; the time cannot be distant when the wise, the prudent...will retire from the contest; and our offices will be filled with the ambitious, the unprincipled, and the designing.”

Not so fast, replied Governor Charles Williams in 1851. Yes, we must be aware of appeals to passion but, “The merits of public men and measures must be...discussed freely...Every attempt to repress this liberty of speech and of the press, and to silence an inquiry into the propriety or wisdom of public men and measures, whether by law or...by appeals to the passions, the fears, the avarice or ambition of individuals, must be futile and vain, and can obtain no permanent favor of the thinking and intelligent citizens of the United States.”

The above quotes were drawn from the inaugural addresses of Crafts and Williams. In October the Archives hopes to have the full texts of Vermont’s gubernatorial inaugural and farewell addresses available online (please check our website at: <http://vermont-archives.org/govhistory/gov/govinaug/index.htm>).



Inaugurals are mirrors that reflect not just the concerns of individual governors but also of the Vermonters who elected them. While inaugurals set out an administration’s legislative agenda, farewell addresses allow moments of reflection by the departing governor. Governor Deane Davis, for example, devoted a significant portion of his 1973 farewell to the questions, “What is the Vermont quality of life? Can we describe it? Can we agree on it? Is it a physical thing? Open spaces, friendly hills, wooded terrain, gurgling brooks, solitude of woods, lakes and streams? Or is it an attitude of mind?”

The addresses, in their aggregate, are invaluable for tracing our changing perspectives on the continuing issues of government and governance. This value is enhanced since virtually all of the addresses discuss the same subjects: education, taxation (particularly the property tax), public health, economic development, the structures of government, etc.

The above excerpts illustrate the point. Certainly as the 2006 campaign season moves toward November’s election we find ourselves again trying to define “negative campaigning” versus legitimate examinations of the merits of individuals and programs. Discussions of the “Vermont quality of life” remain embedded in our public dialogues.

Sometimes the addresses startle us from our assumptions about “modern” issues. In his 1921 farewell, Governor Percival Clement celebrated “the splendid success” of work camps and the use of paroles as alternatives to incarceration (though Clement suggested a “person sentenced for a felony should not be paroled until he can speak, read, write and understand English of everyday use”). In his 1955 inaugural Governor Joseph Johnson proclaimed that, “I am convinced that the time has come for the State to accept a measure of responsibility in the matter of providing hospital care for the medically indigent. I believe that it is generally accepted that every citizen, rich or poor, should have access to the latest and best developments in surgical care and medical treatment if needed.”

Governor William Slade expressed concern about the impact of globalization on labor in his 1845 inaugural: “The question of protection to labor, in its otherwise ruinous competition with the starved and cheapened labor of other countries, continues to be one of undiminished interest. Indeed, the interest has increased, as efforts to give ascendancy to free trade principles have become more active...”

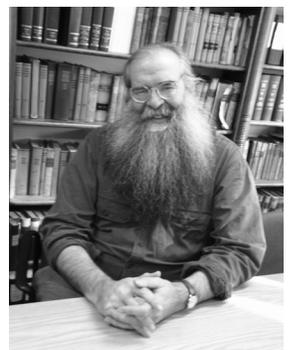
While the addresses are by far and away somber recitations of programs and goals, some governors interjected moments of humor. In his 1941 farewell address Governor George Aiken praised the State's efforts to promote winter recreation as a revenue source: "Vermont is one of the few states that can sell four feet of snow and twenty below zero at a profit."

And sprinkled among the promises of new programs and services were cautions about keeping an agenda of affordability. In his 1963 inaugural Governor Philip Hoff cautioned, "We are a small state. We are limited in numbers of people and yet we are trying to provide essentially the same services that are carried on in states twice and many, many times our size, and it is terribly expensive and we have limited resources... The time has come to sit down and take a good look at ourselves and try to analyze who we are, what we are, what we have in the way of possible revenues we can raise and still make Vermont an attractive place to live..."

Most governors noted not only the costs of sustaining programs, but the increase in public expectations once new programs were launched. Thirty years before Governor Hoff's remarks, during the Great Depression, Governor Stanley Wilson used his inaugural to say: "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... 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."

And thus the addresses carry our conversations with ourselves across the years. Sometimes a particular issue rises to prominence across inaugurals, such as the extended discussion over the death penalty that can be found in inaugurals from the late 1830s and early 1840s. Sometimes you can see the competing visions of Anti-Masons, Whigs, Republicans and Democrats. Sometimes you can trace world events through the multiple inaugurals of a single governor. For example, the stark contrast in tone between Governor Tom Salmon's 1973 and 1975 inaugurals reflects the impact of the oil embargo on his vision of government. The inaugurals even try to make sense of these swings in perceptions. As Governor Madeleine Kunin observed in her 1985 inaugural, "In Vermont, we have grown up with the knowledge that nature indeed may be harsh and unpredictable, but also with the assurance that each season brings its own renewal and each year follows a certain rhythm. We know it is not only possible to blend austerity and optimism, but it is part of the human condition, and it is essential to our survival."

*A personal note:* In 1976, to prepare for his own maiden address, Governor-elect Richard Snelling read all the inaugurals of his predecessors. That study convinced Governor Snelling of the value of the inaugurals and he sent Paul Gillies from his Planning Office to talk with Dr. Sam Hand of UVM's history department about publishing the addresses. Dr. Hand, in turn, had his assistant work with Paul on the feasibility on such a publication. The projected publication costs shelved the idea, but several years later, when the then-position of Editor of State Papers became vacant, Paul, who had become Jim Douglas's deputy secretary of state, remembered Sam's assistant. He encouraged the assistant to apply for the position which is why, in October, 1983, I was appointed to what is now the job of state archivist. The Archives' web-publication of the inaugurals and farewells is the long delayed realization of Governor Snelling's desire to put the addresses within the reach of Vermonters.



# Opinions of *Opinions*

- 1. 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.
- 2. 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. 17 V.S.A. §2122(a)
- 3. Once a person moves back to the United States, the person must register to vote in the jurisdiction of his or her current residence.** Although a person may maintain his or her voting status in Vermont while living abroad, once the voter returns to the United States he or she must register where the voter resides. For example, if a member of the armed forces has been stationed in Germany for 20 years, retires and moves back to the United States, that person must register to vote in the place in which he or she newly resides. If the town sends a letter as part of its purging process and the person returns the form giving another town or state as his or her residence, the voter can be removed from the checklist.
- 4. 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 needs 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.). A notary public, member of the board of civil authority, or other person authorized to administer oaths must complete and sign the form stating that the new voter has sworn or affirmed the oath and 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.
- 5. Property tax exemptions for volunteer fire department property must be voted at town meeting.** Vermont law requires that certain property, including that owned by a volunteer fire department, may be exempted from property tax by vote of the town. 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.
- 6. Municipalities should have policies on use of public buildings.** It is a best practice for the 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.

- 7. When a candidate declines a nomination or office, the next highest vote getter does not automatically get the position.** 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.
- 8. Although Justices of the Peace will be elected on November 7, 2006, the term of office for the newly elected JPs does not begin until February 1, 2007.** A person elected as a JP can take the oath and return the oath of office to the town clerk at any time after receipt of the Certificate of Election, but the newly elected JP cannot perform any duties of a JP until February 1, 2007.
- 9. It is permissible for the same person to be elected to serve as Town Clerk-Treasurer and also as Village Clerk-Treasurer.** There is no statutory conflict for a person to serve as both Town and Village Clerk-Treasurer. Indeed, in many situations each municipality benefits from the knowledge and experience of the candidate who has already served in one of the positions. Any qualified and eligible voter of the town in which such village is situated may be elected as such tax collector, chief engineer, clerk, treasurer, or presiding officer.
- 10. The same person can run for the position of Town Clerk and the position of Town Treasurer but each office MUST be listed separately on the March town meeting ballot.** There has been some confusion in some towns because the same person has held both offices for many years. Unless a charter provides otherwise, the person must run separately for Town Clerk and Town Treasurer. 17 V.S.A. §2646
- 11. Town Clerk and Town Treasurer's terms may be changed by voters.** 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 and go back to a one-year term for either office. 17 V.S.A. §2646(2) and (3).
- 12. Term of office for Constable must be voted at Town Meeting.** When a town wishes to change the term of office for the constable from one to two years, or visa-versa, the vote must take place at the annual town meeting. 17 V.S.A. § 2646 (7).
- 13. Local health officer is appointed by health commissioner.** Under Vermont law the Commissioner of Health appoints a local health officer for each town or city upon a recommendation of the selectboard. Generally the board will submit only one name to the commissioner. If the local board of health (which is made up of the selectboard and the health officer) requests it in writing, the commissioner may appoint one or more deputy local health officers. In addition, if the board fails to make a recommendation, the commissioner must appoint a local health officer after giving 30 days' notice in writing to the selectboard. 18 V.S.A. § 601. Vacancies shall be filled in the same manner as the original appointment was made.

- 14. Town compensates health officer.** Although the health officer is appointed by the Commissioner of Health, the official is paid (if at all) by the town. The selectboard can decide on appropriate compensation. In addition, the board may reimburse local health officers for all reasonable expenses they incur. 18 V.S.A. § 602.
- 15. The health officer is protected from lawsuit as a state employee.** Vermont law provides that “actions taken by local health officers . . . shall be considered to be actions taken by state employees . . . for the purposes of [the obligation of the state to defend the lawsuit and sovereign immunity] if such actions occurred within the scope of such person’s duties. 18 V.S.A. §624.
- 16. Municipalities can regulate ATVs.** Vermont law gives towns the power to adopt ordinances to regulate the time, manner and location or operation of all-terrain vehicles (ATVs) within the town limits. The ordinance cannot prohibit a person from operating a registered ATV solely on private property - but it can prevent the ATV from operating on public roads. 23 V.S.A. § 3510. Although the ATV law is pretty specific already, the benefit of adopting a town ordinance is that, insofar as it restates and expands on existing law, it will empower the town to enforce violations.
- 
- 17. Selectboard may open highway to ATVs but new law requires ATVs to be registered and inspected if on highway.** The general rule is that all-terrain vehicles (ATVs) may not be operated along a public highway unless the road is not being maintained during the snow season or unless the highway has been opened to ATV travel by the board and is so posted by the municipality. The law also provides an exception for an all-terrain vehicle being used for agricultural purposes. ATVs may not be operated closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the farm. 23 V.S.A. Chapter 31.
- 18. ATVs that are driven on the highway are considered motor vehicles for the purpose of certain moving violations.** Vermont law provides that a “an ATV on a public highway shall be considered a motor vehicle . . . only for the purposes of those offenses listed in [certain] subdivisions “ These subdivisions including those related to failing to keep to the right of center when meeting oncoming traffic; failing to yield the right-of-way at intersection or when entering from private road; turning where prohibited or improperly emerging from a driveway. The driver is required to follow basic rules and maximum speed limits as well as abide by special speed limits, and driving on the sidewalk is prohibited. The driver must follow rules related to illegal passing on the left and right as well as those related to yielding to pedestrians, blind persons, and/or emergency vehicles. The ATV driver must not illegally pass a school bus, or operate with a suspended license, and a driver can be cited for negligent operation, operation without the owner’s consent, failure to stop when involved in an accident, failure to respond to a police officer or attempting to elude a police officer and offenses related to driving while intoxicated. 23 V.S.A. § 3501(5).
- 19. Landowner who permits ATV travel is protected from liability.** Vermont law protects all public or private landowners from liability for any property damage or personal injury sustained by any person operating or riding as a passenger on an all-terrain on the public or private landowner’s property. This rule will apply whether or not the landowner has given permission to use the land, unless the landowner charges a cash fee for the use of the property or unless damage or injury is intentionally inflicted by the landowner. 23 V.S.A. § 3510.
- 20. The public has the right to written comment from school board.** At every public meeting of a school board, the board is obliged to allow a reasonable opportunity for public comment on the issues before the

board. One of the differences between school board law and that for selectboards is the requirement that a school board give its reasons in writing for any action, if requested to do so by any member of the public. 16 V.S.A. § 554. In addition, members of the public and the press may not be precluded from taping or videotaping the meetings so long as they are not unduly disruptive.

- 21. Board may only discuss town business at publicly announced meeting.** Anytime a quorum of a board is together discussing the business of the town it must be within a publicly announced meeting (with the exception of the deliberations of quasi-judicial boards). Board members who see each other at a social gathering must be sure not to talk about town business! 1 V.S.A. § 312.
- 22. Board members may perform administrative functions outside of a warned meeting.** 1 V.S.A. § 312 (g) permits board members to meet outside a duly warned meeting to perform clerical work, make work assignments for staff or other personnel or perform routine day-to-day administrative functions that do not require action by the public body (like checking the roof for leaks), provided that no money is appropriated, expended, or encumbered.
- 23. Emails are public record.** Emails between selectboard members and other local officials are public record. They must be retained as though they were correspondence. If you don't already have a retention schedule you should contact the public records division of the department of buildings and general services to determine when you can delete these emails. Municipal retention schedules are available at <http://www.bgs.state.vt.us/gsc/pubrec/infospec/schedules/municipal.pdf>
- 24. Selectboard does not have to take applications before filling a vacancy.** The law requires the selectboard to post a notice of a vacancy in two public places within 10 days of the vacancy. 24 V.S.A. § 961. The posting is to inform the public of the vacancy so that they can decide whether to petition for a special election. There are no rules governing how the selectboard must fill the vacancy. Some boards will ask someone to serve, and others choose to solicit applications from the public and then pick from those who applied.
- 25. Discussion of applicants to fill vacant office can be made in executive session.** The open meeting law permits a board to go into executive session to discuss the appointment or evaluation of a public officer. 1 V.S.A. § 313. This means when the board is discussing who to appoint to fill a vacancy it may go into executive session. The law permits the board to privately discuss the merits of applicants to public office so as not to discourage people from applying.

*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.*

### **A Reminder from the Vermont Department of Health**

#### **Family members may transport and arrange for the disposition of the deceased.**

The transportation and arrangement of a deceased's final resting place is not the exclusive jurisdiction of funeral directors and embalmers. Under a 1973 AAG's opinion, family members may transport a body and handle all activities related to burial or cremation. Family members must meet all statutory requirements for filing and paperwork, such as a burial transit permit, and consult with town officials on any regulations regarding burial location. Family members may also cremate the body so long as they obtain an Examiner's Permit, do not violate any local ordinances regarding open burning, and have contacted DEC (Air Pollution Control Division) to determine if the cremations are allowed under the Air Pollution regulations. Any activities related to burial must still comply with the state's container and depth requirements. [January 10, 1973, Opinion No. 995, AAG Michael Krell]

## Special Election 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 (s)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 a voter 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 they can make it to the polls, or unless they had already received an absentee or early voting ballot.
- 5. 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 to deliver absentee ballots unless the candidate is running unopposed. 17 V.S.A. § 2538.
- 6. Towns 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:

For more election information check out our website [www.sec.state.vt.us](http://www.sec.state.vt.us) and click on Elections

- 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 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.

- 7. BCA members can be added for 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. 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.

## Tip of the Month



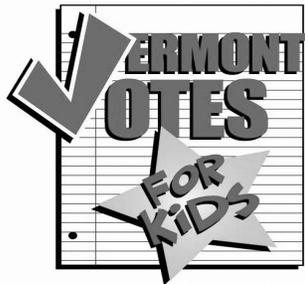
This month's tip comes from Alison Kaiser, Stowe Town Clerk:

This year Stowe is trying something new to increase voter awareness. We will be hanging a banner over the main street that contains the date of the general election and the location of our polling place. In addition, we will be decorating the polling location with festive bunting and balloons to draw further attention.

If you have a good tip that you would like to share with our readers please email it to Clyde Jenne at [hartlandvtclerk@vermontel.net](mailto:hartlandvtclerk@vermontel.net) or mail it to:

Clyde Jenne - VMCTA President  
P.O. Box 349  
Hartland, VT 05048

### Mock Elections



Vermont Votes For Kids, the civics education program being used by schools all over Vermont this fall, is in full swing! The K-12 civics curriculum provides students the opportunity to research candidates and help them understand how elections work. The culmination of this experience is a mock election where students cast their ballots at school or at their town polling place on Election Day. Town clerks will be contacted by teachers who request that the mock election be held at the town polling place. Please be ready for these requests and call me if you have questions or concerns regarding the mock election process at your polling place or at your local school.

Read more about the mock election program at our brand new kids' website: [www.sec.state.vt.us/kids](http://www.sec.state.vt.us/kids).

### Democracy in Action Newspaper Pages

The six week Newspaper in Education series has begun! Daily newspapers across the state are running this series to supplement the Vermont Votes For Kids program. Students can read about the history of voting rights, hot election issues like voter I.D., the political polling process, how to evaluate campaign advertising, plus much more! Your local schools can order the series by contacting the newspaper directly. Look for this series in your local paper once a week until the election. To view the Democracy in Action series please visit [www.vermontvotesforkids.com](http://www.vermontvotesforkids.com).



### Honor A Vet With Your Vote

The orders are starting to come in fast for Honor a Vet buttons! If you need any more buttons, posters or sign up forms please let me know. All Town Clerks should have received a supply of buttons and forms. Some clerks are sponsoring button drives in their community at town gatherings and events. Thanks for your efforts in recognizing the important contributions of our nation's veterans.



*Secretary Markowitz and National Guard member Deb Beckett (Williston Town Clerk) at the Honor a Vet kickoff event on Church Street on September 20.*

For more information, please contact Janel Johnson at 802-828-1296 or [jjohnson@sec.state.vt.us](mailto:jjohnson@sec.state.vt.us).

## Upcoming Training Events

October 10, 2006	Municipal Officers' Management Seminar Johnson State College, Johnson, VT	Katherine Forrer (UVM Extension Service) 802-223-2389 x 25
October 12, 2006	Mathematics for Assessors and Listers 133 State Street, Montpelier	Terry Knight (VT Tax Department) 802-828-5868
October 17, 2006	Municipal Officers' Management Seminar Lake Morey Resort, Fairlee, VT	Katherine Forrer (UVM Extension Service) 802-223-2389 x 25
October 19, 2006	VTCMA 2006 Fall Conference Basin Harbor Club, Vergennes, VT	Jessica Hill (VLCT) 802-229-9111
October 23-27, 2006	Fundamentals of Mass Appraisal Best Western Hotel, Waterbury	Terry Knight (VT Tax Department) 802-828-5868
October 24, 2006	Municipal Officers' Management Seminar Rutland Holiday Inn, Rutland, VT	Katherine Forrer (UVM Extension Service) 802-223-2389 x 25
October 30, 2006	Data Collection and Property Inspection University Inns and Suites, So. Burlington (3 consecutive Mondays beginning 10/30/06)	Terry Knight (VT Tax Department) 802-828-5868
November 2, 2006	Municipal Budgeting and Finance Vermont College, Montpelier	Jessica Hill (VLCT) 802-229-9111

## Municipal Calendar

### OCTOBER 2006

#### 5 VLCT ANNUAL MEETING and TOWN FAIR

9 Columbus Day. 1:371(a)

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. 32:5842

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

### NOVEMBER 2006

#### 7 GENERAL ELECTION DAY 17:2103(15)

11 Veterans Day. 1:371(a)

23 Thanksgiving Day. 1:371(a)

The Municipal Calendar is provided by the Vermont League of Cities and Towns/Chittenden Bank.



### Quote of the Month

***Believe in yourself, your neighbors, your work, your ultimate attainment of more complete happiness. It is only the farmer who faithfully plants seeds in the Spring, who reaps a harvest in Autumn.***

—B. C. Forbes

# Election Calendar

## OCTOBER 2006

**October 3 (Tuesday)** - Town clerks receive at least five copies of the warning and notice for each polling place in the town (at least five days before they must be posted). Blanks should be filled in on each warning by the town clerk, listing the polling place, address and the time polls open in each town. 17 V.S.A. § 2521(b)

**October 8 (Sunday)** - 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.

**October 10 (Tuesday)** - 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)

**October 15 (Sunday)** - 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)

**October 18 (Wednesday)** - 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. 17 V.S.A. §2522(a)

**October 25 (Wednesday)** - 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)



**October 26 (Thursday)** - 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)

**October 30 (Monday)** - Last day, until noon, to apply for addition to the checklist in order to vote in the general election. Clerks' offices must be kept open from 10:00 a.m. until 12:00 noon to receive applications. 17 V.S.A. § 2144(a)

Last day, until noon, for people who are not eligible to register by this date but who will be by election to file a written notice of intent to apply with the town clerk. 17 V.S.A. § 2144(b) and (c)

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)

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)

During the eight 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)

## **NOVEMBER 2006**

**November 2 (Thursday)** - 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)

**November 4 (Saturday)** - 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)

**November 6 (Monday)** - 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

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)

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)

**November 7 (Tuesday) - GENERAL ELECTION DAY** - 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

**November 9 (Thursday)** - 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.**

**November 14 (Tuesday)** - 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)

**November 17 (Friday)** - Deadline for filing ten-day post election campaign finance reports by candidates for county office (probate judge, assistant judge, state's attorney, sheriff, high bailiff) who have expended or received \$500.00 or more. County candidates (probate judge, assistant judge, state's attorney, sheriff, high bailiff) shall file with the county clerk with whom his or her nomination papers were filed. Copies of these reports must be forwarded by the county clerks to the secretary of state within five days of receipt. 17 V.S.A. §§ 2811.

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

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 the candidate has not made expenditures or received contributions of more than \$500.00.

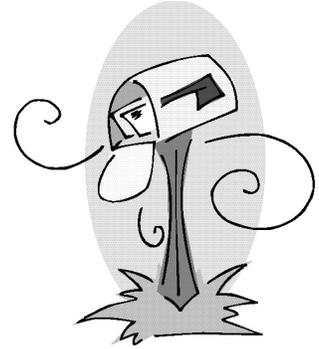
**November 22 (Wednesday)** - Last day that a legal voter may contest the results of the general election (within 15 days after the election). 17 V.S.A. § 2603(c)

# Mailing List Updates!

Help us keep our mailing list up to date!

*Let us know if:*

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



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

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

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

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

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

RETURN SERVICE REQUESTED

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

802-828-2363

Montpelier, VT 05609-1101

26 Terrace Street

Redstone Building

October 2006

Office of the Vermont Secretary of State

# Opinions

05609-1101

MONTPELIER, VT

PERMIT NO. 147

U.S. Postage Paid

PRSR STD