



Opinions

Office of the Vermont Secretary of State

Vol. 11, #2

February 2009

Are You Ready for Town Meeting?

See page 10.

2009 Democracy Award winners announced.

See page 11.

Quote of the Month

Prior proper preparation
prevents poor performance.

Anonymous.

In this Issue

Quote of the Month.....	1
Voice From the Vault.....	2
Civics Behind the Scenes....	3
Opinions of Opinions.....	4
Upcoming Events.....	6
Municipal Calendar.....	7
Are You Ready?.....	10
Democracy Awards.....	11

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. This is why we have developed a number of publications and a comprehensive website designed 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. The *Handbook for Moderators* is designed to help prepare moderators for the challenge of ensuring that our town meetings run smoothly. Our town meeting website is designed to help citizens and local officials and includes the *Citizen's Guide* and *Handbook for Moderators*, as well as a *Voter's Guide to Town Meeting Procedure*, a *Guide to Petitioning* 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/high school curriculum, *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 social and political issues as part of town meeting. *Town Mouse and Country Mouse Go To Town Meeting*, designed for children in 3rd – 5th grades, 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 mshea@sec.state.vt.us or call 802-828-1296. These booklets are also available online at <http://www.sec.state.vt.us>.

Deborah L. Markowitz, Secretary of State

The Black Flies of My Mind

I confess that I am not the most linear of thinkers. A note from Ginny that the column is due today releases thoughts like a black fly hatch, darting, swarming, and biting for attention. For example, this is being written two days after the inauguration of President Barack Obama, which released from some recess of my mind thoughts about the 1896 inauguration of William McKinley. Vermont, in recognition of giving McKinley a higher percentage of its vote than any other state, was the only state accorded a special reviewing stand at the inauguration. A more wobbly mental black fly leads me to recall that Vermont made a special cross of butter for McKinley. I will leave it to your mental black flies to recall William Jennings Bryans' Cross of Gold speech, to which the Vermont cross alluded.

These thoughts disappeared into the swarm as I began to think about the reaction to President Obama's inaugural speech. I read the speech before I watched it on the evening news. I was moved by his words and thought of the echoes from the inaugural addresses of Lincoln, FDR, and Kennedy that could be seen in the President's words (a black fly reminding me that Governor Richard Snelling read all Vermont inaugurals as he prepared his own address in 1977 quickly disappeared but you can see the result on our inaugurals page at: <http://vermont-archives.org/govhistory/gov/govinaug/index.htm>).



Ondis, the woman who (mostly) tolerates me watched the inaugural first and, when I arrived home, expressed some disappointment in the address. I understood her reaction once I watched the inaugural because the context of the speech, the crowd and the emotions it released, overwhelmed the words.

An archival black fly wandered by, leading to thoughts about the importance of context to the documents we preserve. Our media/image-driven world allowed us to share the emotional context in ways that could never be captured simply by reading the text. How could we ever re-capture the immediate contexts of other documents from our pre-connected past? In some cases contemporary news accounts provide at least some context. For example, I can feel the discomfort that Edna Beard, the first woman elected to the Vermont legislature, must have felt after being allowed to pick her house seat first and then being forced to sit, alone, for over an

hour as no male legislator chose to be her seatmate (let's tip our hat to Horatio Luce of Pomfret who finally stepped forward "amid a storm of laughter and applause"). What, I wondered, was the reaction/context to the seating of Alexander Twilight of Brownington, who in 1836 became the first African-American elected to a state legislature?

Thoughts then swarmed about doing a column for Black History Month (February). Vermont has a proud history of treating African-Americans as citizens from the 1777 Constitution's prohibition of adulthood servitude, to early "kidnapping" laws to prevent African-Americans in Vermont from being sold into slavery, to our defiance of the Dred Scott decision by noting that in Vermont African-Americans were citizens and thus not subject to the ruling. Balanced against this is the evidence that racism did indeed exist here from the harassment of Lucy Terry Prince in the 18th Century to Governor Phil Hoff's oft-stated belief that his political career was temporarily de-railed by his support of the Vermont-New York project that brought African-American children to Vermont.

Archival thoughts, however, returned, making a leap from the relationship between documents and their historical context to some responses to last month's column on the history of microfilming Vermont records and what we believe about records. Some agencies expressed initial concern that we would no longer be filming their records. Those concerns were mitigated, for the most part, when we explained the curious evolution of microfilming. Microfilm is the best medium for the long-term preservation of records that cannot be maintained in their original formats. However, at some point in our state's records program past it became common practice to simply send records to "Public Records" to be microfilmed. Consequently many records have been microfilmed that do not have long-term preservation needs. Over time agencies came to believe that microfilm was the only appropriate medium for those records.

Other agencies, which had been using our small scanning operation to have their records imaged and stored on CDs, also came to believe that CDs were the only appropriate medium for their records. Yet as we have discussed in other columns, CDs are not an archival medium and have limited value even for short-term records (see, for example, the January 2006 column on "End of Year Ponderings on iPods and Progress" at: <http://vermont-archives.org/publications/voice/index.htm>). We will be working with these agencies through our Targeted Assistance Program (TAP) to appraise the records, determine justifiable retention periods, and identify the best medium for keeping the records. In tight budgetary times this will lead to long term cost-savings.

Several municipalities also raised concerns about our discontinuing of microfilm services. These municipalities had used the service to create security copies of land records in case anything happened to the originals stored in their municipal offices. This is an appropriate risk management decision that is encouraged by the Vermont State Archives and Records Administration. We are actively working on alternative strategies and services that meet the new standards for reformatting land records recently issued by the Property Records Industry Association (PRIA). We will keep you posted as we develop plans. In the meantime one of our record analysts, Katie Sherman, is available to answer any questions you may have related to municipal records (Catherine.sherman@sec.state.vt.us).

My mental black flies continue to swarm, taking my thoughts here and there, but Ginny is tapping her foot waiting for this column. I better finish and not bug her any more.

Civics Behind the Scenes

Missy Shea, Civics Education & Voter Outreach

"Invest in civic energy. It's renewable."

SMITH magazine (as in "word smith") and the National Constitution Center (an independent, non-partisan, and non-profit organization dedicated to increasing public understanding of the U.S. Constitution) recently sponsored a post-election contest, asking that participants to give then President-elect Obama six words of guidance to inspire America. In six words, a president can say a lot: "Malice toward none, charity for all" (Abraham Lincoln, 1865), "Like a thousand points of light" (George H.W. Bush, 1989).

But the six word phrase that caught the attention of this office was *"Invest in civic energy. It's renewable."* My gratitude to colleagues Paul Daley and Greg Sanford for bringing it to my attention, because it is a fabulous slogan in the simple truth it proclaims.

A democracy feeds on itself. As we approach Abraham Lincoln's birthday, let us reaffirm that we can not be a government of the people, by the people, for the people if we are not in fact preparing our people for their roles as citizens in a representative government.

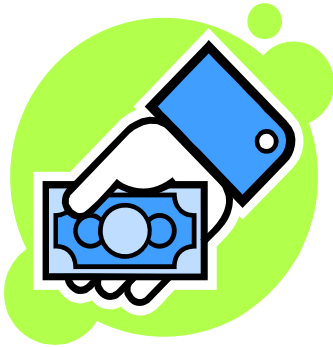
In many towns in Vermont, we have a unique opportunity for residents to actively practice their citizenship at town meeting. Folks can do this on many different levels. Simply attending the meeting is a good start. Casting votes on important municipal issues helps our democracy even more. And running for local office is a great way to expand our renewable civic energy fund.



There is another important way in which we must invest. Teaching the children of our communities the practice of civic engagement is critical to our democracy's endowment. Talk with kids about issues facing your town. Work with schools to help educate students about the democratic process. Make sure copies of the civic education booklets from our office are available in town offices and at town meeting.

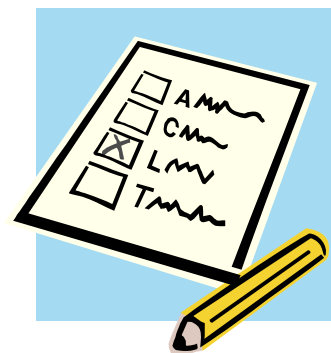
The Secretary of State's Office has a whole array of civic education materials for kids and adults alike. Check out our website, www.sec.state.vt.us, and be sure to hit the Kids Pages. You can use the online order form, or contact our office to let us know what you'd like. We'd be happy to send you whatever you can use, free of charge, to help you invest in civic energy. It is renewable.

1. **Employees may take off work to attend town meeting.** Vermont law makes town meeting a holiday for employees of state government. The law also gives an employee the right to take unpaid leave from work to attend his or her annual town meeting, subject to the essential operation of the business entity or governmental entity. An employee must give the employer at least seven days notice if he or she wants to take advantage of this right to attend town meeting. 21 V.S.A. §472b.
2. **Students may attend town meeting.** Students who are over 18 also have the right to attend town meeting, unless the student is in state custody at a secure facility. These students may not be treated as truants for missing school to attend town meetings. 21 V.S.A. §472b.
3. **Candidate may choose to withdraw when vote is tied.** If there is a tie vote for any local office, and 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 candidate as the winner, and there shall be no runoff election. 17 V.S.A. §2682(e), amended effective July 1, 2008.
4. **Not every local official must get paid.** While some officers, such as clerk, treasurer and tax collector have fees set out by statute, Vermont law states that unless compensation is fixed by law or by vote of the town or town school district, local officials cannot demand payment for their services to the town. However, the law provides that if an official makes a request for payment the auditors must report the claim as well as the nature and extent of the services at town meeting. 24 V.S.A. § 931.



5. **Town or selectboard may set salary.** A town may vote to compensate any or all town officers for their official services. 24 V.S.A. § 932. However, when a town does not set a salary or stipend for an officer (or for town employees) the selectboard may fix the salary. Note that they may not set their own salary – but the selectboard's salary can be fixed by the auditors at the time of the annual town audit. Or, if the town has voted to eliminate the office of auditor and the voters fail to fix the compensation to be paid to members of the selectboard, selectboard members shall be compensated at the rate at which they were compensated during the immediately preceding year. 24 V.S.A. §933.
6. **Listers do not control their own pay.** Listers get paid for their services only if the selectboard or the voters have set a salary or stipend for their work. When the listers are paid an hourly wage this vote should include a limit on the overall compensation that may be paid in order to ensure that the listers remain within their budget. (For example: listers shall be paid \$12/hr not to exceed \$24,000.) If the selectboard sets salary the board of listers may ask the board to pay a "head lister" more than the other board members – but this decision is ultimately up to the discretion of the selectboard. In addition, when a lister works for an hourly wage the board may require the listers to fill out time sheets or the selectboard may require the listers use some other method of recording their hours worked.
7. **Reserve funds may be used for the purposes for which the fund was established without additional vote.** When the electorate has voted at a town meeting to establish a reserve fund, such as a Highway Capital Reserve Fund, the selectboard is authorized by statute to expend those funds for purchase of capital assets for the maintenance and improvement of highways. 24 V.S.A. §2804. The selectboard does not need another article to approve each expenditure (so long as the expenditure is for the purposes for which the fund was established.) If the selectboard wants to use the money in the reserve fund for some other purpose, then the board needs to warn an article for voter approval to use the funds for a different purpose.
8. **Majority vote is required when electing officials from the floor.** When local officers are elected by paper ballot during the traditional open floor town meeting, a majority of all votes cast for any office is required for an election. 17 V.S.A. §2660(b). The law requires that selectboard, listers and auditors must be elected "by ballot". If a majority is not achieved on the first ballot, voting continues. If no person has obtained a majority by the end of the third vote, the moderator shall announce that the candidate receiving the lowest number of vote in the last vote and any succeeding vote shall no longer be a candidate, and the voting continues until a candidate receives a majority.
9. **Candidate with most votes wins Australian ballot vote.** When local officers are elected by Australian ballot, the candidate receiving the most votes shall be declared elected to that office. The only exception to this rule is when the person receiving the most votes is a write-in candidate. In this case the write-in candidate must have received at least 30 votes OR the votes of at least one percent of the registered voters, which ever is less (the same number required to file a nomination petition). 17 V.S.A. §2683(c).

- 10. Selectboard must elect chair and set meeting.** At its first meeting following the Annual Meeting the selectboard is required to elect a chair, a clerk (of the board), adopt rules of procedure (Roberts Rules for Small Boards, or any other rules, including ones made up by the board), and set the schedule for its regular meetings. The board should also decide how the agenda will be created. In some towns the chair does it on his or her own, but the best practice is to allow all members of the board a chance to add items to be discussed. At its organizational meeting the board must also appoint a tree warden. If it wishes the board may also fill the offices of fence viewers (3), pound keeper, inspectors of lumber, shingles and wood, and weighers of coal. The law no longer requires these offices to be filled. 24 V.S.A. §871.
- 11. Board may choose to rotate chair.** In one town no board member wished to serve as chair so the board agreed to rotate the position. There is no law that would prevent this, although it may be confusing to the public, other town officers, and employees who have to work with the board.
- 12. Town officers take office at town meeting.** Newly elected town officers take office on Town Meeting Day. Some officials must take an oath before they officially take office. This can be done by the clerk at town meeting, or at any time thereafter. 17 V.S.A. §2646. An official who is required to take an oath of office (by either swearing or affirming) and who refuses to do so may not take office, thereby creating a vacancy.
- 13. Union school officers take office on July 1st, except for moderator.** Union district officers elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of one year or until their successors are elected and qualified, except that if the voters at an annual meeting so vote, moderators elected at an annual meeting shall assume office upon election and shall serve for a term of one year or until their successors are elected and qualified. The law also provides that school directors elected at an annual meeting shall assume office upon election and shall serve a term of three years or until their successors are elected and qualified. 16 V.S.A. §706k.
- 14. Australian ballot is not a paper ballot.** People often confuse the terms “written ballot”, “paper ballot” and “Australian ballot.” In the Vermont statutes, a “written ballot” and a “paper ballot” are blank pieces of paper that are used to vote at a traditional floor school district or town meeting to elect certain officers when required by statute or when requested by at least seven voters. An “Australian ballot” vote refers to the practice of voting at designated polling places during designated polling hours (set by the BCA, but commonly from 9 a.m.-7 p.m.) with pre-printed ballots that must be available 20 days prior to the school district or town meeting for absentee voting.
- 15. Non-voters may speak at town meeting by leave of the voters.** Town meeting is a meeting of the voters of the town. For this reason, only legal voters may speak at town meeting unless there has been a motion to suspend the rules and permit non-voters to address the group. This motion must be passed by two-thirds of the voters, although in many cases the moderator will say “unless I hear an objection I recognize the school superintendent to explain” If there is an objection then the moderator will call for a vote. When making such a motion it is not uncommon to include some parameters in the motion, such as non-voters may speak once to an issue for a time not to exceed five minutes, etc.
- 16. Moderator’s ruling may be challenged by voters.** During a traditional floor voting town meeting, any voter can challenge any ruling 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 in doubt, but will rule” This encourages a voter to rise to challenge. Roberts Rules provides that any voter can rise to ask that the ruling be voted upon by all of the legal voters present. It is difficult for any moderator to know every rule and anticipate every type of motion that may be presented. Roberts Rules therefore allows the majority of those voters present to decide what is fair and just under the circumstances.
- 17. Moderator should not give opinion on legal effect of article.** The best practice for moderators at annual meeting is to refrain from speaking to the legality of an article or to give an opinion regarding the legal effect of taking action on or passing over an article. While the moderator should be helpful, it is the moderator’s role to manage the process and procedures of the meeting with the primary purpose of seeing that the will of the electorate is given effect, with fairness and impartiality to all legal voters who are participating. Even a well intentioned comment regarding 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, the moderator can ask for a moderator pro tem to take over, so he or she can step down to participate in the debate.
- 18. Person elected to incompatible offices must choose one.** 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 or decline one of the positions. This creates a vacancy which must be filled according to statutory procedures. Under Vermont law, the runner-up or next highest vote-getter does not move up or become the winner.



19. **Vacancies are filled by the governing boards.** When there is a vacancy in a town office the selectboard posts the vacancy within 10 days of its creation, and then appoints a person to fill the office until the next election. 24 V.S.A. §961 and 963. For town school board members, within 30 days, the school board appoints a person to fill the position until the next election. 16 V.S.A. §424. For union school districts the clerk of the union district notifies the school board of the town which elected the original incumbent and within 30 days the school board, shall appoint someone to fill the position until the next election. 16 V.S.A. §706I.
20. **The town report must be distributed at least 10 days prior to town meeting.** It is the responsibility of the town board of auditors to prepare an annual town report. The law requires that this report be mailed or distributed to the voters of the town at least ten days prior to town meeting. 24 V.S.A. §1682(a). If a town has voted to eliminate the office of auditor, the findings of the public accountant must be mailed or otherwise distributed by the selectboard at least ten days prior to town meeting.
21. **Warning must be published if it is not mailed.** If the warning for town meeting is not included in the town report and mailed or otherwise distributed to the voters at least ten days before town meeting, then the warning must be published in a newspaper of general circulation in the municipality at least five days before the meeting. 17 V.S.A. §2641(b).
22. **A town can move town meeting if it must.** Every year some towns find that the place intended to hold town meeting is suddenly unavailable. If town meeting absolutely needs to move to a new location, the best option is to post a notice indicating the new location on all entrances to the original town meeting location. If the town has enough advanced warning it would be a good idea to notify the local media and post notices of the new location around town. Have the moderator be prepared to begin a bit late to ensure that people who arrive at the original meeting place on time will not miss the beginning of the meeting. After town meeting a special meeting should be held to validate the town meeting. 17 V.S.A. §2662.

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.

Upcoming Events

Local Government Day in the Legislature

February 18, 2009

Sponsored by VLCT and Vermont Municipal Clerks & Treasurers Assoc.

Location: Capitol Plaza Hotel and the Vermont State House
Time: 8:30 am
Contact: Jessica Hill (jhill@vlct.org)
Phone: 802/229-9111
Fax: 802/229-2211
Price: \$30.00 (includes lunch). Registration Deadline is Feb. 11

A special day at the Vermont State House for local officials to hear about the status of pending legislation from VLCT and Vermont Municipal Clerks' and Treasurers' Association representatives, attend legislative hearings and speak with their representatives and senators at the Vermont Legislature.

Town Meeting Tune-up

Thursday, February 26, 2009

Sponsored by VLCT Municipal Assistance Center

Location: Capitol Plaza Hotel, Montpelier
Contact: Amanda Moshinskie (info@vlct.org)
Phone: 802/229-9111
Fax: 802/229-2211
Price: TBA

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.

Municipal Calendar

February 2009

1 - This is the last day that the warning and notice for town meeting may be posted (30 days before the election). 17 V.S.A. §§ 2521(a) and 2641(a)

1 - Checklist must 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 in one place in addition to the clerk's office. 17 V.S.A. §§ 2141, 2521(a)

1 - Deadline for tax collector to turn over moneys collected and settle accounts with town treasurer. 24 V.S.A. § 1532

2 - Last day to hold first public hearing on charter amendments if article is to be voted at town meeting. 17 V.S.A. §§ 2645(a)(3), 2103(13)

2 - Last day for listers for file corrected grand list for preceding year in order to render it valid. 32 V.S.A. § 4112

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

5 - On or before February 5, delinquent tax collector must deliver bound receipt books for the preceding year to town auditors for their audit. 32 V.S.A. § 5137

6 - (25 days before Town Meeting) Auditors must meet by this date to examine and adjust town finances. 24 V.S.A. § 1681

6 - (25 days before Town Meeting) Town officers must settle accounts with auditors to be eligible for re-election. 24 V.S.A. § 992

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 legislative body 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 designation. 19 V.S.A. § 305(b)

11 - In Australian ballot towns, ballots for local officers and local public questions shall be prepared by the town clerk and available not later than 20 days before the election. 17 V.S.A. § 2681a(a)

11 - First day for legislative body to post warning for public informational hearing (to be held on or after 2/21/09) on any public question to be voted by Australian Ballot at town meeting. 17 V.S.A. § 2680(g)

17 - (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 - Last day for legislative body to post warning for public informational hearing (to be held on or before 3/02/09) on any public question to be voted by Australian Ballot at town meeting. 17 V.S.A. § 2680(g)

21 - Last day to post sample ballots in the same places as the warning, notice, and checklist (not later than 10 days prior to the municipal election). 17 V.S.A. § 2522(a)

21 - Selectboard must mail or otherwise distribute town meeting warning in annual town report by this date to avoid publishing warning in newspaper (at least 10 days before town meeting). 17 V.S.A. § 2641(b)

21 - 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)

21 - 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)

21 - (At least 10 days before Town Meeting) Auditors' report of the findings of the public accountant employed in accordance with 17 V.S.A. § 2651b, must be distributed. 24 V.S.A. § 1682

23 - During the eight days preceding election day, and on election day, the clerk shall divide the list of ill and physically disabled early or absentee 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)

23 - 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. §§ 2103(13), 2822

25 - 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. §§ 2103(13), 2144(a)

25 - 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. §§ 2103(13), 2144(b) and (c)

25 - Last day to receive a request for an application for addition to the checklist accompanying an early or absentee ballot request. 17 V.S.A. §§ 2103(13), 2532(b) and (c)

26 - 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)

26 - 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)

26 - (Five days before Town Meeting) Treasurer must settle accounts with auditors. 24 V.S.A. § 1578

28 - 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 - March 2 (On any of the three days immediately preceding the first Tuesday in March). Town that have voted to do so may start Town Meeting and transact nonballot-related business. 17 V.S.A. § 2640(b), (c).

March 2009

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

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

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

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

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

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

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

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

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

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

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



- 3 - (Before polls open) In towns using Australian ballot, town clerk must give election officials a list of those voters who have already cast early or absentee ballots. 17 V.S.A. § 2548(a)
- 3 - Clerks must make a list of all early or absentee voters available upon request in each polling place as soon as it opens. 17 V.S.A. § 2534
- 3 - (During polling hours) Presiding officer must ensure that there is no campaigning of any kind and no campaign literature displayed, placed or distributed inside the polling place. On walks and driveways leading to a polling place, no candidate or other person may physically interfere with the progress of a voter to and from the polling place. 17 V.S.A. § 2508
- 3 - For those who became eligible to vote after the first Wednesday prior to Town Meeting and had notified the town clerk of intent to apply for addition to the checklist, the town clerk shall act on applications until polls are closed. 17 V.S.A. § 2144(b), (c)
- 3 - Moderator opens business meeting at the time established by the legislative body (unless town voted otherwise at a preceding meeting) 17 V.S.A. §§ 2655, 2657
- 3 - In towns using Australian ballot, as soon as possible after the polls close, the presiding officer must examine entrance and exit checklists and prepare a statement of discrepancies. 17 V.S.A. § 2583(a)
- 3 - In towns using Australian ballot, presiding officer directs election officials in counting ballots. 17 V.S.A. §§ 2581, 2582
- 3 - In towns using Australian ballot, presiding officer must seal all ballots, exit checklist(s) and tally sheets in ballot bags. The entrance checklist must be kept out of the ballot bags and placed in a secure location. 17 V.S.A. §§ 2583(a), 2590(a), 2689
- 3 - (Immediately after vote is counted) Under the direction of the legislative body, the town clerk shall announce and post the results of any charter amendments. 17 V.S.A. § 2645(b)
- 4 - (No later than 24 hours after polls close) Presiding officer and one other election official shall transfer the totals from the summary sheets to the return and both shall sign the return 17 V.S.A. § 2588
- 8 - (Within five days after town meeting) Town clerk must certify votes on financial actions to town treasurer and to the chair of the legislative body. 24 V.S.A. § 1167
- 9 - (Within six days after town meeting) Town clerk is to report to the Director of Property Valuation and Review on method adopted at town meeting for collection of taxes. 32 V.S.A. § 5167
- 10 - Last day for selectboard or town clerk to warn a run-off election if there was a tie vote for any Australian Ballot race at town meeting (within seven days after election). 17 V.S.A. § 2682(e)
- 13 - Last day for a losing candidate for local office in a municipality using the Australian ballot system of voting to request a recount (within 10 days after the election). 17 V.S.A. § 2683(a)
- 13 - Deadline for a voter to file a request for a recount with the town clerk of any issue voted by Australian Ballot (within 10 days after the election). 17 V.S.A. § 2688
- 13 - Last day for a local candidate who has made expenditures or accepted contributions of \$500 or more to file a campaign finance report with the town clerk. 17 V.S.A. § 2822
- 13 (Within 10 days after town meeting) Last day for town clerk to certify to secretary of state facts of origin and procedure followed for each municipal charter amendment proposed. Clerk shall also certify the result of any vote required before an act of the general assembly takes effect. 17 V.S.A. §§ 2663, 2645(b)
- 18 - Last day that a legal voter may contest the local election results from the town meeting (within 15 days after the election). 17 V.S.A. § 2603(c)
- 19 - First day a run-off election may be held (15 days after the warning of the run-off election). 17 V.S.A. § 2682(e)

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

Are You Ready for Town Meeting Day?

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 (so long as it is not the voter's employer or union representative) 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).

Honoring Democracy

Please join Vermont Secretary of State Deb Markowitz in honoring those Vermont citizens who have demonstrated a strong commitment to promoting the tenets of democracy.

National Association of Secretaries of State Medallion Awards

Kristie Bush, Teacher, Montpelier Union Elementary School
The Honorable Don Collins, former State Senator for Franklin County
WPTZ Television, Colchester, Vermont

Vermont Secretary of State Enduring Democracy Awards

Dennis Bonanza, Teacher, Vermont Community High School
Bill Hoar, Barnet Town Clerk and Treasurer
Toni Little, Resident Advisor, Johnson State College
Ashley Wheeler, Miss Vermont 2008

* * *

Thursday, February 12, 2009, 3:30 to 5:00 p.m.
Vermont State House - Cedar Creek Room
Montpelier, Vermont

* * *

Please RSVP to Ginny Colbert
802-828-2148
gcolbert@sec.state.vt.us
by Thursday, February 5th.



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

Redstone Building
26 Terrace Street
Montpelier, VT 05609-1101
802-828-2363
www.sec.state.vt.us

Office of the Vermont Secretary of State
February 2009

Opinions

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