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“Up front I’d better tell you this: I am a passionate believer in real democracy – where people make decisions that matter, on the spot, in face to face assemblies that have the force of law.”

—Frank Bryan, “Real Democracy.”

The last time that we wrote about Vermont’s municipal governance was during the 2006 election cycle. Since then, things have hardly improved for cities and towns.

The first thing readers need to understand is that Vermont is a Dillon’s Rule state. That means that, for better or worse, municipalities in Vermont may only do those things that the legislature specifically allows them to do.

“Towns are creatures of the state” is a concept given force of law by the Vermont Constitution. The reference is to an 1872 ruling by Iowa Supreme Court Justice John F. Dillon which said that municipal corporations may exercise only those powers specifically granted to them or that are necessary and absolutely essential to the declared purposes of the municipal corporation. Vermont is one of only three strict Dillon’s Rule states. The Vermont statutes specifically grant municipalities the authority to carry out certain responsibilities and vest in them the obligation to carry out others. Over the years, at least 37 cities and towns have adopted governance charters at the local level and sought approval for them from the legislature. Additionally, 46 incorporated villages have governance charters. Governance charters enable municipalities to deviate from general statute in specific instances, when the voters in a municipality have voted to change or adopt a charter and when that locally voted amendment has been reviewed, dissected, frequently amended and finally approved by the legislature. Once the legislators have commenced reviewing a charter adopted by the voters, they may amend any part of it they choose.

When Vermonters come together in Town Meeting or for special town meetings, they may feel they are functioning as autonomous, self-governing bodies whose existence is independent of other jurisdictions. They may believe that the State of Vermont has faith in our ability to govern ourselves. However, the fact that Vermont is a Dillon’s Rule state and that there is no referendum or initiative right of the population points to the state’s great paradox: despite its tradition and reputation of direct democracy and robust local control, Vermont has one of the most centralized governments in the country. “In truth, the whole thing is a bit of a sham. In Vermont, the real political power doesn’t lie with neighbors making decisions for their community, but with the 180 state legislators in Montpelier.” (*Burlington Free Press editorial, Tuesday, February 3, 2004.*) These are the parameters within which local governments work in Vermont.

One might also think that Vermonters are passionate believers in “real democracy,” which is much sought after around the world from Hong Kong to Tunisia and the manner of governance which is unique to the cities and towns in this state. But Vermont is neither as independent nor self-directed as the myth would have you believe.

Municipal borders, most of which are unchanged since the state's inception, are less relevant as the legislature debates consolidation of school districts and more municipal services are transferred to regional single purpose governmental agencies such as solid waste districts. Over the last half century, there has been a significant decline in the number of people who work and shop in the towns in which they live – or rather sleep. The ties that once aligned town governments to a sense of community and to the economy are fast fraying.

State statute encourages municipalities to plan for their futures by adopting comprehensive plans. The traditional means of serving local constituents through volunteer or part-time paid staff is threatened by the increasing complexity of local responsibilities such as writing comprehensive plans and the demands of families, jobs, and other obligations. A *New York Times* article recently reported that nationally there are 11 percent fewer volunteer firefighters protecting communities, which forced the hiring of 50 percent more career firefighters.

The average Vermonter commutes 22.1 minutes each way to work. Given the average town size of six square miles, most of our citizens probably work outside of their hometown. According to a 1999 survey of 2,300 Vermonters conducted by Smart Growth Vermont (now merged with the Vermont Natural Resources Council), just over half of them shopped predominately in downtowns as opposed to shopping malls and big box stores. That same survey also showed that Vermonters' top three considerations when buying a house were the cost of living, "natural beauty," and privacy, all features found more frequently outside of the compact settlements that state policies encourage.

The only revenue source Vermont municipalities can access to fund the demands of local governance continues to be drained by an education system with an appetite that grows even as the number of students it serves continues to shrink. Meanwhile, state actions – and *in*actions – have made our schools the largest provider of "human services" to children, while the definition of "children" eligible for such services continues to expand at both ends of the age spectrum and now includes those from pre-kindergarten to post-college.

Despite these indications of the dissolution of community and municipalities, there are recent signs that Vermonters are reorienting their focus to more local issues. Sixty-five community-supported agriculture (CSA) models and 76 farmers' markets are certified by the National Organic Farming Association today. Vermont is ranked second in the country in craft breweries per adult of legal drinking age. Farm-to-table restaurants are going great guns, the state's traditionally strong dairy industry is diversifying and crowding out national competitors in the high-value-added market of artisan cheeses – most available only in our local markets – and the "Think Globally Act Locally" philosophy pops up in all kinds of issues on which Vermonters take stands.

Even with all its restrictions and signs of wear and tear, local government, which is closest to the people, is the best government in our opinion. Years of research conducted by Frank Bryan, retired John G. McCullough Professor of Political Science at the University of Vermont, indicates that when questions put before voters at Town Meeting are timely and relevant and can effect real change, debate is thoughtful and voters take the time to make hard decisions. They have had less opportunity to make those decisions locally in the last 20 or so years.

Especially in the 21st century when society is changing so fast – when we live in the local community and global cyberspace simultaneously – we need to revisit the premise that local government is the best or most effective government. On the other hand, we need to re-evaluate whether state government can or should establish restrictions around local governments' authority to make decisions about their own governance. If our economy is beginning to return to a more local focus through processes and technologies unimaginable when Vermont's cities and towns were created, is there hope for local government? Can it be reinvented in

ways that guarantee not only the ability but also the practice of participation in decisions that affect residents on a daily basis? Which functions are best addressed locally and which ones should be addressed on a more regional or statewide basis?

Municipal Self Governance Today. In remarkably creative ways, 44 states have established some form of Constitutional or legislative home rule. Options are complex and include statutory, constitutional, and judicial variants. A common approach is to reserve in the state’s constitution those powers that are wholly municipal in character, and not denied by general law or charter. Another not uncommon approach is to grant full home rule authority to municipalities with a certain population or with a particular form of government. All recognize that changing times and particular characteristics of a municipality may lead its citizens to develop new, creative, and successful resolutions to problems that are particular to themselves.

Real Democracy in Vermont. In the 2013-2014 legislative session, 15 municipal charter amendments were approved. St. Albans Town and Winooski adopted local option taxes. East Montpelier, the North Branch Fire District, Panton, and Westford all approved authority of the legislative body to appoint the treasurer instead of electing him or her. In recent years, because of the individuals on the legislative committees of jurisdiction, those amendments have passed with minimal interference. Not all locally voted charter amendments have been ratified at the legislature and it has not always been the case that the committees were respectful of local decisions. Despite the fact that addressing such local governance issues in piecemeal fashion is neither efficient nor fair, bills addressing the amendment of charters generally or providing for expanded authority for municipalities generally have been ignored.

According to Home Rule In America, A Fifty-State Handbook, a publication of the Congressional Quarterly Press, “What local governments may or may not do is a worthy topic because people live and confront the problems of daily life at the community level. People have established and operated cities, towns and villages throughout history for the individual and collective benefits to be achieved by living in an organized community with powers of government.”

The process for amending the Vermont Constitution may begin in 2015. The opportunity to introduce a constitutional amendment arises in alternate biennia, and 2015-2016 is such a biennium. Much has changed in the last decade: in the way we communicate; in the focus on local economies, foods, money, and action; in the services residents expect from their local and state governments; and in their sense of frustration at their inability to change governmental strictures. Vermonters should demand a full discussion of the governance structure in Vermont – what services are best provided at the state level and which decisions are best made at the local level.

VLCT’s recommendation:

Vermont should join 44 other states by enacting the following constitutional home rule amendment: “A city, town or village shall have the power, through approval by a majority of its voters, to adopt, amend, and repeal a charter of incorporation. A charter may authorize the municipality to exercise any legislative power or perform any function not specifically prohibited by the Vermont Constitution or general law. The powers and functions granted to cities, towns and villages under this section shall be liberally construed.”