

## ASK THE LEAGUE

### *Preparing for Town Meeting 2013*

Vermont's 2013 annual town meeting day will be Tuesday, March 5<sup>th</sup>. Now is the time to get the warning ready. The first day to post the town meeting warning and notice will be Thursday, January 24, 2013; the last day will be Sunday, February 3, 2013.

The warning must be accompanied by a notice that includes information on voter registration, early or absentee voting where applicable, and other appropriate information. 17 V.S.A. § 2642(b). Sample notices are available from the Vermont Secretary of State at <http://vermont-elections.org/elections1/townmeetingwarn.html>. The warning and notice must be posted in at least two public places in the town and in or near the town clerk's office. 17 V.S.A. § 2641(a).

The warning (but not the notice) must also be published in the town report or distributed in written form to all town or city postal patrons by Saturday, February 23, 2013. Alternatively, the warning may be published in a newspaper of general circulation in the municipality no later than Thursday, February 28, 2013. 17 V.S.A. § 2641(b).

In drafting the warning, the selectboard should keep these points in mind:

- Do not rely on last year's warning! Many selectboards have an unfortunate habit of simply copying the warning from last year's meeting. This often results in the inclusion of unnecessary articles and the repeat of previous errors and mistakes. The warning should be carefully reviewed and updated each year.
- Each article should be written to express the intent of the drafters as precisely as possible. Avoid unnecessary words and strive to be clear. If a statute prescribes language for an article, that language must be used. If a

statute doesn't prescribe language, it is often helpful to track the applicable statutory language as closely as possible and make reference to the statute.

- State each article dealing with a public question or money vote in the form of a question that can be answered "yes" or "no." This is a requirement for public questions voted by Australian ballot and is a good practice for floor voting.
- Do not add comments such as "by petition," "advisory," or "nonbinding." Statute prohibits the warning from including any opinion or comment by any town body or officer or other person on the matter to be voted on. 17 V.S.A. § 2666.
- Consult with the town clerk and moderator as they may have suggestions for the warning that can help the meeting go smoothly. Check with the school district board of directors to make sure that the timing of your meetings has been coordinated.
- Check, double check, and then triple check the warning before it is posted. Each year the Municipal Assistance Center receives questions about how to fix errors in the town meeting warning after it has already been posted. Most of these are minor problems but some have led to significant difficulty. The warning is an important document. Please take the time to review it carefully. Mistakes need not happen.

The voters' deadline for submission of petitioned articles is Thursday, January 24, 2013. A petition must be signed by at least five percent of the voters of the municipality and filed with the municipal clerk. 17 V.S.A. § 2642(a). Keep in mind that the selectboard can

warn petitioned advisory articles but is not legally obligated to do so. This discretion allows the selectboard to balance the efficient transaction of town business with the provision of a local forum for discussing state and national issues. *Clift v. City of South Burlington*, 2007 VT 3. The selectboard is only legally obligated to warn a petitioned article when the purpose stated in the petition “sets forth a clear right which is within the province of the town meeting to grant or refuse through its vote.” *Royalton Taxpayers’ Protective Assn. v. Wassmansdorf*, 128 Vt. 153 (1960).

Petitioners occasionally make mistakes in drafting warning articles. If a petition is submitted on time, has the minimum number of signatures, and requests an article that the selectboard has no discretion to refuse, we recommend that you accept the petition and work with the petitioners to redraft the article using the correct language. Contact the VLCT Municipal Assistance Center if you have any questions about your obligation to warn a petitioned article.

About a half billion dollars are appropriated by Vermont local governments each year on the basis of the words, “A town shall vote such sums of money as it deems necessary for the interest of its inhabitants and for the prosecution and defense of the common rights.” 17 V.S.A. § 2664. There is no statutory guidance apart from the mandate that a municipality “express in its vote the specific amounts, or the rate on a dollar of the grand list, to be appropriated for laying out and repairing highways and for other necessary town expenses.” *Id.* As a result, municipal budget articles have become incredibly varied.

On the basis of the categories in 17 V.S.A. § 2664, some towns vote separate general fund and highway budgets. VLCT doesn’t believe two separate budget articles are legally necessary, so long as highway funds are accurately accounted for within the general fund. VLCT recommends this form for the budget article:

Shall the voters approve total general fund expenditures of \$\_\_\_\_\_, of which

\$\_\_\_\_\_ shall be raised by taxes and \$\_\_\_\_\_ by non-tax revenues?

This is an optional highway fund article for towns that vote separate general and highway fund budgets:

Shall the voters approve total highway fund expenditures of \$\_\_\_\_\_ of which \$\_\_\_\_\_ shall be raised by taxes and \$\_\_\_\_\_ by non-tax revenues?

Tough economic times bring closer attention to social service agency appropriations. The authority to vote on these appropriations is found at 24 V.S.A. § 2691. There are two ways for a social service appropriation article to appear on the warning: with a petition submitted in accordance with 17 V.S.A. § 2642 or by the selectboard’s own motion. Some selectboards will not include any social service agency appropriation article that is not supported by a petition. Other selectboards will allow some non-petitioned articles, but not others.

Regardless of your approach, every selectboard should have a written policy to manage social service agency requests. A model social service agency appropriation policy is available at [www.vlct.org/assets/Resource/Models/Model\\_Social\\_Service\\_Agency\\_Appropriation\\_Policy\\_07-11.pdf](http://www.vlct.org/assets/Resource/Models/Model_Social_Service_Agency_Appropriation_Policy_07-11.pdf) Keep in mind that an agency receiving an appropriation does not have to be physically located in the town, so long as it provides services to town residents. *Addison County Community Action Group v. City of Vergennes*, 152 Vt. 161 (1989).

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