

## ASK THE LEAGUE, DEC. 2014 (revised Jan. 2015)

### How can we best prepare for Town Meeting?

Vermont's 2015 annual town meeting day will be Tuesday, March 3<sup>rd</sup> and it is almost time to get the warning ready. The first day to post the town meeting warning and notice is Thursday, January 22, 2015; the last day is Sunday, February 1, 2015.

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's website, <https://www.sec.state.vt.us/elections/town-meeting-local-elections/town-meeting-warnings.aspx>. The warning and notices must be posted in at least two public places in the municipality as well as 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 and distributed in the same manner as the town auditors' report as provided in 24 V.S.A. § 1682, or published in a newspaper of general circulation at least five days before the meeting. Additionally, the warning must be posted on the municipality's website, if the municipality regularly updates its website .

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 on the inclusion of unnecessary articles and the repeat of previous errors and mistakes. The warning should be carefully reviewed and updated each year.
- Write each article 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 can be 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 appropriation of money 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 inclusion of 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 meeting 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 Tuesday, January 20, 2015. 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 choose to 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 articles. If a petition is submitted that does not conform to Title 17, Subchapter 2, the town clerk must return the petition to the petitioner within 24 hours with a written statement of why it cannot be accepted. In this case, a supplementary petition may be filed not later than 48 hours after the clerk returns the petition to the petitioner. However, a supplementary petition will not be accepted if it contains the signatures of different persons from those on the originally filed petition.

If a petition has been submitted on time, has the minimum number of required signatures, and requests an article that the selectboard has no discretion to refuse, we recommend that the petition be accepted and the selectboard work with the petitioner 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.

Each year, Vermont local government appropriates about half a billion dollars 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 amount, 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. § 2662, some towns vote separate general fund and highway budgets. We don't believe two separate budget articles are legally necessary, so long as highway funds are accurately accounted for within the general fund. VLCT recommends the following 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?

Following 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 posted at <http://www.vlct.org/assets/Resource/Models/Model-Social-Service-Agency-Appropriation-Policy-November-2014.pdf> (pdf file) or <http://www.vlct.org/assets/Resource/Models/Model-Social-Service-Agency-Appropriation-Policy-November-2014.doc> (Word document). 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).

(This is an update to an article written by former VLCT attorney Jim Barlow in January 2013.)

Gwynn Zakov, Staff Attorney  
VLCT Municipal Assistance Center