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Should the moderator answer legal questions at town meeting?

No.

The moderator plays an important role at town meetings. In towns not using the Australian ballot system, the first order of business at town meeting must be to elect a moderator, whose authority resides in Title 17 Section 2658 of the Vermont Statutes Annotated. The moderator is the presiding officer of the meeting, deciding procedural questions, preserving order, and declaring voting results. Put plainly, the moderator's main objective is to guide the meeting and play referee, ensuring the business of the meeting proceeds fairly and efficiently.

The moderator has other duties, including potentially approving the town meeting minutes and preserving order in the conduct of business and in debate, which may include ordering the removal of persistently disorderly persons. 17 V.S.A. § 2659; 24 V.S.A. § 1152. Robert's Rules of Order is a key tool aiding the moderator in his or her role as the meeting's referee. Unless a town has adopted other rules of order, Robert's Rules must be used, except in instances where a specific state statute applies. 17 V.S.A. § 2658. Although the voters cannot change state statute they may vote (by a two-thirds majority) to alter the application of Robert's Rules.

If the moderator is confronted with a legal question, he or she should not endeavor to answer it. As the impartial guide of the meeting, the moderator is limited to deciding procedural questions and performing other non-legal functions such as making a public declaration of votes.

Sometimes the moderator is asked to perform a function or answer a question that is outside the role of his or her office. For instance, if the legality of an amendment is called into question, the moderator should either consult with the town attorney or decline to answer. Similarly, the moderator should avoid deciding if a particular article on the town meeting warning is legal.

What if the moderator is asked to determine the eligibility of a voter? The moderator might personally know, as a fact, that the individual is eligible to vote. Even so, it is the Board of Civil Authority's duty to decide this legal question, not the moderator's.

Importantly, the moderator facilitates the will of the voters. If the moderator is in doubt about a situation and can't find an answer in Robert's Rules of Order, he or she should ask the voters how they wish to proceed. The voters also have the authority to overrule decisions made by the moderator. The moderator should only decide procedural questions using Robert's Rules of Order and relevant state statutes. When faced with a substantive law question, the moderator should consult the town attorney, and – if he or she is not present – decline to answer. If necessary, the town can reconsider the issue at a subsequent meeting. Avoiding legal questions will both maintain the impartiality of the moderator and also go a long way in gaining the respect of the voters.

For more information on the position of town moderator, please consult the chapter on moderators in the *VLCT Handbook for Vermont Town Officers*, available online at <http://www.vlct.org/league-resources/handbooks-online/>. Also see *A Handbook for Vermont Moderators* (2009) published by the Vermont Secretary of State's Office and available online at <http://www.sec.state.vt.us/>. Copies of *Robert's Rules of Order, Newly Revised 11th edition* are available for purchase online at www.vlct.org/bookstore/.

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