

Preparing for a Successful Town Meeting 2011

Vermont's next annual town meeting will be on Tuesday, March 1, 2011. Each town's meeting will start at the time designated by the legislative body unless the municipality has previously voted to set a time for its meeting. 17 V.S.A. § 2655. A town can vote to start town meeting on the Saturday, Sunday, or Monday preceding the first Tuesday in March. On that day, the town can conduct any business that does not require Australian ballot vote. If the meeting is started on Saturday, Sunday, or Monday, it must be adjourned to Tuesday to conduct Australian ballot voting. 17 V.S.A. § 2640(b).

For towns holding their meeting on March 1, the first day to begin posting the town meeting warning and notice will be Thursday, January 20, 2011. The last day to begin posting the warning and notice will be Sunday, January 30, 2011. 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). Please note that there is no statute extending the Sunday posting deadline to Monday. By Saturday, February 19, 2011, the warning (but not the notice) must be published in the town report or distributed in written form to all town or city postal patrons. Alternatively, the warning may be published in a newspaper of general circulation in the municipality no later than Thursday, February 24, 2011. 17 V.S.A. § 2641(b).

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>.

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

- Each article should be written to express the intent of the drafters as precisely as possible. Avoid unnecessary words and strive to be as clear.
- If a statute prescribes specific language for an article, that language must be used. If a statute *doesn't* prescribe specific language, try to track the statutory language as closely as possible and make reference to the statute.
- Each article dealing with a public question or money vote should be stated 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.
- Don't add comments such as "by petition" 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 before signing and posting the warning.

The voters' deadline for submission of petitioned articles will be Thursday, January 20, 2011. The 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). Not every petitioned article has to be included in the warning. 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).

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*, 181 Vt. 571 (2007). Petitioners occasionally make mistakes in preparing petitions and drafting proposed warning articles. If the 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. Check with the VLCT Municipal Assistance Center if you have any questions about your obligation to warn a petitioned article.

There are two mandatory items of business that must be conducted at town meeting: election of officers and adoption of a budget. The failure to hold an election does not create a vacancy under 24 V.S.A. § 961 and a special town meeting will have to be called to conduct an election for the office. *Jenney v. Alden*, 79 Vt. 156 (1906). The person currently holding the office will serve until a successor is chosen. 24 V.S.A. § 2646.

If your municipal budget is voted from the floor, statute assumes that the budget will be amended until the voters approve it. If the budget does not pass, the floor meeting can be recessed to a date and time certain when the article will be taken up again. If a floor meeting is closed without an approved budget, a special meeting will have to be called. If the rejected budget was voted on by Australian ballot, the legislative body must follow the provisions of 17 V.S.A. § 2680(c) in preparing and submitting a new budget to the voters.

There is tremendous variation in municipal budget articles, probably the most important articles considered at every town meeting. About a half billion dollars are appropriated by Vermont local government 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 little other guidance in the statute 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.” On the basis of these two categories, some towns vote separate general fund and highway budgets. VLCT doesn’t believe two separate general fund and highway fund 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 have brought more attention to social service agency appropriations. The authority to vote on these appropriations at town meeting 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 from VLCT at

<http://resources.vlct.org/u/Model%20Social%20Service%20Agency%20Policy%20November%202009.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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