

# Vermont League of Cities & Towns

## LEGAL PARAMETERS OF MUNICIPAL BUDGETING, SPENDING, AND BORROWING

*KAIL ROMANOFF, STAFF ATTORNEY*

*VLCT MUNICIPAL ASSISTANCE CENTER*

# SESSION TOPICS

Budgeting Basics

Borrowing

Budget Administration

Managing a Deficit

Managing a Surplus

Resources

# DILLON'S RULE – SETTING THE PARAMETERS



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Keep in mind...

- Municipalities are political subdivisions of the State of Vermont.

Therefore...

- A town and its officers only have the specific authority delegated to them by the Vermont Legislature.

# BUDGETING BASICS



“At its annual meeting, 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

# BUDGETING BASICS: VOTER APPROPRIATION



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“... [A town] shall 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.”

17 V.S.A. § 2664

# BUDGETING BASICS: CRAFTING THE WARNING

## ONE ARTICLE:

“Shall the voters authorize **total fund** expenditures for operating expenses of \$\_\_\_\_\_, of which \$\_\_\_\_\_ shall be raised by taxes and \$\_\_\_\_\_ by non-tax revenues?”

## TWO ARTICLES:

“Shall the voters authorize **general fund expenditures** for operating expenses of \$\_\_\_\_\_, of which \$\_\_\_\_\_ shall be raised by taxes and \$\_\_\_\_\_ by non-tax revenues?”

“Shall the voters authorize **highway fund expenditures** of \$\_\_\_\_\_, of which \$\_\_\_\_\_ shall be raised by taxes and \$\_\_\_\_\_ by non-tax revenues?”

## BUDGETING BASICS: CRAFTING THE WARNING

How do budget articles get on the warning?

- Selectboard: see our Model Town Meeting Articles.
- Voters:
  - Request is granted by the selectboard; or
  - Valid voter-backed petition received

[17 V.S.A. § 2642](#)



# BUDGETING BASICS: AFTER THE BUDGET VOTE



**“If a town votes specific amounts in lieu of a rate on a dollar of the grand list, the selectboard shall, after the grand list book has been computed and lodged in the office of the town clerk, set the tax rate necessary to raise the specific amounts voted.”**

17 V.S.A. § 2664

# BUDGETING BASICS: AFTER THE BUDGET VOTE



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17 V.S.A. § 2664

# BUDGETING BASICS: FAILURE TO PASS

At the annual meeting,  
the voters **must**:

- ✓ Elect town officers.  
17 V.S.A. § 2640(a)
- ✓ Adopt a budget.  
17 V.S.A. § 2664



# BUDGETING BASICS: FAILURE TO PASS

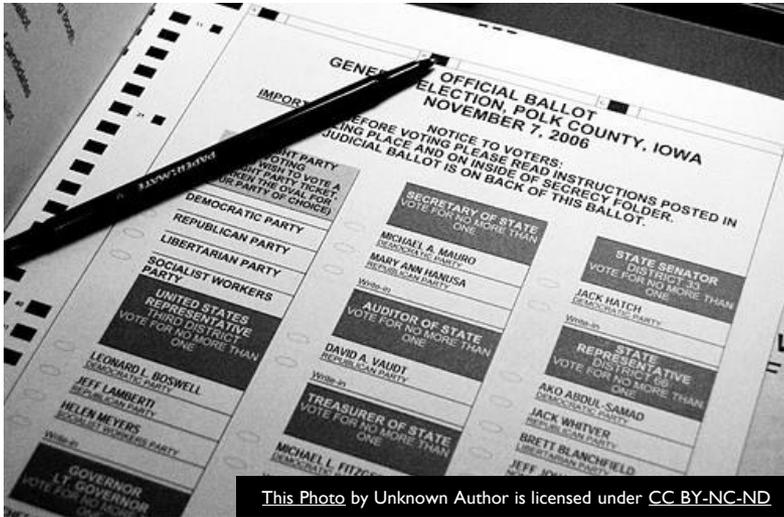


## Floor (traditional) voting:

- Amend until approved;
- Recess to date and time certain to continue meeting.

If the meeting is closed without an approved budget, you will have to call a **special meeting**.

# BUDGETING BASICS: FAILURE TO PASS



If by **Australian ballot**, the selectboard must:

- Prepare a revised budget;
- Establish a date for the vote on the revised budget;
- Take “appropriate steps” to warn a public informational meeting on the budget and the vote;
  - The public informational meeting must occur at least five days following the public notice; and
  - The vote must occur at least seven days following the public notice.

If the revised budget is rejected, the process must be repeated until a budget is adopted.

17 V.S.A. § 2680(c)

## BUDGETING BASICS: FAILURE TO PASS

- Towns operating on a calendar year have operated without a budget since January 1.
- Towns operating on a July 1 to June 30 fiscal year don't need a new budget until July 1.
- In the interim, the town is probably still required to provide statutorily-required services until a budget passes.
- The selectboard may need borrow to meet current expenses pursuant to 24 V.S.A. § 1786.

# BORROWING: VOTER AUTHORIZATION



**Borrow**



**Have**

“The voters of a municipality may **authorize** specific public improvements and the acquisition of capital assets and finance the same, temporarily or permanently, through debt instruments other than bonds for a term not to exceed the reasonably anticipated useful life of the improvements or assets as provided in this section.”

24 V.S.A. § 1786a

# BORROWING: VOTER AUTHORIZATION

## Requisite process depends on the financing term:

- If  $\leq 5$  years: voter approval at regular or special meeting (according to whatever form of voting that is regularly used by the town).
- If 5 + years: must vote by Australian ballot and follow same process that is required for bonding (regardless of whether financing instrument is a bond).

## BORROWING: VOTER AUTHORIZATION NOT REQUIRED

1. Borrowing to paying current expenses so long as the term is one year or less.

24 V.S.A. § 1786(a)

2. Borrowing in anticipation of taxes so long as the term is one year or less.

24 V.S.A. § 1786(b)

## BORROWING: VOTER AUTHORIZATION NOT REQUIRED

3. Borrowing in anticipation of the sale of bonds as long as the term is one year or less.

24 V.S.A. § 1773(a)

4. Borrowing in anticipation of grants as long as the term is one year or less.

24 V.S.A. § 1773(c)

# BORROWING: VOTER AUTHORIZATION NOT REQUIRED



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5. Borrowing for the purchase of tools, equipment and materials necessary for the construction, maintenance or repair of highways and bridges for a term of five years or less.

24 V.S.A. § 1786a(b)

19 V.S.A. § 304(a)(3)

# BORROWING: VOTER AUTHORIZATION NOT REQUIRED



6. Borrowing from the State Municipal Equipment Loan Fund for the purchase of construction, fire, emergency or heavy equipment or vehicles.

19 V.S.A. § 304(a)(3)

24 V.S.A. § 1786a(b)

29 V.S.A. § 1601

## BORROWING: VOTER AUTHORIZATION NOT REQUIRED

7. Alternative financing of personal property, fixtures, technology and intellectual property where the agreement contains a “non-appropriation” clause.

24 V.S.A. § 1789

## BORROWING: VOTER AUTHORIZATION NOT REQUIRED

8. Borrowing to retire a deficit with “refunding bonds”, i.e. converting a deficit to debt.

24 V.S.A. § 1771

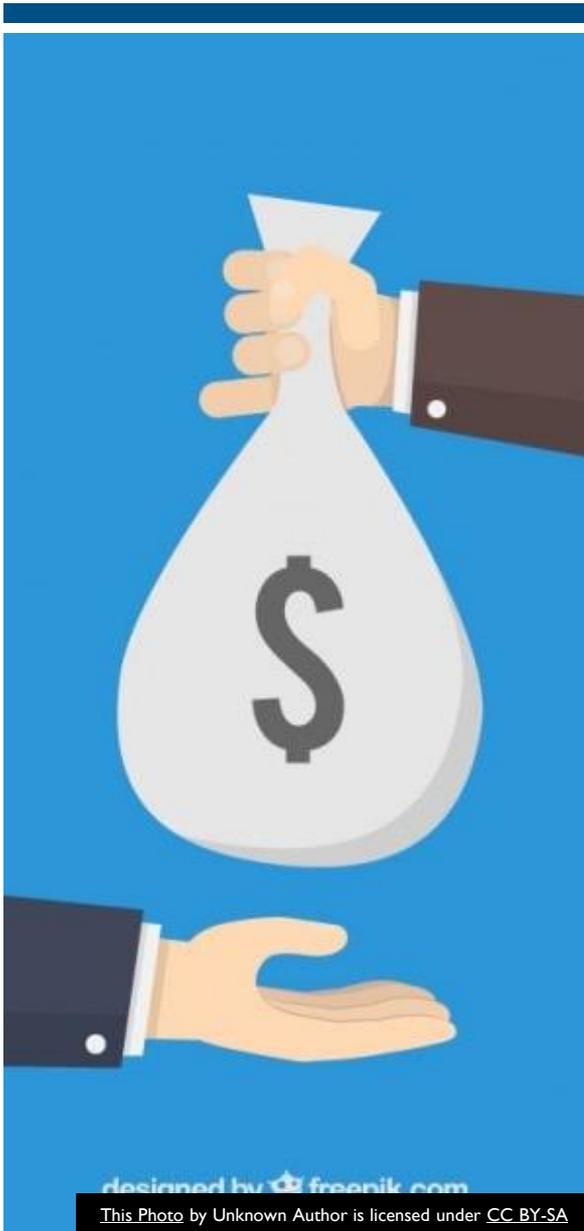
9. Borrowing for the preparation of engineering studies or plans for public water/wastewater supply systems/facilities

24 V.S.A. § 4756(e)

## GRANTS AND GIFTS

- The selectboard may apply for grants and may accept and expend grants or gifts above those that are approved in the town budget. The selectboard shall include, in its annual report, a description of all grants or gifts accepted during the year and associated expenditures.

17V.S.A. § 2664



# BUDGET ADMINISTRATION

## Seven Principles of Municipal Budget Administration for the Selectboard

1. The town budget is the voters' plan for spending their money, it is not a mandate.



## BUDGET ADMINISTRATION: SEVEN PRINCIPLES

2. The selectboard has some inherent authority to deviate from the plan.

**“The selectmen shall have the general supervision of the affairs of the town and shall cause to be performed all duties required of towns and town school districts not committed by law to the care of any particular officer.”**

24 V.S.A. § 872

# BUDGET ADMINISTRATION: SEVEN PRINCIPLES

2. The selectboard has some inherent authority to deviate from the plan.

“When a town at the end of the fiscal year . . . has a **deficit** . . . ”

24 V.S.A. § 1523(a)

## BUDGET ADMINISTRATION: SEVEN PRINCIPLES

3. There may be instances in which the selectboard is legally required to deviate from the plan.

### Example: Town Highways

- “A town shall keep its class 1,2 and 3 highways and bridges in good and sufficient repair during all seasons of the year...” 19 V.S.A § 310.
- “It shall be the duty and responsibility of the selectboard of the town to... see that town highways and bridges are properly laid out, constructed, maintained, altered, widened, vacated, discontinued and operated...” 19 V.S.A § 304.
- Penalties for willfully neglecting to perform duties, 13 V.S.A. § 3006.

# BUDGET ADMINISTRATION: SEVEN PRINCIPLES

4. Selectboard's authority to deviate from the plan is sometimes legally limited.
  - State highway aid, 19 V.S.A. § 306(a)(5).

# BUDGET ADMINISTRATION: SEVEN PRINCIPLES

## The Vermont Statutes Online

[PRINT](#) 

### Title 19 : Highways

#### Chapter 003 : Town Highway

(Cite as: 19 V.S.A. § 312)

# REPEALED!

#### § 312. Use of funds; unexpended balances

The funds raised from town highway taxes shall not be used for any purpose other than that for which the tax was voted, subject to the provisions of this chapter. If in any year money so voted is not expended, it shall be applied for the same purpose the following year. (Added 1985, No. 269 (Adj. Sess.), § 1.)

## BUDGET ADMINISTRATION: SEVEN PRINCIPLES

4. Selectboard's authority to deviate from the plan is sometimes legally limited.
  - Impact fees,
  - 24 V.S.A. § 5203(e)

## BUDGET ADMINISTRATION: SEVEN PRINCIPLES

4. Selectboard's authority to deviate from the plan is sometimes legally limited.
  - Water funds, 24 V.S.A. § 3313.
  - Sewer funds, 24 V.S.A. § 3616.

## BUDGET ADMINISTRATION: SEVEN PRINCIPLES

4. Selectboard's authority to deviate from the plan is sometimes legally limited.

- Reserve funds, 24 V.S.A. § 2804(a):

“At an annual or special meeting duly warned, a municipality may establish a reserve fund to be under the control and direction of the legislative branch of the municipality. The reserve fund shall be kept in a separate account and invested as are other public funds and may be expended for such purposes for which established, or when authorized by a majority of the voters present and voting at an annual or special meeting duly warned, for other purposes.”



# BUDGET ADMINISTRATION: SEVEN PRINCIPLES



6. If the selectboard feels uncomfortable deviating from the budget, it can seek voter approval.

## BUDGET ADMINISTRATION: SEVEN PRINCIPLES

6. If the selectboard feels uncomfortable deviating from the budget, it can seek voter approval.

### Why? Because:

- The selectboard can call a special town meeting, 17 V.S.A § 2643(a).
- It's the voter's money.
- It allows for voter buy-in regarding financial issues.
- It avoids legal challenge.

# BUDGET ADMINISTRATION: SEVEN PRINCIPLES



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7. Regardless of the approach, transparency should always be favored.

# BUDGET ADMINISTRATION: UNCERTAINTY



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Municipal budgeting involves elements of **risk** because:

- Necessarily built on certain assumptions and estimates of revenues and expenditures.
- There may be revenue shortfalls.
- There may be unpredicted expenditures.

# BUDGET MANAGEMENT: UNCERTAINTY

## OPTIONS MAY INCLUDE:

- Shifting expenditures between budget line items;
- Borrowing funds, i.e. incur debt (may need voter approval);
- Increasing taxes;
- Reducing service levels;
- Foregoing or delaying planned projects;
- Deficit spending if necessary.

# MANAGING UNCERTAINTY



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How does a town prepare itself for the unexpected?

- Rainy Day Fund?
- Unencumbered Fund Balance?

# MANAGING UNCERTAINTY: RESERVE FUNDS



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- There IS authority for the voters to create a **reserve fund** – which can be set up to act as a “Rainy Day” fund.
- 24 V.S.A. § 2804(a) allows municipalities to establish a reserve fund that will be “under the control and direction” of the selectboard.

# MANAGING UNCERTAINTY: RESERVE FUNDS

- Once established by the voters under 24 V.S.A. §2804(a), money in a reserve fund can be expended by the selectboard for such purposes for which the reserve fund was established.
- The money may be spent by the selectboard for a different purpose only after a vote at an annual or special town meeting.

# MANAGING UNCERTAINTY: RESERVE FUNDS

Selectboard should consider adopting a policy regarding the use of reserve funds to:

- Reassure the voters, and
- Guide the selectboard in administering the fund.

# MANAGING A DEFICIT



**Towns must manage a deficit in one of the following ways:**

1. Voter approval of a (deficit liquidation) tax at the next town meeting; or
2. Voter approval of borrowing to cure deficit; or
3. Selectboard imposition of a mandatory deficit reduction tax to next year's tax rate.

24 V.S.A. § 1523(a)

# MANAGING A SURPLUS



- No statutory direction, other than 17 V.S.A. § 2664.

Therefore, generally, the selectboard may not spend unanticipated revenue or surplus (money that was budgeted but unspent by end of year) without prior voter authorization.

# MANAGING A SURPLUS



## Recommendation:

1. Show the surplus as “revenue” in the next budget. Include offsetting expenditures (if any) or not.

**OR**

2. Ask for voter permission to either spend the surplus in a stand-alone article or save the surplus by creating a reserve fund.

# VLCT RESOURCES

## MAC Finance Page:

- Model Municipal Financial Policies
- Model Purchasing Policy Template and Guidance
- Internal Financial Controls Checklist
- External Resources:
  - IRS Tax Info., Government Accountability Standards Board (GASB), etc.

## MAC Town Meeting Page:

- Model Town Meeting Articles
- Model Social Service Appropriation Policy
- Vermont Statutes Online

# QUESTIONS?



- [VLCT Municipal Access Portal \(MAP\):](#)

MAC MEMBER INQUIRY SERVICE:  
[Ask a Legal Question?](#)

[info@vlct.org](mailto:info@vlct.org)

(802) 229-9111