

VERMONT **GENERAL ASSEMBLY****The Vermont Statutes Online****Title 24 : Municipal And County Government****Chapter 033 : Municipal Officers Generally****Subchapter 003 : Organization Of Selectboard; Appointments; Powers****§ 871. Organization of selectboard; appointments**

Forthwith after its election and qualification, the selectboard shall organize and elect a chair and, if so voted, a clerk from among its number, and file a certificate of such election for record in the office of the town clerk. The selectboard shall thereupon appoint from among the legally qualified voters a tree warden and may thereupon appoint from among the legally qualified voters the following officers who shall serve until their successors are appointed and qualified, and shall certify such appointments to the town clerk who shall record the same:

- (1) three fence viewers;
- (2) a poundkeeper, for each pound; voting residence in the town need not be a qualification for this office provided appointee gives his or her consent to the appointment;
- (3) one or more inspectors of lumber, shingles, and wood; and
- (4) one or more weighers of coal.
- (5) [Repealed.] (Amended 1963, No. 74, § 2; 2007, No. 121 (Adj. Sess.), § 18.)

The Post-Town Meeting Process

(This article updates an article that appeared in the March 2013 and March 2014 editions of the VLCT News.)

The gavel has come down and the polls are closed, but the work necessary to ensure a truly successful town meeting is just beginning. This article will help you navigate the numerous post-meeting legal requirements that are found in Vermont statutes.

The Official Record. Under state law, the town clerk must record “all proceedings of all town meetings.” 24 V.S.A. § 1152. There is no requirement that the clerk create a full transcript of the meeting, but the record should at least include the following information: all articles introduced, the substance of any motions made, the identity of the motion-makers and of those who spoke in regard to the articles and motions, and the results of all votes taken. Once it is created, the record must be approved by any two of the following officials who were present at the meeting: moderator, selectpersons, and justices of the peace. The clerk must request approval of the record from these officials within seven days after the meeting and the request must be given prompt consideration.

Certifying Elections. State law mandates that the town clerk report the election of certain officials. Certificates of election can be found on the Elections Division page of the Secretary of State’s Office website, <https://www.sec.state.vt.us/elections/town-clerks-election-workers.aspx>.

- **Town Clerk:** File a certificate of election or appointment and a copy of the official oath with the county clerk within six days of the election or appointment. This certificate must be signed by the moderator if the clerk is elected from the floor; by the chair of the board of civil authority if the clerk is elected by Australian ballot; or by the selectboard if the clerk is appointed. 24 V.S.A. § 1151.
- **Treasurer:** Report the name of the town treasurer to the state treasurer on or before July 1st of every year. 24 V.S.A. § 1166.
- **Selectpersons:** File with the secretary of state a list of the names and addresses of selectpersons elected and notify the secretary of state of any changes in the list as filed. 17 V.S.A. § 2665.
- **Lister:** Names, post office addresses, and lengths of term of office of each lister must be reported to the director of the Division of Property Valuation and Review after each annual meeting and in the event that a lister is appointed to fill a vacancy. 24 V.S.A. § 1168.
- **First Constable:** Certify the name and post office address of the person elected to the county clerk. 24 V.S.A. § 1169.
- **Justice of the peace:** Send or deliver to each candidate that is elected a certificate (on a form provided by the secretary of state) signed by the town clerk and one other election official. The town clerk shall also file with the secretary of state a list of the names and addresses of justices of the peace and notify the secretary of state of any changes in the list as filed. 17 V.S.A. § 2592(i).

Announcing and Reporting Votes. The clerk’s post-town meeting responsibilities also include reporting certain actions taken by the voters at town meeting. Within five days of the meeting, the

clerk must certify votes on all financial actions (raise taxes, borrow money, make any appropriation) to the town treasurer and selectboard chair. 24 V.S.A. § 1167. If the townspeople voted to amend their town charter, the clerk must, under direction of the local legislative body, announce and post the results of the vote immediately after it is counted; within ten days, the clerk must certify facts of the origin and procedure followed for each amendment adopted, if any, to the secretary of state and certify the result before any subsequent action on the amendment by the Vermont Legislature. 17 V.S.A. §§ 2645(b), 2663.

Towns that conduct elections by Australian ballot have different reporting requirements depending on how votes are tabulated. In towns that count by hand, the presiding officer must publicly announce the results when each summary sheet is completed. For those that use vote tabulating machines, the presiding officer may publicly announce the results from the tabulator tape and post them as “unofficial incomplete results” in the polling place. The clerk must deliver one certified copy of the election return to the secretary of state, the senatorial district clerk, the county clerk, and the representative district clerk within 48 hours of the close of the polls. 17 V.S.A. § 2588.

Appointing Assistants. After his or her election, the town clerk must appoint at least one assistant. 24 V.S.A. § 1170. The treasurer may, but does not have to, appoint an assistant. 24 V.S.A. § 1573. If the treasurer fails to appoint an assistant within ten days of a selectboard’s request to do so, the selectboard may appoint one for him or her. The clerk’s assistant must be sworn into office. 24 V.S.A. § 1171. A record of the assistant clerk’s appointment must be certified by the clerk and a copy of the assistant’s oath must be deposited with the county clerk. 24 V.S.A. § 1172. Appointments for both offices must be recorded in the town clerk’s office.

Administering Oaths of Office. A handful of town officers must be sworn into office before carrying out any of their duties. Among them are the clerks and their assistants (24 V.S.A. §§ 831 and 1171); selectpersons, justices of the peace, constables, listers, grand jurors, and fence viewers (24 V.S.A. § 831); village clerks, treasurers, and collectors of taxes (24 V.S.A. § 1306); assistant election officials (17 V.S.A. § 2454(a)); and members of the board of civil authority (32 V.S.A. § 4405). State law prescribes different oaths for different town officers. The town clerk may administer oaths of office whenever they are required and must keep a record of all oaths taken. The clerk’s oath may be administered by a justice of the peace; notary public; supreme, superior, or assistant court judge; presiding officer, secretary or clerk of either chamber of the Vermont General Assembly; or by the governor. A listing of the different oaths of office is posted on the Elections Division page of the Secretary of State’s Office website, <https://www.sec.state.vt.us/elections/town-clerks-election-workers.aspx>.

Settling Accounts. When a new treasurer is elected, his or her predecessor must immediately pay over to his or her successor all funds belonging to the town and town school district and deliver all books and papers in his or her possession. 24 V.S.A. § 1578. Similarly, if there is a change regarding the collection of taxes, the predecessor collector must give the treasurer all uncollected tax bills and all moneys collected thereon. These bills must be audited and reissued to the new collector, who must in turn provide a receipt for them. 32 V.S.A. § 4671.

Bonding Requirements. Certain officers and employees must provide a bond conditioned on the faithful performance of their duties. These include constables, road commissioners, collectors of taxes, treasurers, clerks, assistant treasurers when appointed by the selectboard, and any other officer or employee of the town authorized to receive or disburse town funds. 24 V.S.A. § 832. The purpose of the bonding requirement is to protect the municipality financially from the possible wrongdoing, misappropriation, or honest mistake committed by its officers or employees. Bond amounts are set by

the selectboard and paid for by the town. 24 V.S.A. § 835. Such bonding is customarily done through the town's insurance carrier or a specialty surety company. (VLCT PACIF provides coverage to its member municipalities that meets the statutory requirement for bonding but is technically not a bond. Certain acts committed by elected and appointed officials and employees are covered by the PACIF program as stated in the coverage document. PACIF will facilitate the procurement of additional coverage.) The clerk must record all bonds filed in a separate book kept for that purpose. 24 V.S.A. § 833.

Organizational Meetings. After its election, the selectboard must hold an organizational meeting at which it must elect a chair and, if it so votes, a selectboard clerk. 24 V.S.A. § 871. Certificates of election for these positions must be recorded with the town clerk. The first organizational meeting of the selectboard is a good time to establish the board's regular meeting schedule and adopt rules of procedure. (You can download VLCT's Model Selectboard Rules of Procedure [here](#).) The selectboard may also want to use this meeting to designate physical locations in the town for posting meeting notices, choose the town's newspaper of record for public notices, and authorize a designated selectboard member to sign orders on behalf of the town.

The selectboard must also appoint a legally-qualified voter to serve as the tree warden and may, though it is no longer required to, appoint three fence viewers, a poundkeeper (residency not required), and one or more inspectors of lumber, shingles and wood, and weighers of coal. These appointments, if made, must be recorded by the town clerk. 24 V.S.A. § 871.

Sarah Jarvis, Staff Attorney II
VLCT Municipal Center

VLCT MODEL RULES OF PROCEDURE FOR MUNICIPAL BOARDS, COMMITTEES, AND COMMISSIONS

A. PURPOSE.

The [*board, council, committee, or commission*] of [*municipality*], is required by law to conduct its meetings in accordance with the Vermont Open Meeting Law. 1 V.S.A. §§ 310-314. Meetings of the [*board, council, committee, or commission*] of [*municipality*] must be open to the public at all times, except as provided in 1 V.S.A. § 313.

B. APPLICATION.

This policy setting forth rules of procedure shall apply to the [*board, council, committee, or commission*] of the [*municipality*], which is referred to below as “the body.” These rules shall apply to all regular, special, and emergency meetings of the body.

C. ORGANIZATION.

1. The body shall annually elect a chair and a vice-chair. The chair of the body or, in the chair’s absence, the vice-chair shall preside over all meetings. If both the chair and the vice-chair are absent, a member selected by the body shall act as chair for that meeting.
2. The chair shall preserve order in the meeting and shall regulate its proceedings by applying these rules and making determinations about all questions of order or procedure.
3. A majority of the members of the body shall constitute a quorum. If a quorum of the members of the body is not present at a meeting, no meeting shall take place.
4. No single member of the body shall have authority to represent or act on behalf of the body unless, by majority vote, the body has delegated such authority for a specific matter at a duly-noticed meeting and such delegation is recorded in the meeting minutes.
5. Motions made by members of the body [*do/do not*] require a second. The chair of the body may make motions and may vote on all questions before the body. A motion will only pass if it receives the votes of a majority of the total membership of the body.
6. There is no limit to the number of times a member of the body may speak to a question. A member may speak or make a motion [*only after/without*] being recognized by the chair. Motions to close or limit debate [*will/will not*] be entertained.
7. Any member of the body may request a roll call vote.
8. Meetings may be recessed to a time and place certain.
9. These rules may be amended by [*unanimous/two thirds/majority*] vote of the body, and must be readopted annually.

D. AGENDAS.

1. Each regular and special meeting of the body shall have an agenda, with time allotted for each item of business to be considered by the body. Those who wish to be added to the meeting agenda shall contact the [*chair/municipal manager/municipal administrator/municipal clerk*] to request inclusion on the agenda. The chair shall determine the final content of the agenda.
2. At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be posted in or near the municipal office and at the following designated public places in the municipality: [*location of at least two public places in municipality*]. [*IF THE PUBLIC BODY/MUNICIPALITY HAS A DESIGNATED/MAINTAINED WEBSITE, INSERT THE FOLLOWING: "At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be posted on [identify the website]." The agenda must also be made available to any person who requests such agenda prior to the meeting.*
3. All business shall be conducted in the same order as it appears on the noticed agenda, except that any addition to or deletion from the noticed agenda must be made as the first act of business at the meeting. No additions to or deletions from the agenda shall be considered once the first act of business at the meeting has commenced. Any other adjustment to the noticed agenda, for example, changing the order of business, postponing or tabling actions, may be made by [*unanimous/two-thirds/majority*] vote of the body.

E. MEETINGS.

1. Regular meetings shall take place on [*day and time, for instance, the first and third Tuesday of the month at 7 p.m.*] at [*location*].
2. Special meetings shall be publicly announced at least 24 hours in advance by giving notice to all members of the body unless previously waived; to an editor, publisher or news director, or radio station serving the area; and to any person who has requested notice of such meetings. In addition, notices shall be posted in the municipal clerk's office and at the following designated places in the municipality: [*location of at least two public places in municipality*].
3. Emergency meetings may be held without public announcement, without posting of notices, and without 24-hour notice to members, provided some public notice thereof is given as soon as possible before any such meeting. Emergency meetings may be held only when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body.
4. A member of the body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location, so long as the member identifies him or herself when the meeting is convened, and is able to hear and be heard throughout the meeting. Whenever one or more members attend electronically, voting must be done by roll call. If a quorum or more of the body attend a meeting without being physically present at a designated meeting location, the following requirements shall be met:
 - a. At least 24 hours prior to the meeting, or as soon as practicable prior to an emergency meeting, the body shall publicly announce the meeting and post notice of the meeting in or near the municipal clerk's office and [*location of at least two public places in municipality*].
 - b. The public announcement and posted notice of the meeting shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member

of the body, or at least one staff or designee of the body, shall be physically present at each designated meeting location.

F. PUBLIC PARTICIPATION.

1. All meetings of the body are meetings in the public, not of the public. Members of the public shall be afforded reasonable opportunity to express opinions about matters considered by the body, so long as order is maintained according to these rules.
2. At the [*beginning of/end of/conclusion of discussion of*] each agenda item, but before any action is taken by the public body at each meeting, there may be [*number*] minutes afforded for open public comment. By [*unanimous/two-thirds/majority*] vote, the body may increase the time for open public comment and its place on the agenda.
3. Comment by the public or members of the body must be addressed to the chair or to the body as a whole, and not to any individual member of the body or public.
4. Members of the public must be acknowledged by the chair before speaking.
5. If a member of the public has already spoken on a topic, he or she may not be recognized again until others have first been given the opportunity to comment.
6. Order and decorum shall be observed by all persons present at the meeting. Neither members of the body, nor the members of the public, shall delay or interrupt the proceedings or the peace of the meeting or interrupt or disturb any member while speaking. Members of the body and members of the public are prohibited from making personal, impertinent, threatening, or profane remarks.
7. Members of the body and members of the public shall obey the orders of the chair or other presiding member. The chair should adhere to the following process to restore order and decorum of a meeting, but may bypass any or all steps when he or she determines in his or her sole discretion that deviation from the process is warranted:
 - a. Call the meeting to order and remind the members of the applicable rules of procedure.
 - b. Declare a recess or table the issue.
 - c. Adjourn the meeting until a time and date certain.
 - d. Order the constable to remove disorderly person(s) from the meeting.

ADOPTED: _____

Signatures

Date