



Opinions

Office of the Vermont Secretary of State

Vol. 13, #7

July/August 2011

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JP Trainings a success!
Boys and Girls State Institute
participants
interview the Secretary!

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Secretary Condos visits 4th
grade class in Derby!



Quote of the Month

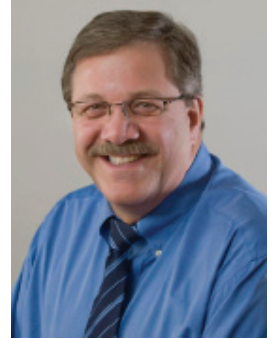
*"It ain't how good I make
it baby, it's how I make it
good."*

- Isaac Hayes

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A Message from the Secretary



I hope this newsletter finds you all well and enjoying the beautiful summer days that we have been experiencing. I have had a busy early summer, having just returned from the National Association of Secretary of State's (NASS) Summer Conference where we met on important emerging issues including Business Identity Theft and 2012 Election Issues. As a member of the NASS Business Identity Theft Task Force, I attended a seminar with federal law enforcement representatives and others discussing ways to prevent this relatively new and rapidly spreading type of fraud. Ron Layton, U.S. Secret Service Agent, and Neal O'Farrell, Executive Director of the Identity Theft Council, explained the seriousness of the issue and the need for federal and state officials to collaborate to address this issue.

In June, Deputy Secretary Brian Leven and Charles Merriman held 5 very successful Justice of the Peace/BCA Trainings in geographically diverse locations. They were held in Montpelier, Rutland, St. Johnsbury, Brattleboro and Colchester, with more than 300 in total attendance. The feedback we received from these trainings was very positive and we plan to continue to host them annually.

I participated in both the Boys State and Girls State Institutes this year and enjoyed my interaction with many bright and enthusiastic high school aged participants. Both Institutes spend time at the Statehouse, learning about the inner workings of government and holding elections that include choosing a Secretary of State. I was shadowed by both the girls' and boys' elected Secretary's and found their curiosity and commitment to understanding the responsibilities of this office refreshing and inspiring. Civics education is so important to preserving our democracy and the experiential learning that happens in these Institutes is key in developing the future leaders of this great state.

While I join many of you in basking in the mid-summer weather enjoying fun times with friends and family, I am also in the early stages of planning the 2011 Fall Transparency Tour. Please keep these workshops in the back of your mind and watch for the announcement of dates soon. And, don't forget, if you'd like to make sure we come to your neck of the woods, please reach out and let me know and I will do my best to schedule a workshop in your area.

Thank you to those of you who have opted to receive **Opinions** in electronic version. And, for those of you who would like to, but have not yet let us know, you may do so in one of the following ways:

email: secretary@sec.state.vt.us
fax: 802-828-2496
post: 128 State Street, Montpelier, VT 05633-1101

We ask that you include the information from your current **Opinions** mailing label. Thanks for your dedication and hard work in serving Vermonters,

James C. Condos, Secretary of State

Voice from the Vault

by Gregory Sanford, State Archivist

Food for Thought

Serendipity and a short attention span play significant roles in selecting column topics. I was going to write a reflection on the first three years of the State Archives and Records Administration, established in July 2008. I decided, however, to use other outlets for those reflections and write instead about our project to put a legislative history of the public records act online.

So there I was being as diligent as a rather weak central nervous system allows, rooting around in Governor Tom Salmon's records (Record Series A-183). His Committee on Administrative Coordination supported strengthening the existing open meeting laws and adding a new law to address public records. Then I got to Box A183-00006, at which point my planned column unraveled.

There, nestled next to "Administrative Coordination," were two folders marked "Governor's Commission on Food, 1975-76." What could be the harm if I took a quick squint? Gov. Salmon's press announcement on why he was creating the "Emergency Commission on Food" warned that "never have food prices spiraled so high. There are people in this country who are finding it difficult to afford to eat." Therefore "we must now re-examine our entire food production system. We must reach out for new ideas and new techniques. We must re-evaluate Vermont's position in the market place, especially our dependence on external sources of food and the high price that this dependence demands."

Those of you of a certain age will remember this as the time of an energy crisis fueled by the OPEC oil embargo. The committee's responses to the crisis are fascinating. There are numerous overarching recommendations such as developing an "input/output economic model...for determining the importance and impact of various sectors of the State's economy" to determine the value of Vermont agriculture to the State's economy. There was a call for the State taking the lead in "assessing the fundamental resource base of land and water and develop plans for their allocation and utilization" for agriculture, forestry, tourism and "other resources-related industries."

Then there are page after page of specific recommendations. We should attempt to bring dehydration facilities to Vermont so we could have local food in the winter. The State should support the development of "food cooperatives, farmers' markets, small scale food processing and direct grower-consumer sales" to increase supply of "nutritious, wholesome foods." The state should "develop plans for a pilot municipal composting project." Cheese making "should be increased and diversified, especially in the area of specialty cheeses..." The State Agriculture Department should "continue to provide meat inspection services and not yield those to the USDA, thereby preserving our present slaughterhouses." Vermont agricultural products should be given priority in all nutritional programs and nutrition should be taught in all public schools. There were a host of tax proposals to lessen property taxes on working farms. And these are just a quick harvest from a bumper crop of recommendations.

The Food Commission's deliberations were not without tensions. Some members worried that the broader mandate to achieve Vermont food sufficiency was being hijacked by the "dairy interests" with their narrower agenda. In contrast, Brendan Whittaker, who served as commission vice chair, saw broad public support for food self-sufficiency. He noted that support was "coming from both sides of Vermont's current population, older natives and "new" Vermonters.... [T]he single, perhaps the only, statewide perception Vermonters do have is that of the land."

Mr. Whittaker warned that legislators who "believe that cutting taxes and slashing at government structure is the only concern of "the people," ...are in grievous error" and out of touch with this "upwelling of feeling about food and land..."

Some of the commission's recommendations were quickly enacted. Others took longer, often by different paths than initially envisioned. Almost all remain part of our current dialogues and concerns. I hope this brief squint at the commission will cultivate enough interest so these archival records receive the research attention they deserve.

Four years ago (egads) I looked at other responses of the Salmon administration to the oil embargo; see <http://vermont-archives.org/publications/voice/pdf/runningonempty.pdf>.

Opinions of *Opinions*

by Secretary of State Jim Condos

1. Members of the Board of Civil Authority who were added to the BCA by the Selectboard to increase representation for an underrepresented party shall have the same duties and authority with respect to elections as have other members of the Board, including participation in the Legislative Reapportionment meetings and decision every 10 years. 17 V.S.A. §2143 and §§1891-1909. Members so appointed shall have no authority with respect to functions of the board of civil authority which are not related to elections, such as property tax appeals or tax abatement hearings.

2. If a town has established a reserve fund for a special purpose, such as a reserve fund for highway equipment, the statute provides that the reserve fund is to be under the control and direction of the legislative body (Selectboard or School Board). 24 V.S.A. §2804. Once a reserve fund is established and funded by town vote, the Board may expend the funds for such purposes for which the fund was established without another town vote. If the legislative body wants to spend those reserve funds for any other purpose, then the spending must be authorized by a majority of voters at an annual or special meeting.

3. Elected public officials, such as selectboard members, are specifically excluded from the definition of “employee” in Vermont Worker’s Compensation and Unemployment Compensation statutes. 21 V.S.A. §601(12)(O)(i). We have confirmed with the Commissioner of Labor and Industry that ALL officials who are serving in positions that are “elected” when originally filled, are excluded from coverage, even if a particular selectboard member or other official has been appointed by the Selectboard to fill an unexpired term. It is the category or type of position created by the statute that determines the exclusion. Therefore Town Treasurer’s do not need to include any officials serving in offices that are normally elected by the voters for purposes of Worker’s Compensation or Unemployment Compensation.



4. The Board of Civil Authority of a village consists of the Justices of the Peace who reside in the village, the trustees of the village, and the village clerk. 17 V.S.A. §2103(5); §2451. Other Justices of the Peace who reside in the Town but not in the village cannot be involved in administering village elections.

5. A village clerk shall automatically include all voters living within the village who are on the Town checklist. 17 V.S.A. §2126. There is no need for the voter to apply separately to the village clerk.

6. Clerks from Massachusetts do not send death certificates to Vermont town clerks when the deceased was a resident of the Vermont Town because Massachusetts law requires clerks only to send copies to in state clerks. Likewise Vermont law limits the mailing of certified copies of birth, marriage and death records to Vermont town clerks. 18 V.S.A. §5009. Therefore, Title 17 allows town clerks to use public notices of death to remove voters who have died in another state from the voter registration list. 17 V.S.A. §2150(a).

7. The required oath for members of the Board of Civil Authority who will be hearing tax appeals is found in 32 V.S.A. §4405. The statute requires that the members take the oath before entering upon their duties under section 4404. Since the tax appeal process is available each year, board members should take the oath each year before beginning the first tax appeal hearing.

8. We recommend that the Board of Civil Authority meet at regular intervals to maintain your checklist, including sending the required notices to remove or purge names. For BCA’s that have not been able to do this on a regular basis, it is now time to warn a meeting of the Board of Civil Authority to update your checklist. The statute requires

that by September 20 of each odd-numbered year, you must send a letter certifying that your checklist has been updated and that detailed records have been maintained to the Office of the Secretary of State. 17 V.S.A. §2150(d) (7).

9. In towns that have voted to collect taxes by installment, unless a town has a charter provision, delinquent tax collector cannot add the 8% penalty to installment payments, but only to the final payment of the year. 32 V.S.A. §1674(2). Several Chittenden county towns have charters that allow the Town to collect the 8% penalty in addition to interest on each installment. If your town does not have a charter, the town can assess interest on each late installment but cannot collect the 8% penalty until the final installment payment for the year is due.

10. The 8% penalty for a delinquent tax payment can only be charged or assessed once on the full amount that is delinquent. If a partial payment is made, the full delinquent tax collector 8% penalty is taken first on the full amount of the taxes that are delinquent, then the interest to date is taken, then the remainder of the partial payment is applied to the taxes. Only the interest per month charge continues to be added each month on the remaining balance of the taxes until the taxes and interest are paid in full.

11. Although some towns vote at town meeting to rely upon the postmark for tax payments, Vermont statutes throughout Title 32 state that a tax payment must be paid on or before the due date. In state statutes, if use of a postmark date is acceptable it is so stated in the law. Although the post office may be unpredictable, taxpayers have the responsibility to get the tax payment to the town on or before the due date. If a town really wants to go by the postmark, the town should either include such a provision in its charter, or ask the legislature to amend the law to allow a town to accept a postmark if so voted at town meeting.

12. Minutes of a meeting of a public body should not attempt to be a transcript of the meeting or a complete restatement of all public discussion at the meeting. 1 V.S.A. §312(b)(1). It is a better practice to keep the minutes short and sweet so that interested persons can tell what action was taken at the meeting, but do not become distracted by all of the comments or dialogue that might take place during a meeting. Too much detail can cause citizens and/or board members to become distracted and spend more time at meetings debating the accuracy of the “transcriptions” and dialogue recorded in minutes of past meetings, than on the new action items.

In our monthly Opinions, we provide what we believe the law requires based upon our legal judgment, years of observing Vermont's local government practices, and Vermont Court decisions. This information is intended as a reference guide only and should not replace the advice of legal counsel.



Secretary Condos meets with Deb Batista's 4th grade class in Derby. (see next page)

Civics Behind the Scenes

by Olivia Gay, Civic Education and Voter Outreach Coordinator

Secretary of State Jim Condos Visits Derby Elementary School

On June 8th, Secretary Condos made his way to the northern reaches of Vermont to speak to the fourth grade classes at the Derby Elementary School at the invitation of the youngest Vincent Illuzzi.

Secretary Condos put together a special Power Point presentation about how Vermont government works at the town and state levels. (The presentation is posted on our Kids Pages www.sec.state.vt.us/kids/index.) One section prompted discussion with a comparison of town meeting topics. Another section described the three branches of government and how they work together.

As part of the Civics Education program, Secretary Condos will continue delivering presentations to students during the next school year. If you are interested in having him come to the school in your town, please contact Olivia Gay, Civics Education Coordinator at olivia.gay@sec.state.vt.us or 802 828-1296.

Planning Underway for 2012 High School Voter Registration Efforts

Since the last issue of Opinions, we have heard from people and organizations who are interested in promoting voter registration activities in high schools through statewide efforts. One such contact came from Ken Page, Director of the Vermont Principals' Association and we look forward to collaborating with him and his colleagues Stephen Dale, Vermont School Boards Association, and Jeff Francis, Vermont Superintendents Association. We will be reaching out to other organizations such as the League of Women Voters and the Vermont Bar Association as well as our state partners such as the Department of Education and the Vermont Commission on Women, and, of course, getting in touch with educators, community members, town clerks and legislators.

If you have ongoing high school voter education and registration activities in your town or ideas for new activities, please let us know by contacting Civics Education Coordinator, Olivia Gay. We want to hear from you and to broaden and deepen our program to reach out to young voters!

For more information about the Secretary of State's Office's Civics Programs or to order materials, visit www.sec.state.vt.us or contact Olivia Gay at 802-828-1296 or email olivia.gay@sec.state.vt.us



Elections Calendar

AUGUST 2011

26 - TBD (Date dependent on caucus date, which is set by state chairman) First day for the chairman of a state committee of a political party to mail a notice of the date and purpose of the reorganizational caucuses to each town clerk and to each town chairman of the party. 17 V.S.A. § 2302 (14 days before date set for caucus which is set for a date between September 10 and September 30.)

SEPTEMBER 2011

10 - First day for members of political party to meet in caucus in their respective towns. 17 V.S.A. § 2302

15 - By September 15 of each odd-numbered year the board of civil authority shall review the most recent checklist name by name and consider, for each person whose name appears on the checklist, whether that person is still qualified to vote. 17 V.S.A. §2150(c)

16 - (This could change depending on what the date of the caucus is set for.) Last day for the chairman of a state committee of a political party to mail a notice of the date and purpose of the caucuses to each town clerk and to each town chairman of the party. 17 V.S.A. § 2302

20 - Town clerks must send a letter certifying compliance with 17 V.S.A. §2150 to the secretary of state. 17 V.S.A. §2150(d)(7)

30 - Last day for members of a political party to meet in caucus in their respective towns. 17 V.S.A. § 2302

Within 72 hours after the caucus, the chairman and secretary of the town committee shall mail to the secretary of state, the chairmen of the state and county committees, and the town clerk a copy of the notice calling the meeting and a certified list of the names and mailing addresses of the officers and members of the town committee and delegates to the county committee. 17 V.S.A. § 2307

OCTOBER 2011

17 - Last day for U.S. Congressional candidates to file FEC quarterly reports for the October quarter (July 1-Sept. 30). 2 U.S.C. § 434(a)(2)(B) and 17 V.S.A. §2103(13)

DECEMBER 2011

26 - First day to warn the first public hearing if charter adoption, amendment or repeal is to be voted at town meeting (70 days before town meeting). 17 V.S.A. §§ 2641(a), 2645(a)(3) and (6)



Upcoming Events

September

8th-9th NNECAPA- Northern New England Chapter of the American Planning Association at Main Street Landing Performing Arts Center, 60 Lake Street, Burlington VT. Register at www.nnecapa.org

19th-20th VMCTA- Celebrates 75 years! The Vermont Municipal Clerks' and Treasurers' Association Annual Meeting to be held at Lake Morey Resort in Fairlee, VT. Look for more information at www.vmcta.org

October

6th VLCT Town Fair- Vermont League of Cities and Towns Annual Town Fair will be held at Killington Grand Hotel in Killington, VT. You may view the complete Town Fair registration packet and register online at www.vlct.org/eventscalendar/.

20th-21st VSBA- The Vermont School Boards Association will hold its 2011 Fall Conference in conjunction with the Vermont Superintendents Association at Lake Morey Resort in Fairlee, VT. Registration will be available soon at www.vtvsba.org/. Nominations for 2011 VSBA Leadership Award are being accepted until **August 15, 2011**. You can find the nomination form at www.vtvsba.org/awards.html.

November

16th-18th NEACTC- New England Association of City and Town Clerks will hold its 44th Annual Conference at the Hilton Mystic, in Mystic Connecticut. Look for more information at www.newenglandclerks.org/



Spread the News!

Do you know of any upcoming events that should be included in *Opinions*? The next issue will come out in early September. Please email or call Nancy Lynch at 828-2148 or nancy.lynch@sec.state.vt.us to submit an event.

Thanks!

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