

Correspondence with the Vermont League of Cities and Towns (VLCT) from January 4, 2023 through January 13, 2023

Greetings,

I am writing as the Chair of the Trustees of the Weathersfield-Proctor Library in Weathersfield, VT. We are debating changing our bylaws concerning terms of office, and we need some guidance.

We are a five-member elected board. In the far past the WPL had five year terms of office, with term limits of two terms, and staggered terms such that one position came open each year. The bylaws specified that if a board member left during his or her term, the Selectboard would appoint an interim board member whose term would last until Town Meeting, at which time someone would be elected to the position.

A dozen or so years ago, the Board changed its bylaws such that terms of office were for three years. The term limit remained at two, and the language about having one term come open each year was left intact.

The obvious problem is that we can't stagger five three-year terms of office such that there is turnover of one seat per year. This issue we have more or less ignored. When a term ends, someone runs for the next term. This may mean that there is one seat open on a given Town Meeting day, or that there are two seats open.

There is a second problem, however. Under the old rules, it was understood that the term was fixed. That is, if someone died or otherwise left office in the first year on the Board, then the Selectboard appointed someone as the interim holder of that term, and at the next Town Meeting that person or someone else ran for the remainder of that term, in this case for four years. If the incumbent left in the midst of his/her fourth year, again there would be an interim appointment, and at the next Town Meeting someone would run for the remaining one year of that term.

The bylaws did not address whether or not these truncated partial terms were to count toward the term limits or not. As a practical matter, we have taken the position that partial terms do not count toward term limits. Thus we have members who can serve for six years plus whatever random amount of a prior term began their tenure.

We have come to the opinion as a board that the two term limit does not work well for us now that the terms are shortened, and we are discussing raising the term limit to three terms. Now we are struggling with what to do about those pesky partial terms. They are capricious, and, if we continue not counting them, could result in one person having nearly a fourth term. Or, if we do count them, they could result in someone having barely more than two terms. Neither of these outcomes is consistent with our intent for the bylaws to create a limit of three three-year terms.

And so, after all of this preamble, I come to our question: Are elected terms something which have a life of their own, regardless of what fate does with an incumbent? Or, can we decree in our amended bylaws that when an incumbent leaves office in the midst of a term, the Selectboard will appoint an interim member until the next Town Meeting, at which time a new full three-year term will be open?

This would allow us to honor the intent of our term limits by assuring that no matter what, the most that a person could remain in office would be three terms plus that partial year of appointment by the Selectboard.

We will be discussing this matter again at our next board meeting, which will be on January 19th. We would be very happy to have your guidance for that meeting.

I look forward to hearing from you.

Roderick Bates, Chair
Weathersfield-Proctor Library Trustees

Response from Susan Senning at VLCT on January 5, 2023

Hi Roderick,

I'd like to start at the beginning. As a municipal library, you are required to follow Vermont law. Oddly enough, At town meeting

I hope this helps.

Sincerely,
Susan



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My response later on January 5, 2023

Hi Susan,

Well, I'm not sure that it helps at all. But at least it sheds light.

I will now check the archives to see if the old change away from the five year terms was done properly. And, I suppose to see if the Town Charter allows for term limits at all.

Rick

Roderick Bates

On January 13, 2023 I sent this to Susan Senning:

Hi Susan,

Our Town Clerk, Flo-Ann Dango, has informed me that the Town of Weathersfield does not have a Charter, and instead relies on State law. The Town voters have not decreed the length of term for Town offices, and have they have not decreed any limit on the number of consecutive terms an official can serve. As far as Flo-Ann knows, the Town voters have never established a length of term of office for library trustees.

I went through the Annual Town Reports back to FY 2010-11, when trustees were still being elected to five year terms. In March of 2014 the first trustee position was voted on with the indication on the ballot that the term was for three years. From that

point forward all open seats on the Trustees were voted on either as a three year term or as a five year term with a specified number of years remaining in the term. I stopped my research with the report for FY 2017-18. Nowhere in that span was there an Article at Town Meeting to change library Trustee terms of office from five years to three years. However, the Library did make that change in its bylaws in December of 2013. Is this sufficient to change the length of term, or must that change be made by the voters as a warned article?

At this point all serving trustees have been elected by the town voters at Town Meeting on a ballot which said "Library Trustee 3 year" above the candidate name(s). I'm not a lawyer, but my lay interpretation of all of this would be that regardless of whether or not the change was properly done, all of the sitting Trustees have been elected by the voters to three year terms, as this was stipulated on the ballots. However, I would also think that those individual votes would not constitute an overt change from a five year to a three year term for the future.

I guess the basic questions are these:

1. Does VT Statute establish the length of term for the position of local Library Trustee?
2. If not, can the Library Trustees in their bylaws establish the length of term for the office of trustee?

Thank you for your assistance in this.

Rick

Roderick Bates, Chair
Weathersfield-Proctor Library Trustees

And Susan Senning replied thus later in January 13, 2023.

Hi Rick,

My previous response doesn't change, as it was based on Vermont law. The answers are no and no. The library trustees must ask or petition the selectboard to warn an article to change the length of term, as none is set by Vermont law for this position. I wouldn't focus too much on looking backward. The voters must set/change the term. This cannot be done by vote of the library trustees (e.g. in its bylaws). There isn't statutory authority for that, only for the voters to set and change the length of term.

I hope this helps.

Sincerely,
Susan

And I responded later the same day (January 13, 2023).

Hi Susan,

Well, it helps some.

I will now check to see if the voters ever set a term length for the position, and if so, what it was set at.

Thanks.

Rick

And later on January 13, 2023:

Rick,

I don't recommend going backwards. Just warn the article for whatever length of term is desired from now on. A vote has to be taken to change it and, it seems, should be taken to clean up the past...so I would recommend asking the selectboard to warn a length of term at this coming meeting.

Sincerely,
Susan

And also on January 13, 2023 my response:

Thanks, that sounds good.

Rick

Roderick Bates