

Bristol Town Administrator

From: Susan Senning <ssenning@vlct.org>
Sent: Monday, January 14, 2019 4:03 PM
To: Bristol Town Administrator
Subject: RE: Voter approval to spend Undesignated Fund Balance monies?
Attachments: Model Fund Balance Reserve Policy.docx; VLCT Model Investment Policy.docx

Hi Val,

Susan here- Happy New Year! I hope everything is great with you and Brian.

Interestingly, I had this exact question come up last week and did some in-depth research to find an answer. Unfortunately, it is not crystal clear. A lengthy explanation of the state of the law and our conservative advice follows. However, the short answer is that we recommend getting voter approval to appropriate these funds. The board does not necessarily have to put a specific article to the voters such as "shall the town appropriate the surplus from last fiscal year to...." Instead, the board may choose to merely show the previous year's surplus as a line in the budget (essentially as income) and when the budget gets approved by the voters at annual town meeting, then that will constitute sufficient voter approval. I have attached our model fund balance reserve policy and model investment policy that should provide guidance on options for use of these surplus funds.

It is not uncommon for towns to have carried forward an undesignated fund balance on the books, but the difficulty in Vermont is that the state legislature has not given towns the explicit authority to have an undesignated fund/surplus balance. Because VT is a Dillon's rule state, our conservative approach is to always appropriate the funds in some manner, either described in the line item for a purpose that will be part of the budget adopted by the voters or put into a reserve fund.

Note that regarding highway funds, surplus highway funds can only be put to highway purposes. State law provides that funds raised from highway taxes may only be shifted to another highway line item or carried forward into the next budget year for highway purposes. The relevant statute reads: "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." 19 V.S.A. § 312.

Having an undesignated fund/surplus fund that is not appropriated in some manner in the budget leads to repeated questions for municipal officials - and voters - about how an undesignated/surplus fund balance can be spent. Even when a fund balance is identified in the town's financial statements, it can lead to the accusation that the selectboard has a "slush fund" for projects and expenditures that aren't included in the voter-approved annual budget. It can also lead to the assertion that voters have been over-taxed.

The thing to keep in mind about an undesignated fund/surplus in the highway fund is that it belongs to the voters, not the selectboard. As such, voter approval is necessary to determine the appropriate use of those funds. The voters may choose to use the surplus to reduce taxes, create a reserve fund, or use the funds for a specific purpose. It would be permissible to use surplus general funds for highway purposes even though, as stated above, the opposite is not true (cannot use highway funds for general fund purposes). But again, the voters must approve such use.

I hope this is helpful. Please let me know if you have any further questions.

Take care,
Susan



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From: Bristol Town Administrator <townadmin@bristolvt.org>

Sent: Monday, January 14, 2019 2:24 PM

To: Info <info@vlct.org>

Subject: Voter approval to spend Undesignated Fund Balance monies?

Importance: High

Hi,

At the end of FY2017, the Town of Bristol had an undesignated fund balance of more than \$200,000. Is voter approval required to allocate those funds to particular uses or accounts, either in the current fiscal year or the FY2020 we are currently budgeting for? Does VLCT have any model policies or know of policies you would recommend for undesignated fund balance management?

Many thanks,

--Valerie

Valerie Capels, Town Administrator

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VLCT Model Fund Balance Reserve Policy

Like any planning effort, municipal budgeting involves an element of risk. When preparing and adopting a proposed budget, neither the selectboard nor the voters can precisely predict circumstances during the coming year. A municipal budget must necessarily be built on certain assumptions and estimates of revenues and expenditures.

In most cases, these assumptions and estimates prove accurate and a municipality will end its fiscal year on target, but an economic downturn can increase property tax delinquencies, commodity prices can rise sharply, or the state may delay payment of financial aid. Unusual weather conditions can require additional labor and equipment expenditures to keep the roads open for travel or a key piece of equipment can break down. These temporary revenue shortfalls and unpredicted expenditures can force a municipality to increase taxes, reduce service levels, delay anticipated projects, or incur short-term debt to cover a deficit.

Reserve Funds. Through establishment of a reserve fund, local governments can mitigate the impact of unforeseen events on the municipal budget. Twenty-four V.S.A. § 2804(a) allows municipalities to establish a reserve fund under the control and direction of the selectboard. Money in the reserve fund can be expended by the selectboard for such purposes for which the reserve fund was established or for other purposes when authorized by a majority of the voters at an annual or special meeting. Creation of a reserve fund would require voter approval of a warning article similar to this:

Shall the voters establish a reserve fund in an amount not to exceed 5% of the general and highway fund budget to cover unanticipated revenue shortfalls and to pay non-recurring and unanticipated general and highway fund expenses, in accordance with 24 V.S.A. § 2804(a)?

A reserve fund balance policy can assist the selectboard in administering such a reserve fund by guiding decisions about how money will be set aside in the reserve fund and the circumstances under which money in it will be spent. This model policy provides that the selectboard will propose funding of the reserve fund through the town budget to maintain the balance at the maximum amount authorized by the voters.

Appropriate Fund Balance. Most financial municipal experts agree that a municipality should maintain financial reserves of at least 5 percent of annual operating expenditures and that the more unstable a municipality's revenue base, the larger its reserves should be. In this regard, Vermont municipalities that rely more heavily on local option tax revenues may consider larger reserves than those that depend almost exclusively on the municipal property tax.

Use of Funds. The model policy provides that the selectboard will only use the reserve fund "to alleviate unanticipated short-term budgetary issues such as revenue shortfalls or unforeseen expenses." It also requires the selectboard to hold a public hearing before authorizing expenditure from the reserve fund. If any reserve fund expenditure reduces the fund balance below 75% of the maximum amount authorized by the voters, the selectboard must develop a plan to restore the funds to the prescribed level.

RESERVE FUND BALANCE POLICY
Town of _____

PURPOSE. The selectboard of the Town of _____ believes that sound financial management requires that sufficient funds be maintained by the Town for unanticipated expenditures and revenue shortfalls during the course of the fiscal year as may be caused by economic downturns, natural disasters, and other unforeseen circumstances. Maintaining such funds will help sustain the stability of the Town tax rate and reduce the need for short-term borrowing.

OBJECTIVE. Upon recommendation of the selectboard, on March __, 20__, voters of the Town authorized establishment of a reserve fund in accordance with 24 V.S.A. § 2804(a). The selectboard's objective is for adequate funds to be set aside in this reserve fund in a planned and consistent manner and that these moneys not be spent for regular Town expenditures or used to reduce property taxes.

RESERVE FUND EXPENDITURES. The reserve fund was established by the voters for the purpose of covering unanticipated revenue shortfalls and paying non-recurring and unanticipated general and highway fund expenditures of the Town. To this end, the selectboard will only use the reserve fund to alleviate unanticipated short-term budgetary issues such as revenue shortfalls or unforeseen expenses. Any expenditure of the reserve fund by the selectboard for such purposes shall require approval of a majority of selectboard members after due notice and a public hearing. In accordance with 24 V.S.A. § 2804(a), expenditure of the reserve fund for any other purpose shall require the authorization of a majority of the voters present at an annual or special town meeting.

RESERVE FUND APPROPRIATIONS. Annually, the selectboard will propose funding of the contingency reserve fund through the town budget to maintain the balance at the maximum amount authorized by the voters. If an expenditure reduces the contingency reserve fund balance below 75% of the maximum amount authorized by the voters, the selectboard will, as part of its approval, adopt a plan to restore the funds to the prescribed level.

The foregoing Policy is hereby adopted by the selectboard of the Town of _____, Vermont, this __ day of _____ and is effective as of this date until amended or repealed.

Chairperson

