

August 2, 2017

THE BERNARDSTON TOWN CLERK: PAST, PRESENT AND FUTURE

A SPECIAL REPORT ON A LEGACY OF DOING THE BEST WE CAN WITH THE RESOURCES AT HAND BUT NEVER HAVING ENOUGH RESOURCES AND THEREFORE ALWAYS SCRAMBLING TO ALMOST CATCH UP BUT NEVER CATCH UP COMPLETELY.

After about 4 years of doing and learning how to do the job of Town Clerk, I can finally give a reliable account of what is needed to do the job depending on the kinds of services the Town is willing to support. It is fair to say that this is the first time in the living memories of the residents of Bernardston that such an account was available to the Selectboard and the residents.

The intention of this report is to give the Selectboard and the Town at large the information they need to decide what they want from a future Town Clerk and the resources those services would require. In the past the particular services the Town Clerk provided were determined by statute, tradition and the inclinations of particular Town Clerks. Although tradition still plays a part, steadily changing and increasing numbers of new state laws and regulations are playing a much bigger part in defining the future of the job. Furthermore even providing the traditional services can no longer be provided in the traditional ways. The traditional medium of paper and pen have been replaced by computers, email, websites & digital databases.

All Town Clerks are required by the state and tradition to provide a variety of services and yet each town also expects their Town Clerk to complete a variety of other tasks as well, so the exact job description for a town clerk will vary from town to town. Some of what I describe here applies to all small town clerks in Massachusetts but each town is also different with regard to its available resources, assets and deficits. I am therefore only addressing the conditions and prospects as they apply to Bernardston.

I do not propose to give a minute by minute account of the job of Town Clerk but the Selectboard and town residents need to have more than a vague outline to understand the services the office provides and the benefits to residents of having those services and the consequences of not having them done properly or not done at all.

I am therefore going to approach this as if the people reading this report know nothing about the office, only a little about it or even have misconceptions about it.

Please keep in mind that there are a number of tasks the current town clerk has chosen to try to do that were never part of the job description and in some cases are one time tasks which will hopefully not have to be repeated in the near future. In particular the work of creating and refining digital record keeping systems has taken a great deal of time. Going forward a Town clerk will only need to keep the data up to date and that will require much less time than under the old paper and pen systems. On the other hand my involvement with the website continues to expand and whether future town clerks keep the website up to date or someone else does the work, the demands relating to the website are likely to stay the same or expand in the near future. In recent months I have also taken on the additional responsibility of training an assistant.

Over the past 4 years I required on average a minimum of 30 Hours per week to complete the tasks described below including the additional requirements of the alternate General Election years. Sometimes it as an average of 20 hours per week but seldom fewer hours and sometimes it is an average of more than 30 hours per week.

The current “regular” business hours for the Town Clerk are Tuesday, Wednesday & Thursday from 8:30am to 11:30am and Wednesday from 6pm to 8pm. The Clerk also makes clear that if a person requires services outside those hours that he is willing and frequently does arrange for hours by appointment. On the whole I

would say that the vast majority of people can get whatever services they need within that arrangement. It is my opinion that more “regular” hours for walk-in service would not significantly improve the access by town residents to the services provided by the Town Clerk. I also keep what I refer to as “irregular hours” which over time have evolved into coming in to the office literally every day for some time. Yes, that includes Saturday and Sunday. These are the times when I work on tasks that are much better and efficiently completed without the interruptions of regular town hall business and traffic. In the past, previous Town Clerks have had to do the same thing but since they would often do the work at home those hours were far less apparent to the community at large. My car parked in front of Town Hall at 7:00am is much harder to miss.

LIST AND DISCUSSION OF THE MINIMUM SERVICES WHICH MUST BE COMPLETED EVERY YEAR.

THE FIRST CATEGORY OF TASKS, HIGH IMPACT TASKS, ARE THOSE THAT MUST BE DONE ON DEMAND, ON ANY DAY, ALL YEAR LONG AND OCCUR FREQUENTLY. Marked with [☒]

Sometimes they have to be done immediately but always within a narrow window of time. As is the case for many local town government jobs the work of the Town Clerk is often driven by inflexible deadlines and that inflexibility makes it very difficult to create some other more efficient ways of conducting business.

[☒ 1] Voter Registration, Updating and correcting.

Demand for these services, can come in person, by mail and daily through the Secretary of State’s Election Department. Although the “State” provides the hardware, software and maintenance of the hardware and software for this work it does not provide for consumable supplies such as toner and paper.

The state maintains a closed “password required” high speed network and email service through which almost daily communications relating to the expectations of the Elections Department including reminders of work the state needs completed by Town Clerks. Communications such as email and message forwarding can only take place within the system which means a clerk cannot forward or email or send an attachment from an email to his or her own office computer but must transfer such files using a so-called jump drive.

In the past, voter lists and street lists were maintained with paper and pen. They are now all digital but must be periodically printed on paper for a variety of purposes, the most frequent being voter lists for use in elections and town meetings.

The state requires that a considerable variety and volume of paper records of many of these tasks must be preserved in an orderly fashion for a few years at a time and sometimes forever. These records can currently be found in one or all of the following places: on the stage in town hall, in the office of the town clerk or in the Town Vault at the library.

[☒ 2] Birth, Death, Marriage Certificates.

Demand for these services, can come in person, by mail and daily through the Division of Vital Statistics of the Department of Public Health which maintains a closed “password required” online service accessible through the office computer. Births, deaths and marriages do not happen in any predictable pattern. Weeks can therefore go by with no requests for such services but that is very rare and days can occur when all three kinds of services are needed immediately which is also very rare but the office needs to be prepared for such surges in demand and residents expect services regardless of what other deadlines might be approaching for a town clerk. These records can currently be found in one or all of

the following places: on the stage in town hall, in the office of the town clerk or in the Town Vault at the library.

It should also be noted that a person can in an emergency get most of the Birth, Death and Marriage Certificate information directly from the state or in some cases from nearby towns who have generated the original Birth & Death Certificates but that always takes longer and at this time is much more expensive.

It is worth noting that we are not required to make it easy for people to file their marriage certificates here especially people from Vermont or elsewhere. We could in effect say to applicants from out of state and even in state from different cities or towns that we can do it here but you have be here on a particular inconvenient time or go to another Massachusetts city or town clerk. I do not recommend such an approach but it is legal and could reduce the work load slightly. It should also be noted that the earlier the date of the event the less likelihood the state will have the document and only we will have it. It has been the policy of the current town Clerk to be as accommodating as possible to all requests for all of these services from outside and inside Massachusetts.

[★ 3] Processing Meeting Postings, Minutes and Agendas.

Demand for these services, can come in on any day in person, by mail and by email and require some attention almost every business day. The current system includes actually recording each of the meeting posting details in a searchable EXCEL data base including the date of the meeting, date and time it was posted and date the minutes of that meeting have been received by the town clerk but no information on agendas. The record of agendas is on paper and under the current system the state now requires the postings with agendas also be on the website where complete past postings are saved automatically (for some unknown period of time). Right now a paper record of each posting must be preserved for at least a year. Recording and filing minutes is also a weekly activity and it should be noted that it is not part of the job of the town clerk to track down committees and departments which have not sent their completed minutes to the town clerk. Each department should of course keep track of its own meeting minutes but it is also responsible to send copies of those minutes to the town clerk or so says the state. Department and committee follow through on this task is let us say spotty.

[★ 4] Keep Website Up-to Date.

This is a task which the current town clerk has volunteered to provide and requires almost daily attention. If you are going to have a website, it needs to be up-to-date and the posting of information must be easy and promptly posted for those requesting it. For example, the posting of the COA/Senior Center Monthly Menus, Calendars and Newsletters does little good if it takes even a few days after the first of the month to have the information on the site. There are few other if any people, volunteer or not, who are so universally available to receive and post information in the time span necessary to make such information reliably available. I also think it is unrealistic to think that this should become a permanent part of the job description of the Town Clerk or the Town Coordinator.

Aside from the mandatory posting of meetings on the website, the clerk tries to give important local events and news a timely and prominent place on the website. The clerk also tries to keep the Selectboard and other important committee agendas, and meeting minutes available and up-to-date. If you have not done it recently, please go over the contents of the website as completely as possible to see what is and is not there.

[★ 5] Keep track of fees & billing records

Fees for a variety of services must be properly recorded on an almost daily basis, the cash and checks from which must be passed on to the treasurer each month. The processing and tracking of bill payments as needed is also part of this responsibility but far less frequent.

[★ 6] Business Certificates

For a variety of purposes, local businesses need proof that they are in fact doing business under a particular name providing certain services here in Bernardston. To fill that need the town provides what is referred to as a Business Certificate. Since the certificates are good for four years and there are not many businesses in Bernardston, we don't get more than about 4 or 5 of these requests a year but if it is a tax or loan application related issue the need to have certificates quickly is important and there is no alternative source.

[★ 7] Residence Certificates

This is similar to a business certificate in that it provides proof a person actually lives here at a particular address for a particular period of time. We don't issue more than one or two of these a year and they are often required to qualify to receive certain kinds of federal or state benefits but they are often critical to the individual's ability to continue to get the benefits.

[★ 8] Public records Requests – Co-Records Access Officer

This is shared with the Town Coordinator as the CO-RAO (Records Access Officer) and although this has not been terribly burdensome and has been relatively perfunctory until now, it is however a time bomb waiting to go off. With the issuing of the final regulations for MGL Chapter 66, Section 10, MGL Chapter 4, Section 7 (26) and code of Massachusetts Regulations 950 CMR 32. the pressure to do these requests "right" has ramped up and without going through all the issues, the character of the new regulations is captured by the requirement that if we deny a request for appropriate reasons (like we don't have the information requested) we must also deny it "the right way." The Town Coordinator has prepared an excellent guide as required by the regulations which we may need to adjust a little. Being ready to receive a request is time consuming all by itself even if none ever come in. More to come on this subject and the demands it places on all town departments.

THE SECOND CATEGORY OF TASKS, LOW IMPACT TASKS, ARE THOSE THAT MUST BE DONE ON DEMAND, ON ANY DAY, ALL YEAR LONG BUT NOT OFTEN AND MAY STILL REQUIRE A SIGNIFICANT AMOUNT OF TIME AND RESOURCES TO COMPLETE.

Special Town Meetings

In recent years, it has been common to have at least one special town meeting each fiscal year which could be called any time during the year and the town clerk needs to be prepared to support one whenever the Selectboard deems it necessary. Such support pushes everything else to the side or at least to a lower priority of response. A Special Town Meeting requires the same steps and support as an Annual Town Meeting (see calendar below under April – May).

Special Elections

Special Elections can be initiated by the State, Selectboard or on rare occasions by petition. They may be called for the town to vote on a question of importance such as proposition 2 and ½ overrides, borrowing authority or to fill vacant elected positions at the state or local level. We tend to have special elections once every couple of years. Since I began as Town Clerk we have had two. They require the same support of any other Town or General Election.

Solicitation Permits

Anyone who wants to offer services or products by going door to door must have a solicitation permit which requires review by both the Town Clerk and the Chief of Police. The need to process such permits is very low and we might get one a year.

dog owners but adds some steps for the Clerk. This is done concurrently with processing Census forms since the Census mailing includes the mail-in dog license forms.

We process about 300 private dog licenses but it seems over 100 residents fail to register their dogs at all even though we do keep a record of their rabies vaccination status which is how we know they haven't registered their dogs. Following up on dog owners who fail to license their dogs is allowed (required?) including the dog officer (in our case it would be a police officer) going to the dog owner's home to enforce our dog license bylaw. Although some towns do this and although it could be argued we should do it, we don't.

We process about 6 Kennel licenses each year which requires an inspection by our shared Animal Control Officer of each kennel with probably 100% compliance

February In addition to [🗳️ 1-8] as well as the low impact tasks
Prepare for The **Annual Town Nonpartisan Caucus** Warrant & Postings must be prepared which requires coordination with the Selectboard, current office holders, committees & constables.

March In addition to [🗳️ 1-8] as well as the low impact tasks
Oversee the **Annual Town Nonpartisan Caucus** which requires coordination with the Selectboard, current office holders, committees & constables, election workers and Moderator. Complete the Caucus minutes and other documents for preserving in our permanent records and use in preparing the Annual Election ballot.

March - April In addition to [🗳️ 1-8] as well as the low impact tasks
Coordinate election Poll workers etc. in preparation for the **Annual Town Election and Annual Town meeting**.

Annual Committee and other office Appointments which requires coordination with the Selectboard, current office holders and committees. After the appointments have been made those appointed must be notified in writing and as needed sent various documents mandated by the state on ethics rules and open meeting rules. The Clerk must then complete the process of oath administration and recording same in the permanent records.

Based on the result of the Caucus create an **Annual Election Ballot** and coordinate with the vendors who support our election voting machines for coding the computer memory and printing the ballots.

Prepare The **Annual Town Election** Warrant & Warrant Postings which need to be recorded in the permanent records and organize the staffing of the election all of which in various ways must be coordinated with the Selectboard, current office holders, committees, Constables, Election Workers and Election Wardens.

Gas Storage Permits - Old Permits Expire April 30. Current holders must be notified and new permits processed.

April In addition to [🗳️ 1-8] as well as the low impact tasks
Conduct a "**Test Deck**" to certify the voting machines are working properly. This requires coordination with Election Wardens and the creation of hand counted results to compare with the machine results. The timing of this is determined by statute and the announcement of the testing must be properly posted.

Check for Permanent and other Absentee Ballot Requests

April - May In addition to [🗳️ 1-8] as well as the low impact tasks
 Prepare and coordinate aspects of the **Annual Town Meeting** Warrant & Posting (Sometime late April to the end of June. Sometimes a moving target). Coordinate with site for the Annual Town meeting (lately PVRs). Coordinate with Selectboard, Election Workers, Constables & Moderator. Manage handouts etc. After the meeting, prepare the minutes and submit any General or Zoning Bylaws to the Attorney General for approval and record all appropriate documents in the permanent records. In preparation of the minutes have others who were at the meeting proof read it and file same in our permanent records, give official version to the Accountant, etc. and post it on the website.

May In addition to [🗳️ 1-8] as well as the low impact tasks
Annual Town Election (Always 1st Monday in May) the results of which need to be recorded in permanent records including reporting the results to Secretary of State and in the VRIS data base. This can happen before or after the Annual Town Meeting.

May - June In addition to [🗳️ 1-8] as well as the low impact tasks
 Prepare the **Annual Street List** which is completed in house. Request VRIS Complete & Residents Extracts, transfer to local computer and convert & reformat “.txt” files etc.

July 1 –Update new Fiscal Year budget figures for Town Clerk from Annual Town meeting as of July 1

July 1 – December 31 In addition to [🗳️ 1-8] as well as the low impact tasks
Archive and Record maintenance. Although a Town could hire a person apart from the Town Clerk dedicated to maintaining all the documents required by the state to be saved and preserved and although many kind, generous and intelligent volunteers have stepped in from time to time to help address many unmet needs in the care and preservation of those records, we are still woefully behind in catching up to where we should be. It is also still primarily the responsibility of the Town Clerk to oversee this work and serve as the town archivist. At this time, during a year with a general election there is little or no time or resources to do archival work.

November/December - prepare Next Census mailing.

EACH MINIMUM CALENDAR YEAR is followed by a general election year which begins with the minimum described above and which requirements are concurrent with all the minimum responsibilities and adds at least a state primary and a state general election to the calendar of work. In the federal presidential election year an additional federal primary election will be added to that list most often in the early spring or late winter.

Each State & Federal Primary & General Election requires a sequence of tasks similar to the Annual Election listed above but the polls must be open 13 hours for general elections not 7 (minimum 4) hours for annual elections and there are a variety of additional tasks and reports not required for local elections.

And then there are the phone calls!

SOME CONCLUSIONS

1. The job of the Town Clerk is big and complex and getting bigger and more complex each year.
2. The tasks described above are in fact about the minimum required to fulfill most of the legal requirements. There are a number of tasks which should be but are not done, let us say, as thoroughly as they might be, as for example follow up on the many dog owners who fail to license their dogs.

3. At this time the job can be done by one person with flexible hours ranging from an average of 20 hours a week to an average of 30 hours a week. A single person limited to working only 20 hours every week would not be able to do the job **at the level described above** within such time limits and furthermore the job cannot be done here in Bernardston unless the Town Clerk can manage his or her hours as demand requires. A mix of “regular” and “irregular” hours is a necessity. Some of the work described above will not be required of a future Bernardston Town Clerk since the work of digital system building and some tasks such as managing the website are only temporarily part of the job description.
4. If we do nothing to address any of the issues in this report and if the past is any guide for the future we will still muddle along doing the best we can but at a steady reduction in the quality and reliability of the services provided.
5. The problem of town records being stored in 3 physically separate locations and also scattered around in Department offices and Committee Files is not likely to ever be resolved since the cost of any total solution is currently well beyond the resources now or ever likely to be available for such a solution. I will however ask or verify that the need for a single easily accessible modern town records storage facility be or is part of the Master Plan in the event a grant opportunity arises which could be applied to such a project.
6. I do have two inexpensive proposals which will not solve all the problems implicit and explicit in this report but will go a long way to improving the medium term sustainability of the Office of the Town Clerk at a minimum additional cost.

Adding hours for the Town Clerk is not likely to be of much help but adding a few more hours for an Assistant Town Clerk and hours for an Archivist would greatly increase the flexibility of the entire office. One person having more hours does not substantially increase the ability of the Office to handle a variety of simultaneous and different tasks but adding a few more people who can take on some tasks as needed would help in a disproportionately positive way with regard to the cost. If the Office has two tasks due at the same time, extra hours for the Clerk won't enable him or her to work at two things simultaneously. At such critical moments, an extra paid and trained person could however work on one task while the other worked on a different one simultaneously which would significantly improve the productivity of the office without greatly increasing the cost of running it.

I therefore propose that as we work on building the FY 2019 budget we discuss the following possible changes:

- A. Add an additional \$1,000 to the already existing Assistant Town Clerk line item bringing it up to about \$2,000 a year.
- B. Create a new position of Town Records Archivist appointed by and under the supervision of the Town Clerk **whose only task** is to gradually index every single piece of paper on the stage upstairs in Town Hall. This will take years to complete but once completed it should not have to be done again. Specifically, I propose an amount of about \$2,000 a year for this person to commit a specific number of hours each week to that one task.

I would propose that if the Town supports such changes, we work with the changes for a year or two and the Town Clerk will report back prior to the creation of the FY 21 budget as to the results and whether it makes sense to continue with this model.

This still leaves the issue of long term website management up in the air but the changes requested above would at least in the short run enable me to continue with that work while we develop a long term solution.

Respectfully submitted,  Paul W. Luther, Bernardston Town Clerk