

TOWN GOVERNMENT, PART 1: GOVERNMENT COMMITTEE STUDIES STRUCTURE OF TOWN GOVERNMENT AND A WHOLE LOT MORE

What we've been doing for the past few months

Since last fall, the LWVH Government Committee has been investigating the structure of town government, with a view toward holding a public forum in July on possible ways to modernize and professionalize its management. To this end we have been studying source materials on the history and development of New York State towns, interviewing local officeholders and officeholders in other towns across the state, reviewing the 1997 LWV of New Castle eight-month study on the issue of employing a town manager, talking with representatives of the International City/County Management Association and its New York State chapter, and looking at the National Civic League's recommended council-manager form of government.

This article, the first in a series of four, will take a look at the basics, a sort of NYS Town Government 101, in order to set the stage for the next three pieces.

Towns are creatures of the state

To say that towns are creatures of the state may seem obvious, but as creatures, the nature of towns has changed significantly over the past century or so, evolving from being largely administrative subdivisions of the state to what are called "true municipal corporations."

The first major step in this development was a court ruling in 1916 that recognized towns as municipal corporations with rights to organize the affairs of their populations within their boundaries. Half a century later, in 1964, towns were granted home rule powers, which essentially gave towns broad legislative rights to adopt and amend local laws so long as they are not inconsistent with the provisions of the New York State constitution or with any state general law relating to its property, affairs or government.

Big town, little town: The flea and the elephant

There's just no way around it, the variation among New York's 932 towns is astounding. The flea is the town of Green Island in Albany County, which covers 0.7 of a square mile, and the elephant is the Town of Webb in Herkimer County, covering 451.2 square miles! Using population (as reported in LIPA's 2007 survey) as a measure of comparison, consider that here in eastern Suffolk County, Shelter Island's population of 2,515 comprises only one-half of one percent of Brookhaven's 489,255. East Hampton's clocked in at 21,630 and Southampton's at 59,813.

Hundreds of them, yes, but only three basic types, and even then they've all got pretty much the same powers

NYS Town Law divides towns into three classes, based primarily on population: first class, second class, and

suburban. But exceptions to the population rules were built into the original legislation, so that all towns in Suffolk County were designated second-class towns. As of 1962, a third class—that of suburban town—was created, establishing a town's right to departmentalize its operations. With the advent of home rule legislation in 1964, towns effectively had the right to create or abolish elective and appointive offices and to restructure town administrative agencies by the passage of local laws, many of which regarding basic town structure are subject to permissive referendum. With these legal developments, and further changes in 1976, all towns now possess roughly equivalent legal powers. Here on the South Fork, Southampton is now a first-class town and East Hampton is a second-class town, and we'll be talking about the specific differences in a later article.

Town boards: Legislative and executive powers conjoined, mostly

We need to walk down history lane again to watch the evolution of town boards. Historically, the town board consisted of the supervisor and the town justices of the peace. But by the mid-1970s changes to town law separated the legislative and judicial functions, and the town board consisting of supervisor and four council members was fully established. But town law does not provide for a separate and distinct executive branch, per se, such as is enjoyed by counties, for instance; consequently, town boards exercise both legislative and executive functions. Virtually all of a town's discretionary authority rests with the town board.

While many people may perceive the supervisor as an executive position, the supervisor is, in fact, part of the legislative branch, acting both as a full member and the presiding officer, with no tie-breaking or veto power. And it's precisely in this area—the lack of a true local executive—that the Government Committee is focusing its attention.

Without changing the basic town board system, the NYS legislature did make changes to the town law that lets towns develop executive-like roles.

As towns have grown in population, budgets, and the call for more services, so did the need for effective executive management. As early as the 1930s, interestingly, provision was made in the town law for a town-manager form of government, which would have made possible a greater executive coordination of town operations. The idea apparently did not catch on, however, because the provisions were repealed in 1957. But in the 1970s, the legislature revisited the issue, passing legislation that allows towns

to restructure their form of government to provide for the equivalent of an executive or administrative branch. Offices such as town executive and town manager may be established by local law. Southampton Town, for instance, created the position of Town Management Services Administrator and is listed in the NYS Department of State Local Government Handbook as “operating under a town manager form of government.”

We’ll end Town Government 101 here for the time being, and pick up with a closer look at the position of town managers and town administrators in a subsequent article.

Current members of the Government Committee are: Naomi Epstein, chair, Barbara Jordan, Libby Hummer, Sandi Ferguson, Anne Riordan, and Mireille

Lister. Members wishing to join should contact Naomi at naepxyz@aol.com.

For those of you who wish to investigate further on your own (or in preparation to joining the Government Committee), here are some web sites to get you started:

- NYS Local Government Handbook: www.dos.state.ny.us/lgss/pdfs/Handbook.pdf
- Laws of New York State (look for TWN section): <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS>
- International City/County Managers Association: www.icma.org
- National Civic League: www.ncl.org

Written by Sandi Ferguson

TOWN GOVERNMENT, PART 2: THE COUNCIL–MANAGER FORM

Last month Sandi Ferguson’s article gave us a good lesson on the evolution of town government within the regulations of New York State. We know that the town board (or council) is a legislative body, elected to establish the policies that provide needed services to the community. The absence of an executive branch posed little problem during the nineteenth century when life was simpler and regulations few. By the early twentieth century, things were different. Let’s now examine the developing professionalization of municipal government over the last century.

What Is the Council–Manager Form of Government?

This system of local government combines the strong political leadership of elected officials (the council) with the strong managerial experience of a professionally trained administrator (the manager) hired by the council to oversee the delivery of public services. The manager’s duties are defined by the council and may include:

- hiring and firing of department heads and supervision of day-to-day operations.
- formulating and implementing all personnel policies.
- supervising collective bargaining.
- preparing the budget for the Supervisor's approval.
- enforcing all local laws and ordinances.

How Did It Develop?

Born out of the progressive reform movement at the beginning of the twentieth century, the council–manager system is one of the few original American contributions to political theory. In that era of big city bosses and machine politics, the nonpolitical “manager” was seen as an antidote to patronage and corruption. Reformers wanted to apply a business model. Civil service and competitive bidding were introduced. After World War II, growth went into high gear. Land use planning became essential, and suburban

development added many new local governments, most of which took the council–manager form. Universities developed graduate programs in public administration. The profession of city management emerged.

Where Is It Practiced?

In our biggest cities, where diverse neighborhoods compete vigorously for resources, elected mayors and district council members are the norm. But 70 percent of the cities with populations between 50,000 and 250,000 use the council–manager form of government, as do more than 50 percent of towns with fewer than 50,000 residents. It is prevalent in the Sunbelt and especially in the West, where so many towns originated in the twentieth century, and it is increasingly popular in the Northeast. Today, more than 4000 communities operate under this system.

Why Managers: What Are the Advantages?

Our Town Government Committee began its research by interviewing town managers in New York State. Asked why their community had created that position, each manager replied that local government had become so complex and expensive that full-time professionals were now a necessity. Then we learned that the LWV of New Castle had conducted an exhaustive study of their town’s governance in 1993, resulting in the hiring of a town administrator in early 1994. From the New Castle League’s findings, we can extract the generic weaknesses, which the council–manager form seeks to address, and the benefits it intends to achieve.

Local governments that lack a clearly defined managerial role are not likely to have consistent and uniform personnel policies, adequate supervision and review of department heads, with specific goals and evaluations for each, or efficient coordination among departments. Often

this means that the town board is not provided with all the information it needs for effective decision-making. With town budgets in the tens of millions of dollars, focused day-to-day administration is the bottom line. Professional expertise in public administration can fill these gaps, freeing elected officials to formulate policy so essential to long-range planning. When council members are not burdened with the innumerable tasks of administration, the pool of citizens willing to serve the community is likely to expand. Importantly, in the process of achieving better management, most towns discover significant expenditure reductions!

What about disadvantages?

Clearly the role of manager interposes considerable authority between the elected council members and the electorate. Although theoretically the manager is entirely

subordinate to the council's directives, the reality depends a good deal on the personalities involved. There's plenty of evidence to argue either way.

In New Castle, the local League conducted an equally exhaustive assessment two years after the hiring of the town's administrator. It reported that there was consensus among the elected officials that there is a clear net gain from having an administrator and that the advantages outweigh any disadvantages. The major successes were in the areas of the budget processes and expenditure control, as well as improvements in the approach to operations and personnel administration.

In the next couple of *Voter* issues, we will examine government form and function in our towns—
Southampton and East Hampton.

Written by Libby Hummer

TOWN GOVERNMENT: PART 3 USING FINANCIAL STATISTICS TO GET A SNAPSHOT OF THE "BUSINESS OF GOVERNMENT"

As Libby Hummer pointed out in the last Government Committee article, overseeing the day-to-day operation of a modern, complex local government has led in many parts of the country, and in some cities and villages of New York, to the introduction of a council-manager form of government, where a town manager or city manager (sometimes called town administrator or village administrator) is responsible for the day-to-day, integrated, professional direction of town business, allowing elected governing bodies more time for constituent services and the development of long-range plans.

In July, LWVH will be hosting a public forum on the role of professional town managers in New York, and the council-manager form of government. In preparation for that event, we felt it important for League members to have a concise yet meaningful summary of what the "business of government" in East Hampton and Southampton looks like now compared to the recent past.

Our decision to use dollars in and dollars out as touchstones to the operations of each town individually and in comparison to each other was shaped by the wealth of information publicly available from the Open Book New York website of the Office of the State Comptroller. To contrast the scale of current government inflows and outflows

to a point of reference in the past, we chose figures from 2007 (the most recent available) and 1997. Be reminded that the Community Preservation Fund (CPF) was not signed into law until 1998, so CPF revenues did not exist in 1997.

The then-to-now comparison makes the chart dense, but do not be daunted: it is fascinating reading. Because of space limitations in *The Voter*, we have prepared an abbreviated version of our chart, which is on the facing page. The full, detailed chart appears on our website (<http://hamptons.ny.lwvnet.org>) and will be available as a handout at our July meeting. Should you wish further details, please visit www.openbooknewyork.com. Do note, however, that Open Book figures are based upon information provided by the towns and therefore subject to any shortcomings or errors in that reporting.

Some Basics to Keep In Mind

Southampton has almost three times the year-round population of East Hampton: 59,813 to 21,630 (LIPA's 2007 figures) and twice the land area: 140 square miles to 74 square miles. Sag Harbor Village straddles both towns, but otherwise Southampton has six incorporated villages within its borders and East Hampton has one.

	EAST HAMPTON		SOUTHAMPTON	
	2007	1997	2007	1997
REVENUES				
Charges for Services	5,594,728	2,816,736	10,648,667	3,709,341
Charges to Other Governments	31,831,649	385,251	977,081	6,317
Federal Aid	1,887,918	3,743,047	4,420,005	2,843,016
Other Local Revenues	2,280,019	1,072,377	2,793,145	1,240,286
Other Non-Property Taxes	669,614	155,490	54,881,499	271,464
Other Real Property Tax Items	283,740	56,168	440,253	149,100
Real Property Taxes & Assessments	41,074,110	25,258,651	50,839,482	31,014,820
Sales and Use Tax	533,767	201,432		
State Aid	10,347,021	2,351,613	15,665,249	4,208,088
Use and Sale Of Property	5,127,674	1,234,641	4,548,470	1,187,943
TOTAL	99,630,240	37,275,406	145,213,851	44,630,375
EXPENDITURES				
Community Services	3,504,311	1,379,458	4,741,934	623,005
Culture and Recreation	6,692,472	2,320,719	69,673,207	2,074,025
Debt Service	14,095,760	5,103,133	17,013,519	6,420,866
Economic Development	631,132	403,170	874,592	420,285
Education (Miscellaneous)	9,019	30,184		
Employee Benefits	14,944,945	4,401,766	17,298,943	5,494,321
General Government	45,619,016	5,336,219	19,435,739	8,417,214
Health	95,000	146,679	39,558	2,000
Public Safety	13,475,312	7,121,326	20,991,902	12,085,639
Sanitation	5,545,382	3,651,756	3,412,322	2,973,142
Social Services	1,429,016	1,285,238	3,860,715	2,655,239
Transportation	8,806,459	7,004,461	10,535,106	5,022,280
Utilities /Water	100	1,633,104	4,139,316	1,700,032
TOTAL	114,847,924	39,817,213	172,016,853	47,888,048

The 2007 Open Book tables show that Southampton has greater federal and state aid, property tax receipts, and CPF revenues, but both towns share roughly similar community service, debt burdens, employee benefit, transportation, and sanitation costs. Southampton shows a significantly larger outlay for

public safety and East Hampton a greater outlay in the category of general government.

The overall expenditures of Southampton are 33 percent higher than the overall expenditures for East Hampton; and the overall revenues of Southampton

are 31 percent higher than the overall revenues for East Hampton.

Other Matters

As currently structured, Southampton functions with a limited town manager-like position—Town Manager Services Administrator, a civil service

position—created in the early 1990s during then-supervisor Fred Thiele’s administration. East Hampton has no comparable position. Southampton functions with a Town Comptroller appointed for two-year terms by the board. In East Hampton, the Comptroller is a department head.

Written by Sandi Ferguson

TOWN GOVERNMENT, PART 4: SOME LOCAL OFFICIALS DISCUSS THE COUNCIL-MANAGER FORM OF GOVERNMENT

So far the Government Committee has explained the evolution of town government within New York State and the development of professional municipal government over the last century and has compared the demographics and budgets of East Hampton and Southampton towns. This month’s article will share what some of our local officials have to say about the council-manager form of government.

During this past winter, the committee interviewed three local officials: New York State Assemblyman Fred Thiele, East Hampton Village Administrator Larry Cantwell, and Suffolk County Legislator Jay Schneiderman. Since both Assemblyman Thiele and County Legislator Schneiderman were former town supervisors (Southampton and East Hampton, respectively) and Mr. Cantwell is a functioning village administrator, the committee felt that the experiences of these three officials offered a unique insight into the council-manager form of government.

Fred W. Thiele, Jr., 2nd Assembly District, New York State

Assemblyman Fred Thiele was Southampton Town Supervisor from January 1992 until March 1995. During that time he appointed a town manager to improve the efficiency, consistency, and continuity of Southampton government. The position title was changed to “administrator” so it would afford civil service protection. (A town manager is usually hired under a contract with a specified time period.)

For Assemblyman Thiele the best structure of government at the town level would include a comptroller, who would be the chief financial officer, and a town manager/administrator, who would be the chief operating officer. He summed it up this way, “Bad government is reduced if the structure is good.”

Jay H. Schneiderman, 2nd Legislative District, Suffolk County

Jay Schneiderman served as East Hampton Town Supervisor from 2001 to 2004. During his tenure he estimates that he spent 80% of his time on administrative

duties, which ran the gamut from managing personnel to acting as chief financial officer. Much of his time dealt with citizen complaints/requests, so that he was able to devote only 10 to 12% of his time on policy matters. He feels strongly that the term of office for the supervisor should be more than two years. Running for re-election from the moment of incumbency wastes time and effort that could be better directed toward governing.

As supervisor, Mr. Schneiderman acted in a capacity not unlike that of a town manager in his attempts to restructure government. He reorganized/consolidated areas of responsibility into eight departments. All department heads reported to him directly, attended monthly department head meetings, and were asked to develop their annual goals and plans. Mr. Schneiderman reported department activities to the Board whose members became liaisons to the various departments and who were invited to attend departmental meetings.

Regarding the budget, the supervisor informed the department heads of budget caps. Expenses were reviewed via a multiple-layer review, e.g., department heads, financial officer, town clerk, supervisor. Budget forecasting and tracking were practiced, but often the town board would over budget by 10-15 % annually.

The Supervisor’s job in reality should allow 80 % of his/her time to be spent interacting with the public. Mr. Schneiderman pointed out that the mayor of East Hampton Village has this ability because there is a professional village administrator handling the details.

Larry Cantwell, Administrator for the Village of East Hampton

Larry Cantwell became the East Hampton Village Clerk-Treasurer in 1983, and in 1987 became the Village Administrator (a full-time position). The mayor and village trustees are elected part-time officials.

As a village administrator, Mr. Cantwell knows the value of the position of town manager. He pointed out that a professional manager is equipped to reorganize the structure of a community’s government to improve its functioning, as well as handle the administrative matters

that take up so much of a supervisor's time, leaving the supervisor time to interact with the public and develop policy along with the board.

A town also needs a comptroller, according to Mr. Cantwell, to oversee the multi-million dollar budgets our towns now have. Budget preparation and oversight of receipts and expenditures would be the responsibility of a comptroller.

Assemblyman Thiele, Legislator Schneiderman and Village Administrator Cantwell all agree that our local town governments have grown in complexity to a point where the professional management of the administrative details of government should be in the hands of professionals.

The Government Committee has also held telephone interviews with town managers/administrators throughout New York State from the towns of New Castle and Mamaroneck in Westchester County, the town of Victor in Ontario County, the village of East Rochester in Monroe County, the town of Manlius in Onondaga County and

the town of Clifton Park in Saratoga County. In addition, we interviewed representatives from the National Civic League, the New York State City Management Association, and the International City/County Management Association.

The culmination of our yearlong study of town government will be a panel presentation on "Town Government: A Model for Today and Tomorrow," which will be held on Monday, July 13, 2009 at the Bridgehampton Unitarian Universalist Meetinghouse at 7:00 PM. Panelists will include Steve Altieri, Director of the New York State City-County Managers Association (NYSCCMA) and Administrator of the Town of Mamaroneck, Alfred A. Gatta, Vice-President of NYSCCMA and Village Manager of Scarsdale, and Larry Cantwell, East Hampton Village Administrator.

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Written by Barbara Jordan

TOWN GOVERNMENT: PART 5 PROFESSIONAL TOWN MANAGERS ADDRESS LWHV FORUM

The Government Committee's year-long study of the council-manager form of town government culminated in a well-attended public forum on July 13. About eighty citizens listened as a panel of managers discussed their professional roles.

Larry Cantwell, East Hampton Village Administrator since 1987, was joined by Alfred Gatta, village manager of Scarsdale, and Steve Altieri, who has been the administrator of Mamaroneck Town for the past 26 years. They explained the value of combining the political leadership of elected officials with the professional training and experience of a manager/administrator.

Mr. Altieri said, "In any community with the council-manager form of government, it's understood that the authority and responsibility of the government rests with the supervisor and the town board. Our job is to manage their goals and policies on a day-to-day basis."

A town manager's "purpose is to free elected officials to do what they were elected to do," added Mr. Gatta. "Their responsibility is to interact with the public and establish goals that set the direction for the community." This separation of politics from administration eliminates patronage and maximizes efficiency in personnel management, bidding for capital improvement projects, and budgeting.

Mr. Cantwell addressed this point in particular, stressing the need for accurate records and a good accounting system in understanding the history of the year's financial needs. Only then can there be valid

projections for the subsequent year. "If you let outside pressures, political pressures, influence what the numbers are, you're only going to be fooling yourself."

All three managers stressed the advantages of consistency and continuity that the manager brings to the hugely complex business of operating a town's government today. Mr. Altieri said he has been the administrator through four reversals of political party control among board members. Through all those years he has been responsible for preparing the budget, executing each board's legislative decisions, and hiring and supervising all personnel. He pointed out that the manager recommends a prospective department head to the board, and in his 26 years no board has ever failed to accept his recommendation.

Asked why Mamaroneck created the position of administrator, Altieri said "what led to the transition was the realization that this was a business. It is a government, but in many ways a business." Mamaroneck had a budget of \$18 million at that time and 127 employees. Today East Hampton has a budget over \$68 million and 550 employees.

One questioner asked how the manager can be politically independent while serving at the pleasure of the board. All the panelists addressed that with vigor, pointing out that avoiding political pressure is essential to maintaining the board's trust and that no manager can survive long without that.

Written by Libby Hummer