

MAKE YOUR MEETING AGENDA WORK FOR YOU

ALLOW FORMAT TO FOLLOW FUNCTION

Associating with local government can often put you on the cutting edge of innovation and creativity in your community. Why, then, are so many municipal meetings overly long and boring? From years of

poorly thought out and sloppily executed agenda can hinder the smooth operation of your meeting, while a carefully designed one that is followed closely can be a distinct help. Consider the following:



observation, it seems to me that members too often blindly follow precedent, or strict legal construction, without making sure that the format of each meeting serves the functions it performs.

There are many factors that contribute to having a productive meeting. Today, we are starting at the beginning - the agenda. A

1. Plan. Local government bodies need to plan their agendas carefully, but this rule is too often violated. Naturally, you have to respond to special circumstances that must be expedited, but you also need to have time for long-range, or more visionary, planning. Setting aside time on your agenda for dealing with vital, though not necessarily urgent,

planning concerns will assure that you do not always live for the present.

2. Distribute the agenda and background materials well in advance of the meeting. The quality of the discussion will be enhanced many-fold if members, and the public, have the opportunity to acquaint themselves with the subjects under discussion. Refuse to take up anything other than bona fide emergencies if you have not been briefed beforehand. Some board members will never read anything they receive in advance, but they many change their ways when the substantive discussion proceeds without them.

3. Have sufficient copies of the agenda and background material for the public. Do not skimp on the number of handouts, as this is a surefire way to set up a we/they environment where only the board members or those who come early are privy to what is going on. It is helpful if the chair reminds people of the page or section they are following.

4. Start and end on time. Where is it written that board meetings need to start late and continue to the wee hours of the morning when everyone is exhausted and the worst decisions are likely to be made? Set a time limit at the onset and begin no more than five minutes late. Discipline yourselves

(Continued on next page)

NEW LAW CENTER HANDBOOKS ON THE WAY!

The VLCT Municipal Law Center is pleased to announce publication of its first ever *Highway Handbook*. Produced in conjunction with the Vermont Local Roads Program, this handbook provides a soup to nuts guide for managing municipal highways. For example, it addresses laying out and reclassifying roads, regulating roads, funding road projects and the obligation to maintain roads.

Every road commissioner in the state will be given a copy of this book, courtesy of the Vermont Local Roads Program. However, it is also a valuable tool for selectboards and other local officials who deal with road issues.

This new publication will be available by the end of this month. Please call VLCT at 800/649-7915 for price and preordering information.

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VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

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MEETING -

(Continued from previous page)

and the public, and be willing to continue to another time if necessary.

5. Allow ample time early in the meeting for issues on which the public wants to participate.

Who says the agenda always has to follow the "minutes, announcements, old business, new business" format? If a large group of people show up for only one item, put it close to the beginning of the agenda and give them the opportunity to comment before they are too worn out and grouchy from watching you go through the less interesting (to them) or pro forma parts of the agenda. The quality and decibel level of the public discussion will be noticeably improved.

6. Set aside "quality time" for important board matters. Just as you need to give the public its due, so also do not neglect the importance of discussing issues when you are all fresh and ready. That is another reason to reorder the agenda.

7. State the ground rules. Before every meeting, the chair should review the agenda and remind everyone of the rules for discussion and public testimony and comment. You may ask for pro and con arguments, taken in turn, or limit remarks to no longer than three or five minutes. Whatever the rules, state them clearly and enforce them for everyone.

8. Be polite to each other and the public at all times. Unfortunately, tempers can flare

when you are dealing with difficult issues or hostile people. Still, there is no excuse for rudeness and name-calling. Set the tone by your behavior to one another and be willing to call a halt to a meeting when the public persists in violating those standards.

9. Discuss only one issue at a time. The easiest way to prolong a meeting unnecessarily is to allow board members or the public to get off on a tangent. If the chair does not quickly steer the discussion back on track, the other board members should take the initiative. By disciplining yourselves, you set an example for public behavior.

10. Know the rules of order but use them wisely. Robert's, Roberto's, Robert's - whatever you use - can get you out of trouble but also stifle a creative and worthwhile discussion. Only when you are making legally binding decisions should it be necessary to be strict constructionists.

11. Have fun. The purpose of all the points stated above is to help you enjoy your time on the board and obtain satisfaction, not only from the decisions you make, but how they are made.

- Elaine Cogan

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2000-2001 VERMONT MUNICIPAL WATER SYSTEM SURVEY RESULTS

The third *Vermont Municipal Water System Management and Usage Report* is complete and being sent out, free of charge, to those municipal water systems that responded to VLCT's recent survey.

The League first surveyed municipal water departments and districts in 1995. Each survey has attempted to fill in the data gaps regarding municipal water system operation, management and usage. Results are presented in two ways: first, the data is aggregated and summary findings are presented, and, second, data is presented for each municipal water system that responded.



AND THE WINNER IS...

All those who responded to the water survey were entered into a drawing for a \$100 savings bond. Congratulations to Loran Greenslet of the Ludlow Village Water Department, winner of the savings bond.

The 2000-2001 water survey was sent to each one of Vermont's 175 municipal water systems (comprised of independent fire and water districts and municipal water departments) in November, 2000. Sixty-nine water systems responded to the survey for a response rate of just over 39%. Thanks to all the municipal officials who took the time to complete the survey!

SURVEY HIGHLIGHTS

◆ **Municipal water systems are aging.** The average age of the distribution systems reported by those responding to the survey was 60 years. The average age of the processing plants is 15 years; the average age of the transmission system is 36 years; and the average age of the storage capacity systems is 20 years.

◆ **Water use is on the decline.** Forty-five percent, or 31, of the responding water systems stated that there has been a per capita reduction in water use in the past five years. Reasons for this reduction range from metering and rate increases to public education, leak detection measures and new equipment.

◆ **Municipal water systems are metered.** Seventy-one percent, or 49, respondents reported that their bills are based on a metered rate. Of those systems that have

meters in place, on average 92% of their customers are metered.

◆ **Most municipal water systems bill quarterly.** Fifty-seven percent, or 39, respondents indicated that they bill their customers on a quarterly basis. The next most often reported billing cycle was semi-annually with twenty-six percent of respondents indicating such a billing cycle.

◆ **The average annual operating and maintenance budget** of responding systems is \$354,473. The average total debt on the systems is \$894,676 and the average annual debt payment is \$110,120.

◆ **The average monthly residential cost for 5,000 gallons** (668 cf) of water used is approximately \$17.00. The average total cost for a new residential user to hook up to the water system is \$773.00 and for commercial user is \$730.00

Besides these highlights, the *2000-2001 Vermont Municipal Water System Management and Usage Report* includes information on municipal water system budgets, water conservation measures and commercial water and sewer rates, among other categories.

Municipal water systems that responded to the survey will be receiving their copy in the mail any day now. To obtain a copy of this report call Molly Dugan at VLCT, 800/649-7915. Additional copies will be provided at a cost of \$5.00 per copy. Municipal water systems not responding to the survey and all other requests can obtain a copy of the report for \$50.00.

- Molly Dugan

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ORDINANCE ADOPTION; SEXUAL HARASSMENT

VERMONT SUPREME COURT: PROCEDURAL ERROR LEAVES EARLIER VERSION OF ORDINANCE IN EFFECT

A recent Vermont Supreme Court case provides pointers on adopting ordinances. *Richards v. Nowicki and Town of Norwich*, Vt. No. 1999-406 (March 30, 2001).

In 1973 the Town of Norwich adopted an on-site septic ordinance that established minimum standards for septic systems. The ordinance also contained Section VII which allowed special cases to deviate from the standard if the applicant could show that the

before the Supreme Court to decide what version of the Town's ordinance was in effect, the 1973 one or the amended 1994 one.

By this time, both Richards and the Town agreed that the Town should have submitted the amended version of its ordinance to DEC for its blessing. But, they did not agree on what effect the failure to do so had. The Town argued that failure to have the 1994 amended version approved left the 1973 version in effect. Richards argued that the state's minimum standards for on-site systems were automatically incorporated into the

but the lesson for municipalities here is that it is important to know what steps are required when adopting an ordinance. Here the on-site ordinance adoption required not only the steps spelled out in the general chapter on ordinance adoption (24 V.S.A. Chapter 59), but also the approval of DEC, which is mandated by a separate statute. Admittedly, it can be tedious and time consuming to check dotted i's and crossed t's, but it is not nearly so tedious, time consuming and expensive as being in and out of court for several years because of a procedural error.

... the lesson for municipalities here is that it is important to know what steps are required when adopting an ordinance. ... Admittedly, it can be tedious and time consuming to check dotted i's and crossed t's, but it is not nearly so tedious, time consuming and expensive as being in and out of court for several years because of a procedural error.

public health and safety would not be compromised.

In 1984 state law governing on-site septic ordinances changed, setting new statewide minimum standards for on-site systems and saying that no ordinance could take effect until it was approved by the Department of Environmental Conservation (DEC) as being at least as strict as the state's minimum standards. 24 V.S.A. § 3633. That same statute grandfathered on-site septic ordinances that had been adopted prior to 1984.

In 1994 the Town amended its 1973 ordinance to effect new, detailed specifications for septic systems. It left Section VII intact, allowing for special cases. The Town believed that if it only amended the old ordinance, rather than adopting a new one, it did not need to submit the amended version to DEC for its approval.

In 1996, property owner Nowicki applied for a permit for a residential on-site septic system. Because of the size and layout of the lot, he required consideration under the "special cases" section. The permit was granted and abutting landowner Richards appealed that decision. After much legal wrangling about other issues, the case arrived

amended ordinance because 24 V.S.A. § 3633(b) mandates that a local on-site ordinance must be "at least as stringent as the [state's new, 1994] minimum standards." Therefore, said Richards, the newer, stricter standards were now the standards to be applied by the Town's ordinance.

The Court based its analysis on the plain language of the statutes that reflects the Legislative intent. First it noted that the statute said that a new ordinance "shall not take effect until approved by" DEC. Therefore, the 1994 version had never gone into effect. That left the 1973 ordinance alive and well and in full force.

A second reason that the 1973 ordinance was preserved is that 24 V.S.A. § 3633(d) specifically provides that on-site septic ordinances which were properly adopted before 1984, and not replaced with an approved one, shall remain in effect until the year 2002. Again, this was the plainly stated intent of the Legislature. In addition, it is general law, said the Court, that if an amendment does not specifically repeal an earlier version of an ordinance, then an invalid amendment merely leaves the original version in effect.

There were other legal points in this case,

U.S. COURT OF APPEALS: CITY DEALT PROPERLY WITH SEXUAL HARASSMENT CLAIM

Next we review a federal court case dealing with alleged sexual harassment in the workplace and with retaliatory action by the employer against the complainant. *Brooks v. City of San Mateo et al.*, USCA 9th cir. No. 98-15818 (Oct. 23, 2000).

(Continued on next page)



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LEGAL CORNER -

(Continued from previous page)

Brooks was a dispatcher for the City when a male co-worker "placed his hand on her stomach and commented on its softness and sexiness" and then, after being told to stop and being forcefully pushed away by Brooks, forced his hand under her clothing to fondle her bare breast. Brooks reported the incident and the City placed the co-worker on leave, pending investigation. The co-worker eventually quit his job, pled no contest to sexual assault charges and spent time in jail.

Following some time off and counseling, Brooks returned to work but found the work environment had changed. Male employees ostracized her and supervisors treated her unfairly. Brooks sued under both California law and Title VII of the federal Civil Rights Act for sexual harassment and retaliatory discrimination.

Title VII prohibits discrimination on the basis of "race, color, religion, sex or national origin." When an employer permits employees to be harassed because of their sex, that is a violation equal to refusing to hire on account of sex, paying less for the same work based on sex, or any other blatant discrimina-

tion. Sexual harassment is divided into two types, "quid pro quo" and "hostile work environment." "Quid pro quo" means "something for something" which, in the workplace translates into something like "If you do this sexual favor for me, I'll recommend you for a promotion." That type of harassment does not apply in this case.

Brooks alleged a "hostile work environment." In order to prove that, as a female plaintiff she had to show conduct which **another reasonable woman** would consider sufficiently severe or pervasive as to create an abusive work environment. The court noted that this was a single episode of unwelcome sexual advances that was dealt with promptly by the employer. Although prior similar acts had been committed by the same person towards other female employees, neither Brooks nor the employer knew of them until later. Therefore, Brooks could not show a pattern of behavior so pervasive as to cause a reasonable woman to assume a hostile work environment. Also, because the employer acted promptly to correct the work environment, it could not be held liable for prior episodes of which it was unaware.

Brooks also argued that the fact that she had been touched on the stomach and then on the breasts constituted repeated episodes. The court found these touchings to have happened within a few minutes and thus to constitute a single event which was not severe enough to create a hostile work environment.

On the other hand, the court said that a repeated and escalating pattern of less severe acts can constitute a hostile work environment. It cited a case that began with requests for dates and then escalated through love letters after having been told "No" by the object of the affection as well as by the employer as serious enough to create fear for a reasonable woman.

The court did not condone the acts in Brooks, but found that the employer was not liable because there was only a single episode, there was lack of knowledge of prior similar acts, and the employer took prompt action against the perpetrator.

Finally, the court considered Brooks' claim of retaliation against her after her return to work. In order to support a claim of retaliation a plaintiff must show (1) that they are engaged in a protected activity, (2) there was an adverse employment action, and (3) that there was a causal link between the two. After the plaintiff has showed those three things, it is then up to the employer to explain away the adverse employment action.

First, Brooks was engaged in the protected

activity of complaining about the initial sexual assault. Second, was she subjected to an adverse employment action? Only if the employment actions were "non-trivial" ones that would deter reasonable employees from complaining, said the court.

Examining the employment actions, the court began with the fact that other employees ostracized Brooks. The court said that employers cannot force their employees to socialize and that forcing them to might be unconstitutional.

Brooks complained that she was forced to attend group therapy sessions with other employees even though she was uncomfortable there. The court found that these were employee workshops designed to educate all employees about sexual harassment and Brooks was not singled out in any way.

Brooks was scheduled to work with a friend of the perpetrator who was allegedly openly hostile to her. The evidence here was not convincing and the court said that "a victim of sexual harassment is not entitled to avoid contact with the harasser's friends."

Brooks complained that the City was dilatory in processing her workers' compensation claim. However, even though the City took all of the allowed time to process her claim, there was no evidence that this was unusual or discriminatory.

Brooks received a somewhat negative performance report. While such a report may be an actionable adverse employment decision, in this case the report was not a final report in that it was appealable. Brooks chose not to pursue the appeal. Therefore, she cannot claim this as an unfair adverse action because it was not a final action.

Finally, Brooks claimed that she was given unfavorable shift assignments and was denied her vacation preference. Like the performance report, these were not final actions and could have been appealed.

Municipal employers, such as the City of San Mateo, must have a workable and working policy on sexual harassment. Employees must be encouraged to report incidents and the municipality must treat them promptly and seriously. In this case, San Mateo put the alleged perpetrator on administrative leave the next day, launched an investigation, and began termination proceedings against him. He subsequently resigned, plead no contest to criminal charges and spent 120 days in jail. A less speedy or less decisive approach by the City could easily have resulted in a decision in favor of Brooks. Municipalities beware!!

- Libby Turner, Esq.

DON'T FORGET US...

Has your municipality recently enacted a new ordinance or approved a new policy? If so, please send a copy to VLCT, Attn: Municipal Law Center, 89 Main Street, Suite 4, Montpelier, VT 05602, fax, 802/229-2211, or e-mail, glawson@vlct.org.



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ASK THE LEAGUE

SIGNING ORDERS; AUDITORS' REPORT/TOWN MEETING; PERFORMANCE BONDS; TOWN SERVICE OFFICER

Our selectboard handles orders to pay bills by having each member stop in the office and sign them. Is that legal?

No. The law requires that any board with three or more members must act by "the concurrence of a majority" of the board. Our Supreme Court has said that "concurrence, as used in [1 V.S.A. § 172] involves physical presence, not merely a state of mind, plus an expressed assent." *State v. Vt. Emergency Bd.*, 136 Vt. 506 (1978). Therefore, three or five selectboard members making independent decisions on bills does not constitute concurrence and board action.

The ideal procedure would be for the board to examine and discuss all bills at a regular meeting and to arrive at a joint decision to sign the order to pay them. That may be impractical for some boards, especially those which meet only once a month. Therefore, the legislature provided alternative procedures in 24 V.S.A. § 1623.

First, the entire selectboard may authorize one or more members to examine and sign orders on behalf of the entire board. In that case the order must state definitely what the payment is for and a record or copy of the signed order must be provided for the full board's examination at its next meeting. 24 V.S.A. § 1623(a). This arrangement may be an on-going one for the year. After Town Meeting, when the new selectboard holds its organizational meeting, it should decide whether or not to continue the practice and who the authorized signers will be for the ensuing year.

Second, the selectboard may give a certified copy of its minutes to the treasurer authorizing that a certain payment may be made. These minutes must be signed by a majority of the board and must indicate to whom and for what purpose such payment is authorized. For example, "payment to the ABC Truck Co. upon delivery of the new town dump truck." This arrangement is meant to be used for a one-shot situation and not for routine or recurring bills.

What are the consequences if the voters reject the auditors' report or the town officers' report at town meeting?

Good question! Although a town report is mandated, there seems to be no statutory requirement for the voters to do anything about the report. Checking a number of towns' warnings, they include articles to "hear and act upon," "accept," or "hear and dispose of" the "auditors' report," "the several officers' reports," etc. Some municipalities that vote by Australian ballot, or that have charters, don't mention the report at all in their warnings.

The voters' reaction to the town report really is a measure of their satisfaction (or lack thereof) with the way the officers are conducting the town's business. A vote to reject or not accept the report should be a wake up call to the town's officers. If the dissatisfaction is with the audited report, the auditors need to take note. If the treasurer's bookkeeping is defective, that is a message to

the treasurer. If the problem is with the way money was spent, that is the selectboard's responsibility.

The cure for the problem will vary depending on its exact source and nature. It may be advice, education, working together or electing different officials next time. But, to answer the original question, there seems to be no specific consequence if the voters vote not to accept the reports.

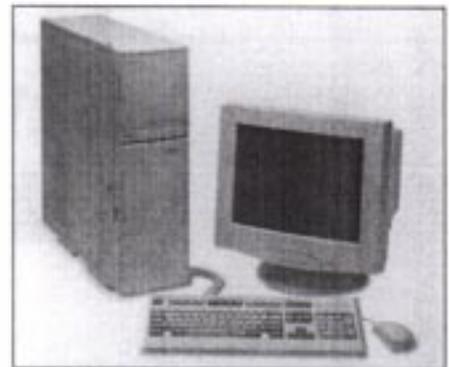
Our town elected a new Collector of Delinquent Taxes. How do we make sure that this new person is covered by a bond as required in 24 V.S.A. § 832?

A bond is a type of insurance coverage that is usually provided by your general insurance provider. Check your insurance policy or contact your insurance agent to find out for sure. The policy may automatically cover whoever is elected or appointed to a particular office. In that case you may not

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ASK THE LEAGUE -

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need to provide the name of the newly elected official each year. Your policy may cover "the collector of delinquent taxes" and not "Jane Doe, Tax Collector," so you do not need to take any action.

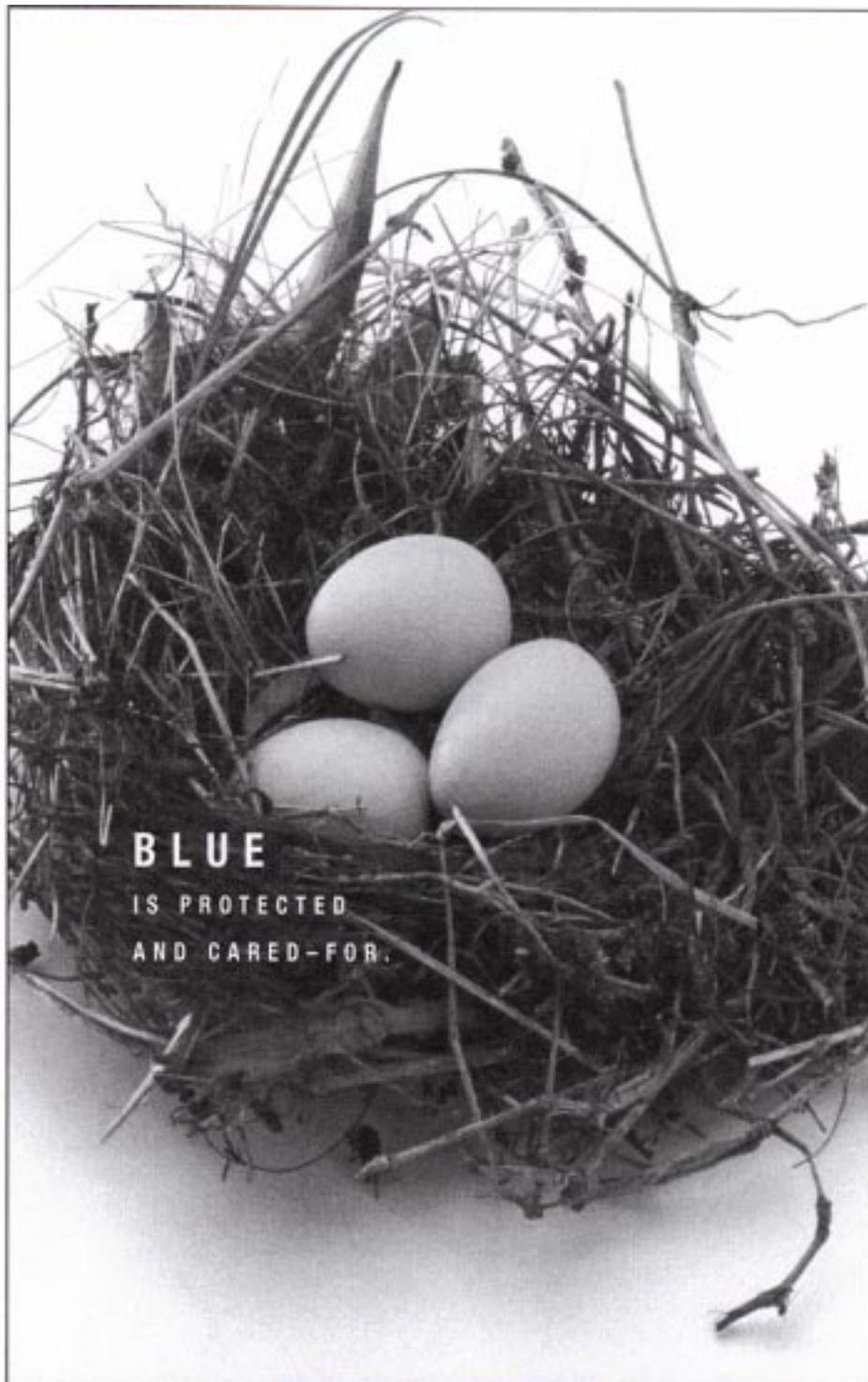
How does someone become town service officer? What would be his or her duties?

Either the selectboard or the Commissioner of Social Welfare may appoint a service officer. A person may serve more than one town simultaneously, so there is no requirement that your town's service officer be a resident of town. A selectperson may act on behalf of the service officer in his or her absence. 33 V.S.A. § 2102(a).

The service officer may be an agent for the Department of Social Welfare, as described in 33 V.S.A. § 2102(b). More frequently, they will provide emergency services or support services to people in need. Under the statutes the service officer may find him or herself investigating an applicant's situation, furnishing transportation to remove the person out of state, providing relief for a person "found in a place other than a house, hospital or jail," or making burial arrangements for a transient who happened to die while in town.

Unofficially, many service officers probably act as good samaritans who see a problem and provide or arrange for whatever help is needed. They can be important but unsung town officers.

- Libby Turner, Esq.



BLUE
IS PROTECTED
AND CARED-FOR.

MARK YOUR CALENDARS...

UPCOMING VLCT MUNICIPAL LAW CENTER WORKSHOPS

- ◆ **Workshop for Municipal Clerks**, May 10, 2001, Capitol Plaza, Montpelier.
- ◆ **New Selectboard Training**, May 24, 2001, Suzanna's Restaurant, Berlin.
- ◆ **Zoning Basics**, June 6, 2001, Vermont Interactive Television locations around the state.
- ◆ **Attorney's Forum**, June 14, 2001, location TBA, pass the word on to your municipal attorney!

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RISK MANAGEMENT NOTES



A monthly column by the VLCT Property and Casualty Intermunicipal Fund (PACIF)

ATTENTION ALL PACIF MEMBER MUNICIPALITIES

Sign up has begun for the *Stevens Advanced Driver Training*. Earlier this month a notice was mailed to all VLCT PACIF member police and fire chiefs. The training dates for the spring session are Tuesday, May 15 through Saturday, May 19 and the training will take place at the Knapp Airport in Berlin, Vermont. Each day is a complete hands-on program and covers all the basics of the safe operation of a motor vehicle (participants select which of the five days they would like to attend). Topics covered include use of anti-lock brakes, emergency lane change maneuvers, tailgating

and safety when backing a vehicle. The training starts at 8:00 a.m. and will end at 3:00 p.m. Morning coffee and snacks, as well as lunch, will be provided.

Pre-registration is required for those attending this training. To sign up please call the VLCT PACIF Risk Management Services

Department at 800/649-7915 and speak to Maureen Turbitt. Space is limited, and the sign up deadline for the training is Friday, May 4, 2001. There is **no charge** for this program.

If you cannot attend the spring session, another training will be held Monday, August 13 through Friday, August 17 at the Hartness Airport in Springfield, Vermont. A notice for these sessions will be mailed sometime in July. We hope to see you there.

- Patrick Williams

VLCT PACIF CLAIM STAFF ATTENDS FIRST REGIONAL STATE LEAGUE POOL TRAINING SESSION

Last month, members of the VLCT PACIF claim staff traveled to Concord, New Hampshire to the offices of the New Hampshire Municipal League to attend a training session on handling property losses. This training session was the first collaborative effort involving the claim staffs from each of the six New England state league pools. Alan Ball, a professional engineer from Douglas Peterson and Associates, conducted the day-long training session. Topics covered included how to review and prepare repair estimates, what to look for when hiring an expert, the key people involved in the claim handling process, the impact of bringing buildings up to code after a loss and the importance of documentation when handling any claim. All who attended left with a fresh understanding of how to handle the property losses that we see in our everyday lives as claim adjusters. Plans are already in the works for the next collaborative claims training session.

(Continued on next page)

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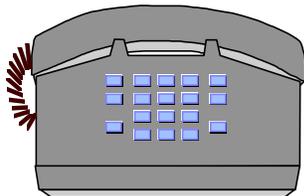
CLAIM STAFF - (Continued from previous page)

This collaboration was the result of a survey performed last year that recommended ways in which all state league pools could help each other. Members from all areas of our organization (marketing, loss prevention, wellness as well as the pool administrators and league directors) now meet regularly with their peers from the other New England states to discuss what is happening in their respective areas of concentration. This type of collaboration can only help with our mission, which is to continue to deliver quality programs and services to all of our members here in Vermont.

- Patrick Williams

SIGN UP NOW FOR EAP ORIENTATIONS

As announced last month, VLCT PACIF and the VLCT Health Trust are sponsoring a new employee assistance program (EAP) for their members. (See the March "Risk Management Notes" for more information about this new program.)



Orientations to the EAP services are currently taking place. As soon as employees have gone through an orientation, they will be able to use the services provided through Invest EAP. Municipal human resource personnel should contact Heidi Joyce, VLCT Health and Safety Coordinator, to schedule an orientation for your municipality. We are also trying to coordinate orientations with surrounding towns. Call Heidi at 800/649-7915 or e-mail, hjoyce@vlct.org.

SUMMER WILL COME! REMINDERS FOR HIRING YOUNG EMPLOYEES

The Vermont Department of Labor and Industry reminds employers each spring that 16- and 17-year-olds are prohibited from working in a range of hazardous occupations. While all occupations are not applicable to the municipal work environment, it is worth checking with the Department if you have any concerns about a particular position.

Prohibited work includes – but is not limited to:

- ◆ Motor vehicle driving
- ◆ Logging and sawmilling
- ◆ Operating most power driven machinery
- ◆ Roofing and excavation
- ◆ Meat packing, processing, or rendering.

Also, a person over 16 and under 18 cannot work in a manufacturing or mechanical job more than 9 hours in any one day or more than 50 hours in any one week.

For more information on workplace regulations for young employees, including those younger than 16, contact the Department's Wage and Hour Division, tel. 802/828-2157, or visit its website, www.state.vt.us/labind.

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LEGAL RESOURCES AVAILABLE TO MUNICIPAL OFFICIALS

WHO YOU CAN TURN TO FOR ADVICE

With the onset of spring (yes it's really spring) and local officials assuming their initial responsibilities following Town Meeting, it is an opportune time to review the various legal resources available to local officials. The good news is that there are several places municipal officials can turn to obtain legal advice, and some of the advice is available free of charge. However, it is important to keep in mind that each of these legal resources plays a different role, and municipal officials must recognize the type and level of legal assistance they need based on each situation.

It is also crucial for officials seeking legal advice to understand that the law is often open to interpretation. As such, you may get different legal advice depending on who you present with a legal question.

It is true that there are some areas of the law that are relatively clear. Advice dispensed by legal experts on statutes that are "clear" will be more or less uniform.

In Vermont, however, the fact of the matter is that many of the laws that govern municipalities are less than crystal clear. Unless the legislature clarifies such laws or the courts render a decision on the interpretation of a vague statute, legal experts who you ask for advice must do their best to predict how the courts would interpret a statute. This advice will only be an interpretation and an opinion whether it is dispensed by VLCT, the Secretary of State's Office, the Attorney General's Office, your municipal attorney or any other legal expert. Such advice is not binding on a town. It is only a recommendation for the proper course of action.

Accordingly, when the law is not clear on a particular point, municipalities need not and should not take the word of any particular expert as providing a definitive answer. After all, we will never truly know the "right" answer to a legal question regarding an unclear statute unless the Vermont Supreme Court renders a decision on its meaning.

When consulting multiple legal experts for advice on a legal question that is open to interpretation, it is important to ask the question in the same manner to each lawyer, as leaving out an important fact could

significantly change the advice given. Ultimately, the local official must weigh differing opinions given by legal experts before deciding on a particular course of action. At the end of the day, it is the local decision-maker who will have to live with the repercussions of taking a particular course of action, not the legal expert. Accordingly, it is wise to have as much information regarding complex legal questions in your hands as possible before taking action. But that's just our advice.

Below is a brief summary of some of the legal resources available to municipalities.

THE VLCT MUNICIPAL LAW CENTER

The VLCT Municipal Law Center is an excellent source for legal advice, if we do say so ourselves. The Law Center was established by VLCT in 1989 to provide legal advice and information to member municipalities on any legal matter facing a city or town. While the Law Center will consider any legal question you may have, it will, if necessary, advise you when a matter requires the attention of your town attorney, a legal specialist, or a state authority. The Law Center has two staff attorneys (Jon Groveman and Libby Turner) and a paralegal (Gail Lawson) available Monday through Friday to answer the legal questions of municipal officials over the phone for free. You can call us at our toll free number (800/649-7915) or e-mail us (info@vlct.org) with a legal question. You can also visit our web site at <http://www.vlct.org/>.

It is important to note that when you call for advice we are providing advice to you as an agent of the municipality. Thus, the municipality is the client. This means that, while we don't share that advice with the public, we *will* share it with other affected officials *unless you specifically ask us not to*. In fact, since telephone advice is, by its very nature, subject to misunderstanding, we are often asked to explain to one member of a board or body the advice we gave another member. We will also send copies of any written opinions to the selectboard or manager of a community, and to its regular legal counsel, if requested. For more

information on how the Law Center operates, consult the Law Center's User Guide on the VLCT website.

In addition to providing advice over the phone, the Law Center will provide formal written legal opinions to municipalities at the reasonable rate of \$75 per hour. While a formal written legal opinion on a question of law will not immunize a municipality from being sued, it is an excellent way to demonstrate that you, as a local decision maker, have acted prudently and responsibly in dealing with a difficult legal question.

The Law Center also produces numerous handbooks that summarize the laws that govern municipal officials and presents a wide variety of workshops throughout the year that are geared to providing continuing education for municipal officials. Call us to get a list of the handbooks we have available and keep an eye out for mailings advertising upcoming workshops.

Two of the Law Center's most popular workshops are coming up in May: the New Selectboard Training on May 24th (a must

(Continued on next page)

Town and City Officials



Vermont Department of Health
1-800-439-8550

Bring Healthy Homes funds to your community by:

Attending the workshop nearest you
9AM-3PM Lunch provided
Learning about indoor environmental hazards
Applying for monies for activities in your community
April 26, Stratton Mtn Resort
May 22, VTC, Randolph
June 14, JSC, Johnson
For information:
Dawn Anderson
1-800-439-8550



LEGAL RESOURCES -

(Continued from previous page)

for newly-elected selectboard members and an excellent opportunity for experienced members to polish their skills) and the Workshop for Municipal Clerks on May 10th. For planning and zoning officials, in collaboration with the regional planners, the League will be presenting a basics workshop via Vermont Interactive Television (VIT) on June 6, 2001. In the coming fiscal year, a quarterly planning and zoning basics program (9/12/01, 12/12/01, 3/30/02, 6/12/02) through VIT will be offered throughout the state.

THE VERMONT DEPARTMENT OF TAXES

The Vermont Department of Taxes (DOT) can answer questions from municipal officials regarding property valuation and assessment. The DOT Division of Property Valuation and Review regularly provides information and legal advice on issues such as listing and assessing property, tax appeal process, filing property transfer tax forms, the current-use program and the land gains tax. You can contact the DOT Division of Property Valuation and Review at 802/828-5860 or visit the DOT website at <http://www.state.vt.us/tax/contact4.htm#prop>.

THE VERMONT SECRETARY OF STATE'S OFFICE

The Vermont Secretary of State's (SOS) Office, through the Vermont Archives, is the custodian of many of Vermont's government records. The SOS's office oversees Vermont's

notaries public and administers the licensing of business entities and filing of UCC financing statements. It oversees the state's elections. Accordingly, VLCT will often refer municipalities with questions regarding Australian ballot elections to the SOS. The SOS's Office also has compiled a variety of resources related to municipal government. You may contact the SOS's office at 802/828-2363 or by visiting its website at <http://www.sec.state.vt.us/>.

THE PRIVATE MUNICIPAL ATTORNEY

Many cities and towns contract with a local law firm or attorney to provide general legal services to the municipality. Town attorneys provide a wide variety of functions for municipalities including drafting contracts and ordinances, representing the municipality in court and providing general

legal advice. The VLCT Law Center will often advise municipalities to consult with their town attorney when an issue is likely to end up in court or when the matter requires the type of face-to-face legal consultation that only your local attorney can provide. In addition, certain matters that require a legal specialty, such as bankruptcy issues, labor union negotiations and certain financial issues, require the attention of a legal specialist. It is the practice of the VLCT Law Center to advise municipalities when the town attorney or legal specialist should be consulted. If you need legal help in a specific area call the VLCT Law Center. The VLCT Law Center has a list of lawyers and their respective areas of expertise. We will provide legal referrals from this list free of charge when a municipality is dealing with an issue that requires the attention of a legal specialist.

- Jon Groveman, Esq.

FORMING LOCAL CONSERVATION FUNDS

NEW TECHNICAL BULLETIN AVAILABLE

The Association of Vermont Conservation Commissions (AVCC) recently issued a publication outlining how to create, fund and use a local conservation fund. These funds are one way in which communities can help finance local land conservation projects. Approximately 27 towns have already created a local conservation fund.

The bulletin was formatted so that it could be put into the *Vermont Conservation Commission Handbook*. If your local conservation commission does not have the *Handbook*, it is available for \$20 (\$25 for non-members of the AVCC).

For more information about the AVCC and its publications for Vermont conservation commissioners, contact Executive Director Virginia Rasch, tel. 802/223-5527, e-mail, ilovevermont@aol.com.

EPA SMART GROWTH SLIDE SHOW, SPECIALIST AVAILABLE

The U.S. Environmental Protection Agency (EPA) has put together a slide show of tools and techniques New England communities can use to "grow smart." The EPA's Smart Growth Specialist, Alison Walsh, is available to present the slide show to local officials interested in sustainable growth that is beneficial for both the environment and economic vitality.

The presentation, which Ms. Walsh has already presented to 60 audiences around New England, touches on the choices we all make every day that guide our communities to a sustainable or unsustainable future.

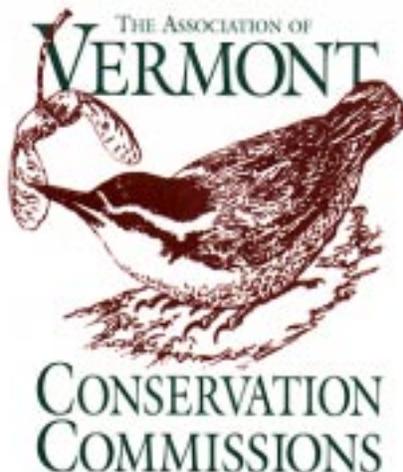
For more information about the EPA's Smart Growth program, visit the agency's web site at www.epa.gov/region01/topics/communities/smartgrowth.html. To inquire about hosting the smart growth slide show in your community, contact Ms. Walsh at EPA New England's Boston office, tel. 617/918-1593.

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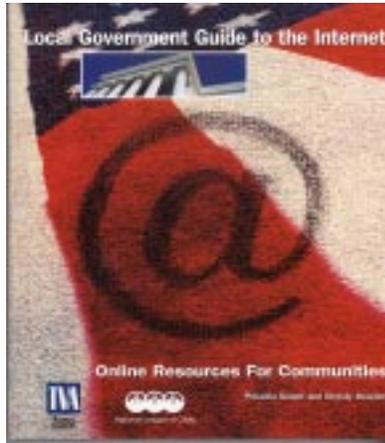


BOOK REVIEW

LOCAL GOVERNMENT GUIDE TO THE INTERNET: ONLINE RESOURCES FOR COMMUNITIES

By Priscilla Salant and Christy Dearien, 2000, The University of Kentucky, 300 pp.

The *Local Government Guide to the Internet*, published by the National League of Cities (NLC) and the Tennessee Valley Authority Rural Studies Program, is a compilation of useful tips for accessing data and websites on the Internet that are of interest to local government officials. The authors' intent was to provide an easy-to-follow reference for those looking for information on the world wide web within the categories covered in this 300-page, colorful and attractive book. Sprinkled with numerous tips, tables and figures, the *Guide* ends each chapter with a substantial listing of websites related to the topic discussed.



The book opens with an overview of the basics of online resources and includes a thorough and concise discussion of search engines, using filters and complex searches. The 12 major search engines are listed and the chapter concludes with a brief outline of specialty and intelligent search engines, as well as an explanation of how to add sites to search engines.

The remaining chapters are divided into five parts: People, Place, Economy, Government and Next Steps, with each part consisting of two or more chapters with related topics. Throughout the *Guide* are icons for Search Tips, Data Tips, Map It! (referring you to mapping sites), Related Information (referring you to other chapters), and You've Got Mail! (referring you to online discussion lists to learn more about the specific topic being discussed).

Part Two, People, acquaints the reader with the use of population counts and characteristics for demographic and statistical reporting. Part Three, Place, covers housing, infrastructure, environment and land. Housing supply and affordability data sources are discussed in the opening chapter followed by statistics and usage data sources

for transportation and utilities in the Infrastructure chapter. The Environment and Land chapters provide environmental quality and development resources including the "Big Five" environmental sites, and short summaries of how to research Air and Water Quality, Hazardous Materials, and Species and Habitats.

Economy is the topic of Part Four and includes three chapters on economic performance, structure and development. The first chapter explains how to find employment, job, income, and poverty data. This leads into a discussion of local economic structures and categories of industries. The final chapter in this section includes an interesting table of economic development strategies with relevant websites broken into nine types of strategies.

From Entrepreneurship to Tourism, you can locate several possible organizations or site names and website addresses for each strategy.

The Government section, Part Five, is probably the weakest area of the guide and provides a very brief outline of local government resources, mainly from the U.S. Census Bureau website and the NLC website. At the end of the first chapter in this section, a number of good professional organizations important to local government are not included in the list of related websites. Discussion of Administration, Human Resources, Public Works, Safety Services (Fire and Police), Libraries, Parks and Recreation are all omitted. The second chapter in this section includes a short but fairly good explanation and examples of e-government.

Part Six, Next Steps, consists of chapters on community indicators (benchmarking), mapping tools, and funding resources. Indicators have become a more prevalent topic in government literature over the past several years, and this *Guide* shows you how to plan an indicator project and provides a definition of what a good indicator is. The Mapping Tools chapter points out websites that allow you to draw simple maps online, and also discusses GIS (Geographic Informa-

tion Systems) uses, software and data sources.

The final chapter in Part Six was one I found particularly interesting and potentially valuable. Funding Resources includes a table of federal funding sources and sites to help you with grant writing. In addition, it lists some websites that will help you write successful proposals.

I found the *Local Government Guide to the Internet* to be heavy on the planning and development side of local government and light on all other areas. If all other divisions of government were treated in as thorough a fashion, this book could be the website bible for all local officials. Despite this shortcoming, the *Guide* is a very useful and valuable tool, particularly for novice Internet users.

- Michael Gilbar

(The *Local Government Guide to the Internet* is available from the National League of Cities by calling 202/626-3000 or visiting its web site at www.nlc.org. The VLCT library also has one copy available for borrowing.)

HANDBOOKS - (Continued from Page One)

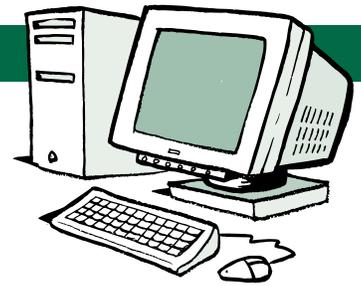
The Law Center is also pleased to announce that its *Ordinance Enforcement in the Judicial Bureau* handbook has been completely revised and updated. The last revision was in 1995. This handbook addresses the process for enforcing municipal ordinances, including setting and enforcing penalties through the Vermont Judicial Bureau. This publication is essential to selectboard/council members, town managers/administrators, and individuals with ordinance enforcement authority in cities and towns (police officers, constables, health officers, and animal control officers).

This new handbook will be available by the middle of May. Please call the VLCT offices for price and preordering information.





Tech Check



E-GOVERNMENT, PART I

WEBSITE DEVELOPMENT: THE FOUNDATION OF E-GOVERNMENT

(Editor's Note: This month we begin a two-part look at e-government with a discussion of municipal website planning and use. Next month we will discuss the issues and concerns that come with conducting government business on-line and review e-government's equipment needs.)

What would our offices be like without fax machines, adding machines, copiers, computers, and yes, even telephones? A hundred years ago we would never have dreamed of these items being basic tools for doing business, and yet every time one of these technological marvels is out of order we go into a tailspin. Next to our employees,

information processing and storage is the foundation of our operation. Without the ability to assimilate, process and regurgitate huge amounts of data, we could not accomplish many of the tasks we routinely take for granted. Imagine for a moment trying to generate the copies you need for a board meeting using a typewriter and carbon paper! Or creating manually some of the Excel or Lotus spreadsheets that you have done using just a pencil, calculator and a column analysis pad!

Since the dawn of the computer age, we have worked our way from huge mainframes to desktop computers, from local worksta-

tions to local networks to wide area networks. The next logical step was internet access and e-mail, allowing for a more global communications structure. This technology opened the way for website development which has created a whole new frontier of possibilities.

How can local governments take advantage of this tool and make their services to their citizens and taxpayers more effective? The first step is to develop a clear understanding of the needs of your community. If you have a technology plan in place, you may have already been through this exercise. Otherwise, you'll need to make a list of new services people are requesting, improvements to current services that are needed, and any other needs the town may feel obligated to fulfill. You should also conduct a thorough investigation of other websites to get ideas of possible uses and formats. Examine both the content as well as the "look and feel" of the web pages contained in the site. Think about how these websites are addressing citizens' needs and how you could incorporate similar features in your own website. Think about how user friendly the websites are: what features do you like about them and what features do you think are either confusing or just plain bad. The object is to match some website ideas with your list of citizen needs and try to come up with an effective, service-oriented draft of a website plan.

Like any tool, a website is only as useful and cost effective as its design and proper implementation. Your website is an important communication tool. Plan the design in a way that will enhance the services you are offering, but will clearly communicate the information you are trying to get across. Easy navigation throughout the site is a must. Remember that your website is a reflection of your municipality and should be as carefully planned and maintained as your own offices. Okay, without all the piles of paper!

Online services are meant for both internal and external constituencies and should be designed in a way that allows effective use by employees as well as citizens. Websites increase efficiency by cutting paperwork,

(Continued on next page)

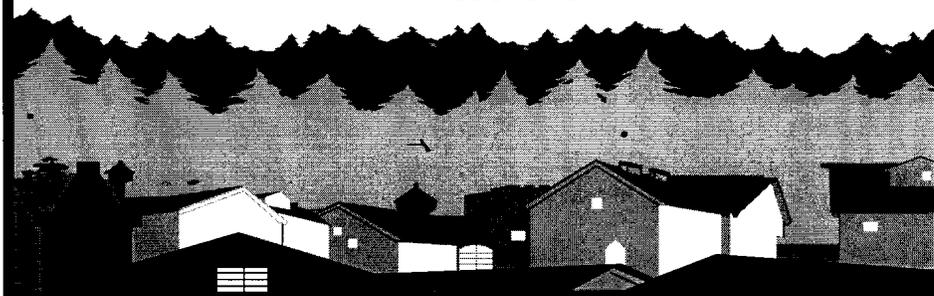
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E-GOVERNMENT -

(Continued from previous page)

decreasing mailing costs, automating routine information requests, and cutting down on building and phone traffic. Efficiency is extremely important when you have limited resources as most of us do. When choosing your website content, look for the labor intensive tasks that could be automated and done more efficiently on-line.

There are two basic types of content: information and interactive. All websites will contain information content and this could include items such as town demographics, community calendars, meeting agendas and minutes, ordinances, and newsletters. When deciding what to include, always keep in mind that the public is looking for accountability and better access, both accomplished by incorporating citizens' needs into your plan. Updating information on a regular basis is important; old news and outdated agendas can really frustrate conscientious citizens. Interactive pages will offer services such as permit applications on-line, complaints or feedback, surveys, property data look-ups, or tax, fee or fine payments. These services can be distributive (such as forms management and downloading) or transactional (such as payments and permitting). The value of the services is the convenience they offer for people who are unable to visit the town offices during the regular business day.

Three kinds of initiatives have surfaced as website development has become more sophisticated. As with many other technology initiatives, clever acronyms have been concocted to make technology experts appear more sage, and to confound the rest of us. First, G2G (Government to Government) refers to software that will improve internal operations. Human resources, payroll processing, and document imaging are examples of G2G software programs that have been developed to be used on-line by municipalities in lieu of the traditional "off-line" packages. Second, G2B or B2G (Government to Business or Business to Government) refers to procurement software. Third, G2C (Government to Citizens) is software designed to increase citizen participation, such as e-commerce or on-line voting. Those who provide any, or all, of these solutions are ASPs, or Application Service Providers.

Three things to remember when making use of ASPs, or any other partnership,

regional, private/public, or statewide:

1. Ensure that the data is secure.
2. Develop a migration strategy to move data in the event of upgrades or technology changes.
3. Develop an exit strategy in case you or your vendor decides to terminate the relationship. (Remember that death and taxes are the only certain events).

One final word: PLAN! Know your citizens' needs and know your internal operational needs and plan your website development around them. Get ideas from successful websites, but be sure that they make sense for your municipality. Careful planning is indeed preventive maintenance, and establishing a thoughtful, well designed website will save you a lot of time and agony later on.

- Michael Gilbar



Vermont Forum on Sprawl: Growing Smarter Workshops. Wednesday, May 2, Essex Town Hall, Essex; Tuesday, May 8, Hinesburg Town Hall, Hinesburg; Monday, May 14, Milton Town Hall, Milton; Wednesday, May 23, Fletcher Free Library, Burlington. These evening workshops are open to volunteer and professional planners, developers, landscape architects, municipal officials and interested citizens who wish to explore how to apply smart growth principles to the siting, design and layout of development projects. For more information, contact Dana Farley, tel. 802/425-2124.

Tractor - Loader - Backhoe. Thursday, May 3, 2001, Richmond Highway Department, Richmond. Offered by the Vermont Local Roads Program, this workshop covers safety, maintenance and operation of three types of heavy equipment. Also included is a hands-on team contest. For more information, contact the Local Roads Program at 800/462-6555.

Decentralized Wastewater Systems: An Option for Vermont Villages and Growth Centers. Friday, May 4, 2001, Vermont Technical College, Randolph Center. The U.S. Department of Agriculture Rural Development Program, the Small Flows Clearinghouse and North Carolina State University are bringing this workshop on decentralized wastewater systems to Vermont. Municipal officials, planners, engineers, wastewater practitioners, environmentalists and legislators are welcome to attend. Registration information is available from the USDA Rural Development's Montpelier office at 802/828-6030.

Workshop for Municipal Clerks. Thursday, May 10, 2001, Capitol Plaza, Montpelier. Offered annually by the VLCT Municipal Law Center, this workshop reviews the

statutory role of the municipal clerk, filing a property transfer tax form for the sale of a mobile home and new legislation. It also offers a roundtable with four experienced municipal clerks. For more information, contact Jessica Hill at VLCT, tel. 800/649-7915.

Green Mountain Water Environment Association (GMWEA) Spring Meeting. Thursday, May 17, 2001, Holiday Inn, Rutland. GMWEA offers its annual business meeting, awards program and educational workshops for those involved in the water and wastewater professions in Vermont. For more information, contact Jessica Hill at VLCT, tel. 800/649-7915.

Construction Contracting for Public Entities in Vermont. Thursday, May 17, 2001, Holiday Inn Express, South Burlington. Presented by Lorman Education Services, with Burlington Attorney William Fead as instructor, this seminar is designed for municipal managers and public works architects, construction managers and engineers. Public bidding requirements, architect and engineer contracts, construction contracts and construction claims management will be covered. For more information, contact Lorman at 715/833-3940, or visit its web site at www.lorman.com.

Ringling in the Digital Revolution. Sunday, June 3, through Wednesday, June 6, 2001, Philadelphia, Pennsylvania. Sponsored by the Government Finance Officers Association, this conference will explore technological and information advances in government finance, as well as offer sessions on accounting, budgeting, cash management, debt management and pensions. For more information, contact GFOA at 312/977-9700, e-mail, conference@gfoa.org, or web, www.gfoa.org.



Classifieds

HELP WANTED

City Clerk. The City of Concord, NH is seeking an established professional to oversee the daily operations of the City Clerk's Office and join the City's management team. The individual must have experience in records management and preservation, supervising others, providing high levels of customer service, and possess an understanding of records management technology. Significant responsibilities include: preparing agendas and producing minutes for City Council meetings, assisting City Council as requested, conducting City elections, administering multiple records functions for citizens as required by state law, and providing counsel and assistance to City departments. Personal initiative, high standards, and a commitment to good government are essential. Requirements: Bachelor's degree from a four-year accredited college or university in public administration or a related field. Three years of progressively responsible management and office administrative experience which includes working with executive level officials or staff, or any combination of education, training and experience which provides the knowledge, skills and abilities required for the job (i.e. experience in record maintenance and technology applications; excellent interpersonal and communication skills). Salary range: \$47,050 – 61,380 DOQ with a competitive, flexible benefits package. Application: Resumes will be accepted at the Personnel Department, City of Concord, City Hall, 41 Green Street, Concord, NH 03301, until noon on April 27, 2001. No fax transmissions or e-mail applications accepted. EOE M/F/DP. For further information, visit www.onconcord.com.

Director of Planning/Development. The Town and Village of Ludlow, VT seek an experienced individual to oversee community development, planning and zoning functions. Responsibilities include staff support of the Planning Commission, Development Review Board, preparation and administration of grants, management of the GIS program and administrative support of the Town Manager. May also include administration of Town and Village zoning regulations. Candidates should have a Bachelor's degree in planning, public administration or related field, two years progressively respon-

sible experience in related work, ideally in a Vermont municipality, and knowledge of database, spreadsheet, word processing and GIS systems. Salary: mid-thirties. DOQ. EOE. Submit resume and cover letter postmarked by April 27, 2001 to: Keith Arlund, Municipal Manager, P.O. Box B, Ludlow, VT 05149. Questions may be directed to the Municipal Manager at 802/228-2841.

Parks and Recreation Director. The Town of Manchester, VT is seeking applications for the position of Parks and Recreation Director. General information about the Town can be found at www.town.Manchester.vt.us. The successful candidate must be a self-motivated individual who has the capacity to administer and supervise the Town's recreational facilities and staff, as well as plan and coordinate programs and activities. B.A. in Recreation and two years related experience is preferred. Applicants must be certified or certifiable as a "Professional" under the Vermont Recreation and Parks Association. Salary: \$33,000 to \$37,500, depending upon experience. Excellent fringe benefits are offered. Send cover letter and resume to Town Manager's Office, P.O. Box 909, Manchester Center, VT 05255. Application Deadline: June 1, 2001. EOE.

Planner. The Town of Essex, VT is seeking qualified applicants for the position of Planner. This position would assist the Community Development Director with the local regulatory review process, thereby requiring experience in landscape architecture and design review. Position also involves professional and technical work in administering and implementing planning activities for the town. This position is appointed by the Town Manager and reports to the Community Development Director. Qualifications: BA/BS in planning, public administration, civil engineering, landscape architecture or related field; two years of relevant experience; knowledge of planning laws; technical expertise in planning for special project tasks; computer literacy with word processing, spreadsheet, database and e-mail systems; and effective communication skills. Must begin position by July 1, 2001. Salary & benefits: \$30,000 - \$37,000 plus excellent benefits including medical, dental, long-term/short-term disability insurance,

optical, fitness allowance, and retirement plan. Send cover letter and resume by April 30, 2001 to Patrick Scheidel, Town Manager, Town of Essex, 81 Main St., Essex Junction, VT 05452. E.O.E.

Recreation and Grants Coordinator. The Town of Essex, VT is seeking qualified applicants for the position of Recreation and Grants Coordinator. This position would assist the Parks and Recreation Director in developing new recreational programs, and identifying, preparing, and monitoring grants for other departments within the town. The Town of Essex has a number of recreational opportunities and amenities managed by the Parks and Recreation Department. In addition, the Department provides a full range of services including youth sports programs, summer camps, after-school programs, adult programs and special events. This position is appointed by the Town Manager and reports to the Parks and Recreation Director. Qualifications: BA/BS degree in recreation, physical education, business administration or a related field; two years experience in recreation programming, or an equivalent combination of education and experience; strong organizational, verbal and written communication skills; and the ability to obtain or acquire a working knowledge of grant development and administration procedures. Must begin position by July 1, 2001. Salary & benefits: \$24,960 plus excellent benefits including medical, dental, long-term/short-term disability insurance, optical, fitness allowance, and retirement plan. Send cover letter and resume by April 30, 2001 to Patrick Scheidel, Town Manager, Town of Essex, 81 Main St., Essex Junction, VT 05452. E.O.E.

FOR SALE

Dump Truck. The Town of Milton offers a 1993 green International seven-yard dump truck, model 2554 DTA 466, AS IS, with 270 h.p. diesel engine, nine-speed transmission Fuller RT 8609, 87,000 miles. Truck is being sold complete with one-way snow-plow/wing and a double auger Flink sander. Asking \$20,000 or best offer. Truck can be viewed at the Milton Town Garage Monday – Friday, 7- 3:30 pm. Bids due May 24, 2001 at 1:00 pm. Mail to: "Truck Bid," Town Manager's Office, 43 Bombardier Road, Milton VT 05468.



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