

VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

STRENGTHENING VERMONT LOCAL GOVERNMENT

September 2001

IS IT TIME FOR YOUR TOWN TO THINK ABOUT A MANAGER?

Running a town is not growing easier. Municipal officials must keep track of personnel laws, water quality, water supplies and wastewater disposal, public safety departments; solid waste; tax payments and schedules; highway maintenance; thick books of environmental and labor relations; housing; land use planning and zoning; and budgeting under new GASB standards, to



name only a few responsibilities. Each of these responsibilities must be undertaken under public scrutiny and with input from citizens and neighboring communities. It is more and more true that the decisions you make in your community will affect your neighbors, and so those impacts must be addressed as part of the decisions made in your town. How is a volunteer selectboard possibly going to find the time to address all those issues in a timely and complete manner?

For these reasons as well as a host of others, many local governments are deciding that a professional administrator or manager is the only way to assure that the municipality carries out its responsibilities completely and in accordance with the thousands of laws and regulations that accompany those responsibilities. In Vermont cities, towns and villages today there are 46 municipal managers and approximately 22 administra-

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2002 VLCT EDUCATION FUNDING PLAN A DEPARTURE FROM PREVIOUS PLANS

PROPOSES NON-RESIDENTIAL PROPERTY TAX AND RESIDENTIAL EDUCATION TAX TIED TO INCOME

As this issue of the *VLCT News* went to press, members of the VLCT Board and the VLCT Finance, Administration and Intergovernmental Relations Committee were preparing to present their new proposal for funding education in Vermont to the VLCT membership for its approval at Town Fair.

VLCT has been active in the legislative debate over education finance since 1973. In some years, our involvement has been limited to the support of key broad tenets. In others, we have developed specific proposals for reforming the state aid formula *du jour* that happened to be failing at the time. For the past five years the League has weighed in on the debate leading up to the Vermont Supreme Court's *Brigham* decision on education funding, and the one surrounding the Legislature's response, Act 60. But this year the League membership will be debating

(Continued on next page)

FOR THOSE WORKING IN PLACES STRICKEN BY TERRORISM AND FOR ITS VICTIMS

SEPTEMBER 11, 2001

The staff, officers and members of VLCT extend their support to victims of the vicious terrorism attacks in Washington, DC and New York City even as we struggle to understand the implications for our nation.

Though most likely global in origin, the face of tragedy on September 11 was local, as was the face of help and comfort. In his address to the nation on the evening of September 11, President Bush acknowledged this when he said, *"Our military is powerful and it's prepared. Our emergency teams are working in New York City and Washington DC to help with local rescue efforts."*

As we have vividly seen in the days following the attacks, local officials are on the front lines in the wake of these horrific events. Those local officials, along with so many others unsung, are heroes. We extend our thoughts and prayers to them as they continue their grim work. And to them, and local emergency and law enforcement personnel here in Vermont and across the nation, thank you for caring for us in our times of need.

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Katherine B. Roe, Editor, VLCT News

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TOWN FAIR APOLOGY

To Our Members, Business Associates and Friends of the Jewish Faith:

As you may be aware, VLCT inadvertently scheduled our 2001 Annual Meeting, Town Fair, on the Jewish holiday Yom Kippur. As a result, many municipal officials, exhibitors and others could not attend. For this we apologize profusely. Though it was not done purposefully, we take fully responsibility for our lack of sensitivity to the beliefs of all in our community. By the time it was brought to our attention, there was no alternative date or facility available to which to move our meeting.

Yom Kippur is the Jewish Day of Atonement, and we will use the day to reflect on our need to be more sensitive to the variety of beliefs of our members and associates. We hope that you will forgive us for this oversight and accept our assurances that we are doing everything possible to avoid this in the future. We also realize that there are other days of observance of a number of beliefs to which we must be sensitive.

We hope that you all will again be able to join us for the 2002 Town Fair.

EDUCATION FUNDING -

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an Education Funding Plan that differs significantly from its predecessors, while adhering to the principles of prior plans.

In a nutshell, the proposed 2002 Education Funding Plan is simple, direct and very specific in its recommendations on how to pay for education in Vermont (it is not quite a page long!). It eliminates residential property taxes to fund education, with the result that Vermont's total reliance on these taxes to fund education is reduced by more than half. State General Fund contributions and a uniform statewide non-residential property tax would pay for a block grant per pupil in every district. Residents of each school district would be responsible for paying for all per-pupil education spending above the block grant. They would do so through a local residential education tax collected as a surcharge on the state personal income tax, or a tax based on adjusted gross or taxable income. The state would act to "equalize" the revenues available from these local income taxes, assuring that towns would have equal ability to raise funds in accordance with the *Brigham* decision.

"All Vermonters," VLCT President and Burlington Mayor Peter Clavelle said, "will truly contribute to the funding of education based on their income and not some hodge-podge system of property taxes, 'income sensitizing,' prebates and 'true ups.'" While the League's past education funding policies have referred broadly to decreasing the state's reliance on the property tax to fund education, and relying instead on broad-based state taxes, this is the first time VLCT has specifically proposed a local income tax to pay for education. Also for the first time, a VLCT education funding initiative recog-

nizes the need for some sort of state property tax sharing to fund a portion of education costs. "The trade-off in this plan for local governments for our support for the non-residential property tax is that the state will share its income tax base to help fund local education," according to Clavelle.

"We do not take our proposals to change the way Vermont funds education lightly," VLCT Vice-president and Waterbury Municipal Manager William Shepeluk said. "Our 19-member policy committee on this issue, made up of a wide range of local officials from around the state, and members of the VLCT Board of Directors debated this proposal long and hard, and we believe it is a good one," Shepeluk added.

Both Shepeluk and Mayor Clavelle look forward to presenting the 2002 Education Funding Plan to the VLCT membership on September 27. "It is a divisive issue, and this plan will be controversial," Mayor Clavelle commented, adding, "but it is time that VLCT members, with their wide range of opinions on this issue, rally around a specific plan that meets many of our common, broader goals."

Whether adopted as proposed, or significantly changed by the membership at the Annual Meeting on September 27, the 2002 VLCT Education Funding Plan will guide the League's legislative efforts on education funding in the upcoming session. Please see the October 2001 issue of the *VLCT News* for a full report on the actions of the VLCT Annual Meeting on education funding and many other important legislative issues.

- Katherine Roe, VLCT Communications Coordinator



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PROPERTY TAX EXEMPTIONS

COURT IS STRICT ON PROPERTY TAX EXEMPTION

A perennial controversy for towns is deciding which properties are exempt from property taxes under 32 V.S.A. § 3802. The complexity of the problem is reflected in the fact that although the statute is less than four pages long, the annotations to it cover 13 pages and cite over 40 cases that went all the way to the Supreme Court for final resolution. To those, last month the Court added two more cases that involve properties “owned or leased by colleges, academies or other public schools.”

The first case, *Burr and Burton Seminary v. Town of Manchester*, Vt. Sl. Op. 2000-294 (Aug. 24, 2001) involved two properties owned by Burr and Burton, a private school. One property was the Head house, located two miles from the main campus and used as a residence for the school’s principal and for “various... meetings, dinners and parties for faculty, students, trustees and staff.” The Town valued the building at \$290,000. The second building was previously used as a student dormitory but since 1994 had been for sale and had been rented to various tenants. In 1998 the Town had begun to tax it based on a value of \$177,000.

Burr and Burton grieved these appraisals, arguing that the properties fall within “lands owned or leased by ... academies” and were thus exempt from taxes. The Town argued that the school must not only own the properties but also use them for an educational purpose in order to qualify for the exemption.

The first basic rule the Court applied is that “any statutory exemption from property tax is to be strictly construed against the taxpayer.” In other words, properties are not exempt from taxes unless the taxpayer can present a compelling argument. The issues here, the Court said, are whether the taxpayer, Burr and Burton, must actually use the property and whether the use must serve educational purposes.

The legislative intent of the statute seems to be to give a tax break to properties such as schools, churches, charities and libraries that are “being used to serve some public purpose.” Therefore, to interpret the statute to mean that any property owned by an academy, no matter what its use, is tax exempt would violate the intent of the statute. “If there is no educational use to the land, there is no benefit to the state and, consequently, no reason why the Legislature would forgo the benefit of taxation of this land.” That interpretation has stood for over 100 years, said the Court, and the Legislature has made no move to amend the statute, so it seems to agree with the interpretation that the school must actually use the property, not just own it. In fact, the Legislature re-enforced that analysis by amending the statute to say that it does not apply to schools’ “lands or buildings rented for general commercial purposes.”

Applying this reasoning to Burr and Burton, the Court held that the old dormitory which was being rented out to non-school tenants is not tax exempt. Not only is it not used for educational purposes, it is rented out for commercial purposes.

The Head House is a different matter. The fact that it is used for the headmaster’s residence and, possibly, as part of his compensation package, does not mean it is not used for educational purposes. There is ample case law to support the argument that a headmaster’s residence is used for educational purposes. In addition, Burr and Burton uses it for other purposes related to its educational functions. Therefore, Head House was found to be tax exempt.

The second case, *Berkshire School v. Town of Reading*, Vt. Sl. Op. 2000-398 (Aug. 24, 2001) involves a 212-acre parcel of undeveloped land that was donated to the school. There is no current educational use of this land, although there are plans to use it in the future.

The school, of course, argued that it merely had to “own or lease” the land, not actually use it, in order to qualify for a tax exemption under 32 V.S.A. § 3802 (4). Following its analysis in the Burr and Burton case, the Court said that the school must use its property for some educational purpose in order to meet the implicit requirement in the statute that tax exemption is granted in return for public benefit. In this case, the Court concluded “that land owned by the school is not exempt. The property ... is simply a plot of land that is not being used at all, let alone for any educational purpose.”

Hopefully, these two cases will help clarify the enigma created by 32 V.S.A. 3802. As it stands, the statute means the school has to own the property, use it and use it for educational purposes. Any change in this will have to come from the Legislature, not the Court.

- Libby Turner, VLCT Staff Attorney



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LAW CENTER ANNOUNCES NEW ON-SITE WORKSHOP PROGRAM

The VLCT Law Center is pleased to announce a new program that will bring training directly to municipal officials. For years, the Law Center has been hosting quality training sessions for municipal officials. The sessions are typically all-day workshops that are held in Central Vermont.

While the Law Center will continue to provide these workshops, it recognizes the need to reach out to officials in their communities. Accordingly, the Law Center is initiating its "On-site Workshop" program to bring training directly to you in your town.

Starting October 1, 2001, the Law Center will offer municipalities the opportunity to sign up for the following On-site Workshops:

1) Training for Selectboards, Boards of Civil Authority and Boards of Abatement

This workshop covers the core legal requirements that selectboards, boards of civil authority and boards of abatement should be aware of to effectively carry out their responsibilities. Topics that the workshop will address include the open meeting and public records laws, conducting quasi-judicial hearings, and a review of common legal questions posed by these boards to the VLCT Law Center.

2) Managing Highways - Navigating Vermont's Highway Laws

Designed for selectboards and road commissioners, this workshop will review Vermont's highway maintenance and regulation laws. Topics include the obligation to maintain highways (including the highway right-of-way), regulating traffic on town highways (setting speed limits, addressing parking, snowmobiles and ATV's on highways, etc.) regulating highway access, discontinuing, reclassifying and laying out highways and budgeting for highways.

3) Running Effective Planning Commission, Zoning Board of Adjustment and Development Review Board Meetings & Hearings

This workshop is designed for planning commissions, zoning boards of adjustment, development review boards, zoning administrators and staff planners. The workshop will review the different roles planning and zoning officials must play when conducting meetings and hearings. Topics include the differences between running meetings and hearings under Vermont law, complying with the open meeting law, running quasi-judicial hearings, adopting rules of procedure, and laws on rendering decisions, voting and appeals.

(Continued on Page Seven)

VLCT MUNICIPAL LAW CENTER

ON-SITE WORKSHOP FEE SCHEDULE

- 0 - 5 people - \$500**
- 5-10 people - \$550**
- 10-25 people - \$600**
- 25-50 people - \$650**
- Over 50 people - \$750**

VLCT encourages neighboring boards and commissions to join together to request an on-site workshop.

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ASK THE LEAGUE

BUDGET MEETINGS; FUTURE APPROPRIATIONS; CAPITAL IMPROVEMENT FUNDS

Our town would like to hold a budget meeting this fall to discuss a number of monetary issues. Are there any special warning requirements for such a meeting?

No. Under Vermont law, there are two basic types of meetings: meetings of local government boards and commissions, and special and town meetings. Assuming that your budget meeting will be convened by the selectboard, notice requirements for it are found in the Open Meeting Law, which covers, generally, government meetings in Vermont. 1 V.S.A., § 310.

The Open Meeting Law requires that the selectboard clearly designate the time and place of its **regular meetings**. Most local boards vote on the time and date of their regularly scheduled meetings (e.g. the second and fourth Tuesday of each month) and post notice of these regular meetings in the local newspaper. 1 V.S.A., § 312(c)(1). These actions satisfy the warning requirements for regular meetings contained in the Open Meeting Law. The law also includes warning requirements for special board meetings (meetings that are not regularly scheduled) and emergency board meetings. 1 V.S.A., § 312(c)(2) and (3). **Special board meetings** require posting notices in or near the town clerk's office and at least two other places in town at least 24 hours before the meeting. **Emergency meetings** may be held without notice. For emergency meetings notice must be provided "as soon as possible." To qualify as an emergency meeting a town must establish that the meeting is "necessary to respond to an unforeseen occurrence or condition requiring immediate attention."

The requirements for **special and annual town meetings** are found in 17 V.S.A. § 2641, which requires a town to warn and post notice of the meeting "in at least two public places in the town, and in or near the town clerk's office, not less than 30 nor more than 40 days before the meeting." These meetings are subject to more stringent warning requirements because they are the

setting for citizens to vote on the important matters of the town.

(Other meetings and hearings, with their own particular warning requirements, are found scattered throughout the Vermont Statutes. For instance, public meetings to consider zoning changes are covered in 24 V.S.A. §§ 4403 and 4404.)

In the case of your budget meeting, it is most likely an advisory one in which the selectboard invites town residents to air their views on how town monies should be spent. As noted above, our advice is to follow the requirements for warning a selectboard meeting that are found in Vermont's Open Meeting Law. 1 V.S.A. §§ 310 et seq.

That said, it would be a good idea to give residents more notice than is required by statute, as the point of a budget meeting is to receive public input on important financial decisions – before town meeting - and to foster a more open atmosphere in town government. Remember, too, that town meeting must approve actual expenditures.

Can our town vote "to appropriate \$XXX,XXX.XX each year for the next five years?"

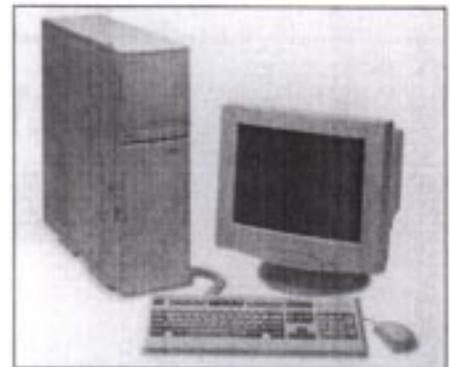
No. While the state law on budgets is less than concise, it has still been interpreted to mean that the town budget shall be voted on once a year, at Town Meeting. "A town shall vote such sums of money as it deems necessary for the interest of its inhabitants and for the prosecution and defense of the common rights. . ." 17 V.S.A. § 2664. In most municipalities, *Robert's Rules of Order* is the foundation for running the various town meetings: "Although an early meeting in a session may, to some extent, restrict a later meeting in the same session ... no one session can interfere with the rights of a future session . . ." *Robert's Rules of Order*, Major Henry M. Robert, 88 (1876).

Therefore, a succeeding meeting has the authority to overturn anything that was voted on at a prior meeting. Additionally, it

(Continued on next page)

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ASK THE LEAGUE -

(Continued from previous page)

seems unwise to attempt to specifically allocate monies for something years in advance. It might be a smart idea to lock in a good rate on a five-year loan. It would not, however, be good idea to try to budget for five years of unforeseeable events.

The selectboard has been moving excess monies in the general fund into a capital improvement fund. Can it do that?

No. All excess funds must be "carried over" into next year's budget, and their use approved by the voters. However, the town may have a reserve fund, established by the voters for a special purpose, that may carry funds over from year to year.

For example, the town would like to make improvements to the recreation field, which will cost about \$30,000. There is a comprehensive plan for the improvements, which will have to be done incrementally over several years. The voters may appropriate the entire amount now for that specific purpose if its destination is a reserve fund previously set up by voters for this purpose. This special, dedicated account will be administered by the selectboard solely for the recreation field.

Monies in the general fund can only be spent with the approval of the voters, as it is they, and not the selectboard, that have the authority to spend money from the general fund for purposes other than the original purpose if they so vote at an annual or special meeting. 24 V.S.A. §§ 1755, 1822.

- Brian Monaghan, Intern, VLCT
Municipal Law Center

ON-SITE WORKSHOPS -

(Continued from Page Five)

4) Nonconforming Uses/Noncomplying Structure, Home Occupations and Variances

Designed for planning commissions, zoning boards of adjustment, development review boards, zoning administrators and staff planners, this workshop will provide an in-depth review of the laws regarding the often confusing issues of regulating nonconforming uses/noncomplying structures, home occupations and variances through local zoning bylaws. The workshop will include a discussion of the options for addressing these issues, common legal questions regarding these topics and a review of relevant Vermont case law.

Each of these workshops is three hours long and will be held in the evening *at a time convenient for your local board*. The workshop will be held *in your community* at a location chosen by you.

The cost of the workshop depends upon the number of people who attend (see sidebar fee schedule). To offset the cost of the workshops, VLCT encourages neighboring boards and commissions to join together to request an on-site workshop.

The VLCT Law Center is conducting a limited number of on-site workshops this year. We encourage you take advantage of this unique opportunity by contacting Jon Groveman, Law Center Director, to sign up for a workshop as soon as possible.

We look forward to seeing you in your community.

- Jon Groveman, Director, VLCT Municipal
Law Center

VLCT WORKPLACE POLICY IS RECOGNIZED



VLCT and National Life of Vermont were recently recognized by the Washington County Maternal Child Health Coalition for "providing a breastfeeding friendly environment for their employees." Here, VLCT Senior Claims Representative Kelly Kindestin addresses the group gathered for the awards ceremony.

VLCT came to the attention of the Coalition because of the section in our personnel policy that allows new parents to bring their babies to work immediately following their parental leave. The policy has been much used and appreciated by VLCT staff, especially nursing mothers, who find that it eases the transition back to work for both parent and child.

Municipalities that are interested in becoming involved in the Vermont Department of Health's Breastfeeding Friendly Employer Program should contact the Department at 802/652-4171.

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RISK MANAGEMENT NOTES

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



BRUSH CLEARING GUIDELINES

Municipal crews are frequently called on to clear fallen trees and brush due to severe summer storms or because of the always-damaging winter ice storms (remember January 1998). These storms often cause a great deal of property damage, and there is no sense getting hurt in the cleanup. Here are a few things to think about before you start the clean up after these weather events. They may help you complete this important task without injury. This list contemplates roadside pick up and disposal of storm-damaged trees. If actual tree trimming is involved, there are different hazards involved that are not addressed here.

PREPLANNING

- ♦ Take the time to plan... "short cuts can lead to deep cuts."
- ♦ Take all normal traffic and work zone safety precautions including "People Working" signs, cones, red flags, barricades and other warning devices.
- ♦ Complete a visual inspection of the work zone before entering. There may be numerous broken limbs hanging and ready to fall, power lines down, wild animals and poisonous plants at your work site.

EQUIPMENT

General

- ♦ Operate all equipment in accordance with manufacturer's instructions. Review all machine guarding and other appropriate OSHA-required measures at the beginning and end of each shift. Make certain guards have not been removed and are functioning as designed.
 - ♦ All mechanical equipment should have effective guards installed that make it impossible for any body part to come into contact with moving, sharp or hot parts.
 - ♦ The cutting edge of tools should be suitably sheathed or guarded except while in actual use. Cutting tools should be kept sharp and properly shaped.

Chippers

- ♦ Access panels for maintenance and adjustment of the chipper blades and associated drive train shall be in place and secure during operation.
- ♦ Chippers shall never be parked directly under a tree being trimmed.
- ♦ Employees shall not permit spectators to stand near machine while feeding brush into the chipper.

- ♦ Full-cover goggles or face shield shall be worn by employee when feeding brush into chipper.
- ♦ Employee shall never place hands or other body parts into brush hopper while chipper is in operation.
- ♦ Tools or other metallic objects shall not be used to push brush into chipper. Sweepings, which may contain foreign objects such as stones and nails, shall be loaded into a truck and not fed into the chipper.
- ♦ Ignition key shall be removed when

(Continued on next page)

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BRUSH CLEARING -

(Continued from previous page)

chipper is left unattended. Complete lockout/tagout procedure should be used for repairs.

- ♦ All employees should wear proper hearing protective devices while equipment is in operation.
- ♦ Only wrist-length (non-gauntlet) gloves shall be used by employees feeding a chipper.
- ♦ Trailer chippers detached from trucks shall have their wheels chocked.
- ♦ For additional information on chippers, refer to OSHA standard 29 CFR 1910.269.

Powered Trimming Equipment

- ♦ Employees operating powered trimming equipment shall wear suitable eye, hearing and face protection devices.
- ♦ Chain saw operators shall inspect the saw before each use to assure that all handles and guards are in place and tight, that all controls function properly, and that the muffler is operational.
- ♦ When starting a chain saw, it shall be placed on or against a solid support and the area cleared of all co-workers.
- ♦ The operator shall grip the chain saw with both hands during the entire cutting operation.
- ♦ Saw bumper shall be against tree or limb before starting a cut.
- ♦ Chain saw operators shall, when necessary, clear the immediate area around their work to make certain that brush will not interfere with either the chain saw or operator.
- ♦ All chain saws shall be equipped with "deadman" controls (control cannot lock in "on" position).
- ♦ The chain saw engine or motor shall be stopped for the following:
 - ♦ When working on any part of the chain or cutting bar.
 - ♦ While the saw is being moved from one location to another, including being carried up into a tree.
 - ♦ While unit is unattended.
 - ♦ Gasoline-driven chain saw engine shall be stopped when being refueled. If gas is spilled on chain saw during refueling, it shall be wiped off before engine is started. Chain saws shall not be started within ten feet of a fueling area.
- ♦ A gasoline-driven chain saw shall not be used above shoulder level or at a distance that would require the operator to

relinquish a safe grip on the saw.

- ♦ Employees shall not approach chain saw operator within the reach of the saw while the saw is in operation.
- ♦ Powered tools shall not be left unattended if connected to a power source.
- ♦ Powered tools shall not be adjusted or repaired while connected to a power source.

PEOPLE

- ♦ Know your limits, listen to your body and don't push to the point of exhaustion.
- ♦ When lifting, bending and reaching:
 - ♦ Size up the load before trying to lift it.
 - ♦ Get help or use power equipment to move heavy loads if needed.
 - ♦ Make sure you can carry the load where you need to go before attempting to move it.
 - ♦ Use proper body mechanics - bend at the knees.
 - ♦ Do not twist or turn your body once you have made the lift.
 - ♦ Set the load down properly, slowly and bend your knees, not your back.
 - ♦ Always push, not pull an object when possible; this puts less strain on your back.
 - ♦ When loading brush on a truck, do not stand on or straddle the loaded brush.
- ♦ Employees must be trained in the proper use of *all equipment*, including refresher courses and brief reminders prior to each shift.
- ♦ Vary tasks if possible. Repeating the same task over long periods of time can contribute to inattention, which can lead to serious injury.

PERSONAL PROTECTIVE EQUIPMENT

- ♦ Personal protective equipment is *critical* when working around brush and mechanized equipment. Quality equipment, including the following, should be provided *and used*:
 - ♦ Hard hats
 - ♦ Gloves
 - ♦ Chaps, if using chain saws
 - ♦ Safety boots
 - ♦ Eye goggles or face shields
- ♦ Standard safety glasses are not enough when handling brush. There are simply too many opportunities to get poked in the eye. Standard safety glasses do not provide sufficient protection above, below and on the sides.
- ♦ Hearing protection when chippers, saws or other mechanized equipment is in use. Protection is generally needed when the

noise level is such that you have difficulty hearing a normal conversation.

- ♦ Wear tight fitting, long sleeves when handling brush or working in the vicinity of chippers and or other power-driven equipment.
- ♦ If it becomes necessary to work in the vicinity of poison ivy, poison oak, or poison sumac you should keep sleeves rolled down, wear gloves and take other precautions as appropriate.

We can all hope that severe weather will not be a factor in our lives, however we do live in a state where the climate can be challenging at times. Hopefully, these guidelines can help us all return home from the job in the same condition in which we arrived.

-Brian FitzPatrick, VLCT Loss Prevention Supervisor

DON'T FORGET YOUR EAP

The VLCT Property and Casualty Intermunicipal Fund and the VLCT Health Trust are sponsoring Invest EAP's services as a free benefit to the 4,000 municipal employees they jointly cover. Family members of these employees are also eligible for Invest EAP's services.

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PREVIEW OF VLCT HEALTH TRUST COVERAGE CHANGES

THREE-TIER PRESCRIPTION DRUG PLAN WILL HAVE MOST IMPACT

All municipal members of the VLCT Health Trust were notified earlier this month of changes in their prescription drug coverage and Vermont Freedom Plan coverages, effective January 1, 2002.

In a memo to members, Group Services Director Dave Sichel explained the change from a two-tier to a three-tier prescription drug plan. The Trust's current standard two-tier plan has patients pay \$5 for a generic

drug prescription and \$10 for brand name drugs (after a \$50 deductible). The new plan will add a third tier for non-preferred brand name drugs, which will have a higher co-pay (\$25).

"The three-tier prescription drug plan," Sichel wrote in his memo, "encourages people to use the most cost effective (measured in dollars and treatment effectiveness) drugs available."

Also being added to the Health Trust's prescription drug coverage is a mail order plan targeted to people who take certain drugs on an ongoing basis. Through the plan, patients can obtain a 90-day supply of their prescription while only paying two deductibles.

The changes to the Health Trust's Freedom Plan are prompted by Blue Cross Blue Shield's efforts to simplify its plan offerings. For the Health Trust, this means consolidating 12 Freedom Plans down to four. In the Freedom Plan, the Office Visit Maximum benefit is being replaced by a per office visit co-pay, with no benefit maximum.

Please feel free to call the VLCT Group Services Member Relations Department at 800/649-7915 if you have any questions about these changes, or would like assistance explaining them to your employees.

-Katherine Roe, VLCT Communications Coordinator

MANAGERS -

(Continued from Page One)

tive assistants or town administrators who serve in a position similar to a town manager. There are only 25 towns or cities of more than 2,000 in population without a municipal manager or administrator. In terms of population, the largest town with a municipal manager is Essex, with a population of 18,626. The smallest manager town is Winhall, with 702.

There are administrators or managers in 86% of the cities and towns that collect between \$1 million and \$2 million in municipal taxes. Administrators or managers serve in 94% of cities or towns that collect between \$2 million and \$5 million in taxes.

If your community does not employ a professional manager, is it time to think about one? What are the signs of needing a manager? Would a manager or an administrator best serve the needs of your community? What is the role an administrator vs. a manager serves in municipal government? What would it cost? Where do we start?

HOW DO WE KNOW WE NEED ONE?

If the selectboard is overwhelmed with the volume of work, if personnel problems continually consume large amounts of time for the selectboard, or if the level of technical expertise required to comply with state or federal regulations is more than can be achieved by a volunteer board working part-time, it is time to seriously consider hiring professional management expertise. If there are funding opportunities that your town

(Continued on next page)

MARK YOUR CALENDAR

In addition to working on the plan changes outlined in the accompanying article, the VLCT Health Trust Board of Directors is preparing the Trust's 2002 rates. It will work hard to have them to you as soon as possible, as Board members understand how important rate information is to member municipalities' 2002 budget processes. Please watch future issues of the *VLCT News* and your mail for an announcement, and plan to attend the **Health Trust's Annual Meeting on November 30, 2001 at the Inn at Essex, Essex, Vermont**, where the 2002 rates and the three-tier prescription drug plan will be on the agenda.

PACIF MEMBERS

2002 RENEWALS ON THE WAY

The annual PACIF renewal season is upon us. Member municipalities should look for your "2002 Renewal Applications" to arrive in the mail in early October. The renewal application will be accompanied by a property listing, vehicle listing and estimated payroll worksheet, if applicable.

Your cooperation in completing and returning your packet before **November 9, 2001** will help us secure the lowest possible rates for 2002. Please call the VLCT office, 800/649-7915, if you have any questions about your renewal.

Thank you in advance for your assistance.

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MANAGERS -

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would like to pursue but there is no one to write or administer grant applications or grants, it may be time to consider a professional manager or administrator. If the town has difficulty retaining zoning administrators and current or delinquent tax collectors, it may be time to consider merging those responsibilities into one position that is administrator or manager. If weekend and vacation visitors demand a level of service that is significantly higher than was the case even a few years ago, it may be time to hire someone to take on those headaches. If the selectboard feels that it does not have the facts it needs to make informed decisions, it may be time to hire someone who can do the legwork for board members. If citizens often come to you directly with questions or problems to which you cannot respond, it may be time for a manager. If you are unsure how your budget and tax rates compare with those of surrounding municipalities, or if you are facing new major expenditures in the next several years, a manager may represent the way to handle those issues responsibly.

The decisions to hire an administrator or a manager should not be made lightly. Ideally, the entire citizenry of the municipality will have a chance to weigh in with their proposals for the kinds of functions an administrator or manager could perform as well as ideas about whether or not such a person will be helpful to the community.

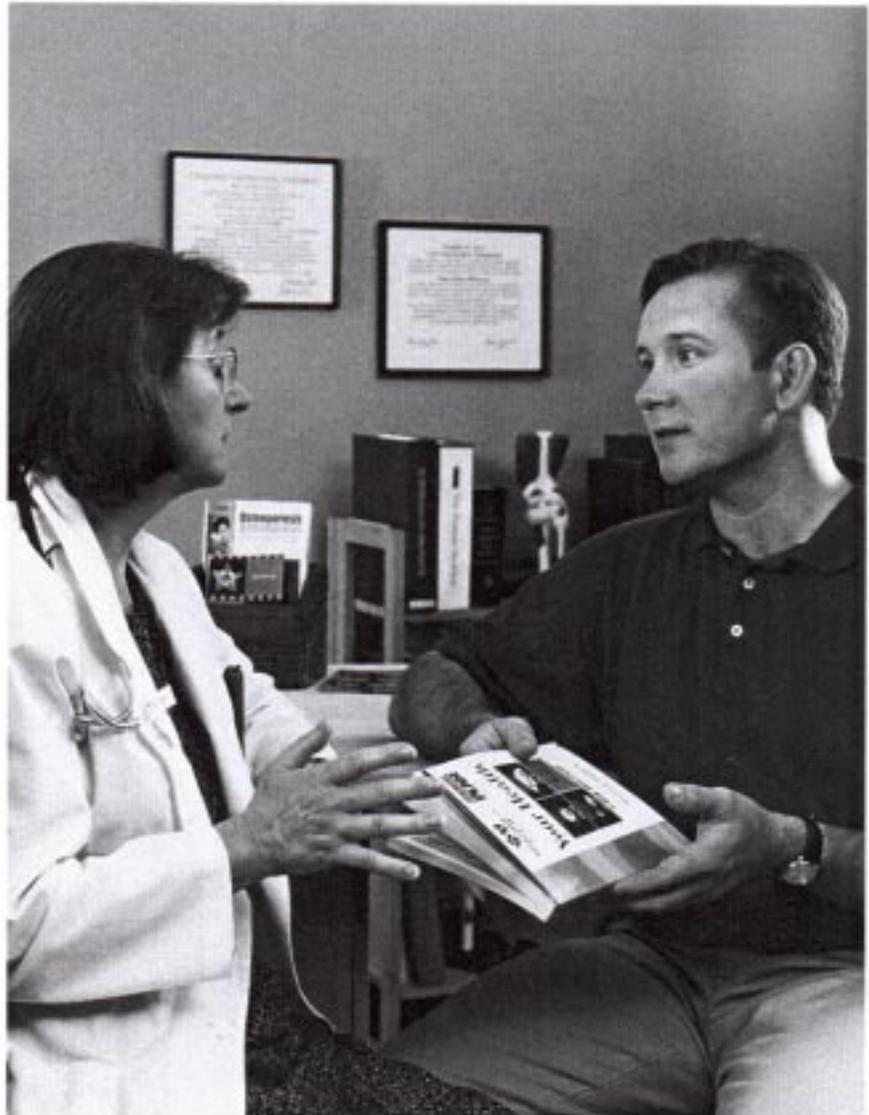
MANAGER OR ADMINISTRATOR?

A person hired under the title of "administrative assistant" or "town administrator" is an employee of the town who serves at the will and direction of the local legislative body, performing administrative duties for the legislative body and serving as its representative. Given that the legislative body has very broad statutory authority, which its members may or may not delegate to an administrator, it is difficult to create a model job description for an administrator. The job description is essentially whatever the selectboard wants it to be.

A town manager, on the other hand, has responsibilities that are granted to him or her by statute (24 V.S.A. §§ 1231 – 1243). If a municipality adopts a town manager form of government through a vote of the town, the town manager shall "cause duties required of the town not committed to the care of any

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MANAGERS -

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particular officer, to be duly performed and executed." The manager shall perform all duties conferred upon the selectboard, except that the manager **shall not** prepare tax bills; sign orders on any funds of the town; call special or annual town meetings; lay out, alter or discontinue highways; establish and lay out public parks; make assessments; award damages; make regulations under Title 23; adopt ordinances under Title 24; enter into contracts on behalf of the town; act as member of the board of civil authority; act as a member of the liquor control commission or make appointments to fill vacancies for elected or appointed boards or commissions that the selectboard is authorized by law to fill. The manager is general purchasing agent for the town; supervises all public town buildings; performs accounting for all departments of the town; is in charge of the police department, fire department and other personnel matters, and staffs selectboard meetings, to name a few of a list of 19 responsibilities set forth in statute.

The issue of who makes decisions in town (selectboard or manager/administrator) can tie towns up in knots if there is not a consensus about how decision making authority will be distributed between the two. A manager or administrator serves at the will of the board. Nonetheless, deciding who will do what before a manager or assistant is hired is likely to avoid many arguments and diffuse tensions that may arise unexpectedly.

"Municipal manager" is a non-partisan and apolitical position. The International City Managers' Association (ICMA), which is

the professional association for managers at the national level, and the Vermont Town and City Management Association (VTCMA), are clear about this aspect of the job. One of the 12 standards of ethics by which these associations abide is to *"refrain from participating in the election of the members of the employing legislative body and from all partisan political activities that could impair performance as a professional administrator."* Broad policy development and politics remain clearly the purview of the selectboard.

WHAT WOULD AN ADMINISTRATOR OR MANAGER COST?

Clearly, the answer to this question will vary from one town to another. What responsibilities are you now paying people to do that would be combined in the new position of manager or administrator (zoning administrator, tax collector etc.)? What revenues could a manager or administrator generate in grants that cannot be pursued at the present time? What might be the avoided costs (such as penalties and fines levied for violating rules and regulations) that are due to compliance with environmental and occupational safety regulations? What efficiencies could be established in the workplace and budgets that are not realized today?

In terms of developing a salary range, local officials should consider the number of departments and employees; whether there are collective bargaining units; whether the town and manager or administrator will be signing an employment agreement; what are the taxes, population (and weekend population); what qualifications the town will

require in the person filling the position, including years of prior experience and whether or not the town is seeking to fill a full or part-time position. In Vermont in 2000 - 2001 salaries ranged from a high of \$76,000 to \$17,000, the latter for a part-time position in a small town.

WHERE WOULD OUR TOWN START?

Several towns have investigated the option of an administrator or manager in the past year. Sometimes the impetus has come from community members and sometimes from the feeling that a volunteer board simply can't shoulder the burden anymore. In each case, VLCT staff traveled to the town to participate in a public hearing on the question. Managers from adjoining towns and retired managers, who have a slightly different perspective, also participated on those preliminary informational panels. Should a selectboard so desire, we are happy to meet with the board or the public to discuss the pros and cons of a manager or administrator. Whether it is decided in the end to hire a manager or administrator or not, the process of deciding is educational, and worthwhile for many municipalities.

- Karen Horn, Director, Legislative and Membership Services

TOWN PLANS HAVE NEW ROLE IN VCDP GRANTS

It has always been a good idea for projects that a town undertakes to be supported by language in its town plan. Next year, this connection will become a requirement for applications to the Department of Housing and Community Affairs (DHCA) for Vermont Community Development Program (VCDP) grants.

Starting in July 2002, VCDP staff will be looking at town plans to ensure that grants are implementing specific items recommended in the plans. Towns should consider this when working on their plans over the next year.

The federal government, which provides funds for the VCDP grants, asks that communities receiving the grants identify their community development and housing needs, and the activities to be undertaken to meet these needs. To meet this federal demand, the VCDP initiated the new town plan requirement.

Regional planning commission (and DHCA) staff members are available to help municipalities make sure that their plans meet this new role. Please contact your local regional planning commission, or DHCA at 802/828-3211.

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Tech Check



FAXING OPTIONS ARE NUMEROUS, COMPLICATED

PART ONE - A PRIMER ON AVAILABLE TECHNOLOGY

A fax isn't just a fax anymore. It can be an e-mail turned fax, a fax turned to e-mail, fax to fax, server to fax, or fax to server. Over the last few years, faxing technology has merged with Internet technology to produce new and exciting functions, as well as to increase office productivity. In the first of this two-part article, we will present a brief primer on faxing technology, discussing various methods and what they will do to improve your operations. The second part will explore the various vendors, products and

services, comparing their functionality and pricing. Included in this article is the average cost for each type of faxing technology from John Brewer's article comparing fax costs on the TMCnet.com website (at www.tmcnet.com/tmcnet/articles/net1298.htm).

The fax machine may be evolving into other forms, but the fax is certainly in no danger of becoming extinct. Despite the capabilities of all the available faxing technology, a physical document that is not available in a computer file form has to either

be faxed the "old fashioned way," or scanned and then faxed using either a desktop, server or Internet-based application. You will continue to receive hard copy from various sources that, at some point, you may need to fax to somebody. Unless you can establish a paperless workflow, you will have to have either a fax machine or scanner available. Keep this in mind as you decide what faxing method makes the most sense for your office.

Faxing comes in six basic flavors:

- 1) Traditional fax machine
- 2) Desktop with fax modem
- 3) Network fax server
- 4) Desktop-based Internet faxing
- 5) Web-based faxing
- 6) IP (Internet Protocol) enabled fax machine or server

1) TRADITIONAL FAX MACHINE

The standard fax machine operates by transmitting over a PSTN (Public Switched Telephone Network), a telecommunication term for a voice or phone line. Generally you need a dedicated line to accommodate both inbound and outbound faxing, and of course, a fax machine. The average cost, including equipment, supplies and maintenance, and line cost, is \$1.79 per fax. For small offices, this business tool has worked well. For larger operations, however, a couple of problems have resulted in significant costs. First, the more users you have, the more fax machines and dedicated lines you need to operate efficiently. Lineups at the fax machine have become the norm in a busy office, and, more often than one would like, redialing occurs frequently because the fax wouldn't go through the first time. However, you also have blocks of time when the machine isn't used at all, hence the dedicated phone line you're paying \$30 to \$50 a month for is lying idle. Trying to achieve a balance between enough fax machines to get the work done, and as few phone lines as possible to make more efficient use of the ones you do have is a difficult task.

The second problem with a standard fax machine is that it has not handled bulk

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FAX OPTIONS -

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faxing well. If you want to broadcast a fax to 50 fellow municipal officials, you have to speed dial (or worse, snail dial) 50 different numbers while standing at the machine wasting time that could be put to better use.

Security can also be an issue. Faxes sitting at the fax machine are easily read by passers-by and confidential faxes can get into the wrong hands, get mailed to the wrong person because they were caught between other faxes, or simply disappear.

2) DESKTOP WITH FAX MODEM

Desktop faxing with a fax modem over a voice line uses software installed on the desktop to convert print files to fax files. The voice line can be used by both fax and phone. There are a number of software packages that provide this function faster and more efficiently than a standard fax machine. The average cost for desktop faxing, including equipment, maintenance and line cost, is \$.95 to \$.97 per fax.

For out-bound faxes, productivity is increased because you no longer have to make trips to the fax machine or spend time there waiting for faxes to go through. Another advantage is that no added phone lines are needed; as with outgoing phone calls, outgoing faxes grab the first available line.

In-bound faxing is a bit more complex. Security is certainly improved if in-bound faxes go to the desktop. On the downside, in order to receive incoming faxes your computer has to be turned on, and if you're using a single phone line for faxing and Internet, you will have to disconnect from the Internet before faxing. For anyone using a dial-up connection only to check e-mail or to browse the Internet on occasion, this won't be an issue.

You might have a switchboard-style phone system that routes incoming calls based on extensions; one line or several lines (Verizon Centrex lines included) may come into the switchboard. With this type of phone system, it's far less cumbersome to have either a separate fax machine for inbound faxing or dedicate one of the incoming lines for fax only. All faxes would then come to one location and would need to be distributed.

Centrex also allows you to have direct lines to each employee without any switchboard at all; Verizon handles all the call switching on their end. If you have this type of phone system, you can have incoming

faxes go to employees' individual phone lines. Since the line is shared by both fax and voice calls, the sender would need to call the receiver to notify them prior to sending the fax, or the recipient would need a modem or added hardware that can distinguish between an incoming data and voice call.

3) NETWORK FAX SERVER

For large group faxing, network fax servers, called LAN (Local Area Network) fax servers, or LFS (LAN Fax Servers) can be used. Fax servers are more efficient and less costly because they provide fax services for a group, routing fax jobs to a group of voice lines. Desktop fax modems are a costly technology in larger offices, particularly when the lines are used only a small percentage of the day. Servers allow an organization to cut back on the number of dedicated voice lines used for faxing, increasing efficiency in line usage. The average cost, including equipment, supplies, maintenance, and line costs, is \$.74 per fax. You still maintain the efficiency of employees faxing from their desktop; as with desktop faxing, data is compressed, decreasing the time it takes to send and receive faxes (although your computer may be tied up while a fax is processing).

Besides the cost advantage, servers allow different options for receiving faxes. Direct inward dialing (DID) routes faxes to the correct employees by using either the caller station ID (CSID) required on all faxes, or a unique fax number used by the server. With DID, unique fax numbers can be assigned to each employee. This requires a group of phone lines to be DID enabled by your local telephone company. Another option will allow the network supervisor viewing rights to the cover page in order to forward the incoming faxes to the appropriate employee. A more cumbersome method for incoming faxes is called dual-tone multifrequency (DTMF). The sender waits for an answer from the receiver and has to punch in the fax extension for the fax recipient.

Fax broadcasting, archiving, integration with voice and e-mail messaging, least-cost routing, fax history reporting, and cover page building are features that are also available with fax servers.

INTERNET OPTIONS

Before examining the Internet faxing options (also called FOIP, or Fax Over IP), a few words about some of the advantages and disadvantages. First, there is no need for fax servers, fax machines, or excess dedicated

voice lines. You use the Internet service rather than phone lines, reducing your monthly phone bill (depending on how competitive your long distance service is). Fax broadcasting provides an even greater savings when done over the Internet. Faxes can be delivered to both e-mail in-boxes and fax machines. Web-based services even allow faxing capabilities from any location. Both types of services treat faxes like e-mails, moving them back and forth over the Internet to either inboxes or your fax hardware.

A disadvantage with any computer based faxing is that physical documents to be faxed need to be scanned first. If the majority of your faxing is produced from your software applications, this may not be an issue. Most services also require that both sender and receiver use the same application or service provider. This should be thoroughly researched before deciding on a provider (or before throwing out your fax machine!).

Internet services may offer a variety of functions including auto re-tries, fax broadcasting, fax status reporting, fax history, scheduling, polling, cover page building, e-mail and voicemail management, and contact management. Some fax server software already supports Internet fax service.

4) DESKTOP-BASED

Desktop Internet faxing works with software downloaded from a fax service provider. This software contains the proper print driver to allow faxing from the printing functions in your applications, as with your regular desktop faxing software. The application will compress and digitize the

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FAX OPTIONS -

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transmitted data to be sent along to the recipient where an Internet application, server, desktop application or hardware will decompress it and produce the original document.

If you have a number of users in your organization, you'll need to be sure that the Internet service provides a server solution to enable more than one user at a time to fax from the downloaded application.

5) WEB-BASED

Web-based faxing services require no software and provide a variety of functions. When reviewing them, be sure the service you choose has all the functionality you require. Some provide either inbound or outbound faxing only. There are free faxing websites but they should be checked out very carefully, for not all provide faxing to every destination and some will provide promotional messages on the cover sheet. They may also require text messages only. Check to see if the provider has a fax to e-mail service that allows faxes to go into your in-box. Some will require special fax viewing software. Both desktop Internet and web-based faxing costs, including monthly or per fax charges, average \$.31 per fax.

6) IP ENABLED HARDWARE

IP enabled fax machines allow fax to fax and fax to PC faxing. There are three types of hardware available, an IP converter, fax machines with built-in IP capability, and an Internet fax gateway. The IP converter is a device that you connect to your fax machine to make it IP enabled. It is an IP addressable

unit that you can connect to either a LAN or a dial-up. It will take conventional faxes and pass them on as e-mail attachments to the fax service provider where it is forwarded to a receiving fax machine.

Some fax machines have this IP capability built-in; Panasonic offers a line with this function. Internet fax gateways are the LAN version of a converter. They are accessed by a code or extension dialed from the fax machine, sending the fax through the gateway to the server. Some fax service providers offer this function; be sure, however, that they have a local node. IP enabled faxing cost averages \$.85 per fax. Charges may be monthly or per fax.

When you review the various options look carefully at your needs, your current hardware and software, and the overall costs. For more information, check out the following websites:

- www.ntfaxfaq.com/pages/exchfax.htm
- www.iptelephony.org/GIP/how/fax/index.html
- www.findarticles.com/cf_dls/m0FOX/n12_v3/21160981/print.jhtml
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- www.microwebcom.com/articoli/alfaxsit.html
- www.computerworld.com/cwi/story/0%2C1199%2CNVA47_STO42966%2C00.html

- *Michael Gilbar, VLCT Director of Administrative Services*

VLCT WELCOMES TWO NEW STAFF MEMBERS

Sandra Lockerby, Underwriter, and **Pam Knapp**, Financial Assistant, Trusts, recently joined the VLCT staff.

Sandra comes to VLCT from Vermont Mutual Fire Insurance Company, where she had worked for 23 years. Her most recent position with Vermont Mutual was as Senior Commercial Lines Underwriter II; she also has experience in their personal lines and claims departments.



Pam Knapp and Sandra Lockerby

Sandra is filling a new position at VLCT created as part of the recent reorganization of the Group Services Department. She will report to Suzanne Schittina, Member Relations Manager. Sandra is the final staff member to be hired or promoted into Group Services' new Member Relations Department.

Sandra is a graduate of East Montpelier's U-32 District High School and has taken business courses through the Community College of Vermont. She lives in Berlin with her husband and son, and just finished settling her daughter into her first year of college.

Pam comes to VLCT from Montpelier's Hunger Mountain Coop, where she was finance assistant for one year. Prior to her work at Hunger Mountain, Pam worked at Vermont Trading Company for 15 years. She was a salesperson there, and for the last eight years, was office manager for the popular Montpelier clothing store.

Pam graduated from Windsor High School in Windsor, Vermont, and has taken numerous courses at Community College of Vermont. She lives in Marshfield with her husband, Will Fitzpatrick. Her daughter, Anna, is a junior in college, currently attending Magee College in Derry, Ireland. Stepdaughter Jessa attends the Green Mountain Waldorf School.

Classifieds

HELP WANTED

Town Manager. Town of West Rutland, Vermont. This community of 2,500 people (\$1.5 million budget) is searching for an energetic individual who has excellent organizational and communication skills. The town manager reports to a five-member selectboard and oversees highway, sewer, and water department operations. Qualified candidates should have worked in municipal management

for at least three years or have equivalent experience as well as public works experience and a bachelors degree. An MPA is preferred. Salary commensurate with experience, plus benefits. Send cover letter outlining availability, resume and a list of five references by October 5, 2001 to: West Rutland Search, VLCT, 89 Main Street, Suite 4, Montpelier, VT 05602. EOE.



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Calendar

Municipal Officers' Management Conferences.

Thursday, October 11, 2001, Johnson State College, Johnson; Wednesday, October 17, 2001, Holiday Inn, Rutland; Thursday, October 25, 2001, Mt. Snow, West Dover; Tuesday, October 30, 2001, Lake Morey Inn, Fairlee. This annual fall series is sponsored by the UVM Extension Service in conjunction with VLCT and other local government organizations. For more information contact the Extension office at 802/223-2389.

Workshop on Obtaining Grants. Thursday, October 18, 2001, Steakhouse Restaurant, Berlin. This new workshop from the VLCT Municipal Law Center will bring together municipal officials seeking federal and state grants with the officials who run the grant programs. Sessions will focus on grant writing skills and resources available; specific grant opportunities available in Vermont and a "grants fair," where grant providers will set up tables and provide specific information on their programs.

For more information, contact Jessica Hill, VLCT Conference Coordinator, tel. 800/649-7915; e-mail, jhill@vlct.org.

58th Annual Governor's Conference on

Recreation. Tuesday, October 23, 2001, Capitol Plaza Hotel and Conference Center, Montpelier. Sponsored by the Vermont Recreation and Parks Association, sessions will be held for town parks and recreation committee and board members, trails and path committee members and volunteers, recreation programmers, park maintenance workers, administrative support staff, and natural resource managers. There will also be over 20 exhibitors related to parks and recreation and presentation of the Theresa S. Brungardt Awards for outstanding service to parks and recreation. For information, contact the Vermont Recreation and Parks Association at 802/883-2313 or e-mail plumb@together.net.

Vermont Community Development Association

Annual Meeting. Tuesday, October 23,

2001, Vermont Technical College, Randolph. "How to Attract, Retain and Reward Employees" will be the theme of this year's VCDA annual meeting. Developing employer-assisted housing, and meeting employees' child care and transportation needs will be discussed. For more information, contact Jessica Hill, VLCT Conference Coordinator, tel. 800/649-7915; e-mail, jhill@vlct.org.

Planning Celebration. Friday, October 26, 2001, Capitol Plaza Hotel and Conference Center, Montpelier. Presented by the Vermont Planners Association (VPA) and the Vermont Department of Housing and Community Affairs (DHCA), this annual event offers several sessions on planning: town plans, transportation projects, downtown and town center projects and open space planning. The VPA annual meeting will conclude the day. For more information, please contact Sue Minter, DHCA, tel., 802/828-3119, web, www.state.vt.us/dca/housing.