

# VLCT NEWS

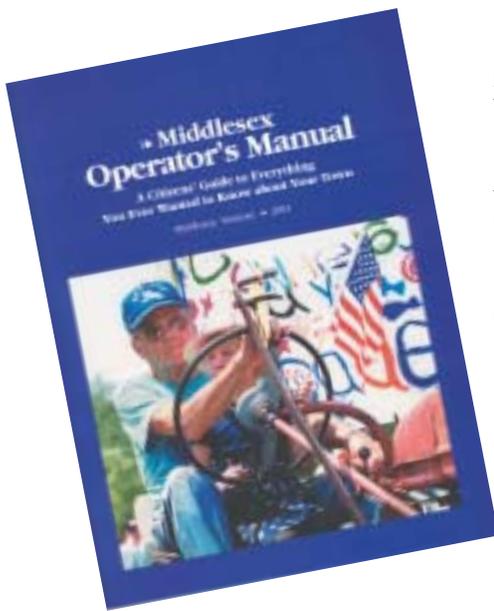
A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

April 2003

## MIDDLESEX MANUAL SHARES TOWN'S INNER WORKINGS

“Who maintains this road?”  
 “How do I make a motion at town meeting?”  
 “Who do I call about my neighbor’s barking dog?”  
 “Where can I get a cord of dry wood around here?”



The citizens of Middlesex now have all this information, and much more, at their fingertips. *The Middlesex Operator's Manual: A Citizen's Guide to Everything You Ever Wanted to Know About Your Town* includes town government information, details on local volunteer groups, churches, recreation opportunities, and more.

Middlesex's back roads come to life in the pages of the *Manual*: a centerfold map reveals where Class 3 roads turn to Class 4. A special “yellow pages” style business and service directory lists some 75 small business people who work from storefronts or home offices. Superb photographs of Middlesex scenery and citizens are scattered throughout the *Manual*. If ever a publication shouted out “community,” this is it!

For those who might be interested in creating a similar publication in their communities, here is a question-and-answer session with one of the *Manual's* creators, Middlesex resident Susan Clark.

### *Who created the Middlesex Operator's Manual, and why?*

The 43-page *Manual* was created by the

Middlesex Town Meeting Solutions Committee, a group of volunteers that meets monthly to work on ideas for increasing civic participation in town meeting and in town issues.

Political scientists tell us that citizen participation is linked strongly to community connections, and that communities really are healthier if neighbors know their neighbors. So the Committee decided to gather as much useful information about Middlesex as possible between two covers.

### *Was it expensive?*

All of the research, writing, design and production were done by community volunteers. It's amazing the talent you'll find on your back roads! The printing was generously donated by National Life Insurance Company. I suspect that most towns could find businesses willing to donate the printing or donors willing to underwrite the printing costs. You could also sell ads to help cover costs. The only actual cash outlays, which we covered through private donations, were the cost of the map (from the regional planning commission) and the cost of delivering the *Manual* to every house in town (which was still cheaper than mailing it).

### *How often will the Manual be updated?*

The *Manual* is designed to be “a keeper.” Just as people keep a car's operator's manual in  
*(Continued on next page)*

## PLEASE SHARE YOUR ISSUE OF THE VLCT NEWS

The *VLCT News* is a membership benefit that each VLCT member municipality receives free from the League. One copy is automatically mailed each month to the following local officials: **Mayors, Managers, Clerks, Treasurers, Selectboards, Administrative Assistants, Zoning Administrators.**

Associate and contributing members of the League also receive one copy each of the *VLCT News*, as do members of the VLCT Board.

We encourage selectboard members to circulate the *VLCT News* amongst themselves and to their department heads, especially to highway, police, and fire departments, and to planning commissioners.

If circulating the newsletter is not an option in your municipality, there are two solutions. One is to read the newsletter on the VLCT web site ([www.vlct.org](http://www.vlct.org)). The second is to order an extra subscription for a

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# VLCT NEWS

A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

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The VLCT News is published monthly by the Vermont League of Cities and Towns, a non-profit, nonpartisan organization founded in 1967 to serve the needs and interests of Vermont municipalities.

The VLCT News is distributed to all VLCT member towns. Additional subscriptions are available for \$25 to VLCT members (\$60, non-members), plus sales tax if applicable. Please contact VLCT for subscription and advertising information.

## MIDDLESEX -

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the glove compartment, we hope people will keep this manual handy in their home. Because information about town officers will change, we put the list of contacts on the back pages, so we can create a short update every year that people can insert into the *Manual*. We also hope, eventually, to make the information available via a Middlesex web site.

### *How did you collect the material?*

In the case of many town committees - for example, the planning commission and the historical society - the groups drafted their own text. In other cases, we interviewed the people involved. VLCT's *Handbook for Vermont Town Officers* was an invaluable source for the summaries of town officials' duties.

A key resource for the section on democratic participation (called "Your Voice In Middlesex") was the Vermont Institute for Government (VIG). We excerpted (with permission) from their "Voter's Guide to Town Meeting Procedures," "How and Why to Read Your Town Report," and more. (You can contact VIG at 802/223-2389.) We had a number of people in town - selectboard members, and other involved citizens - review the text before it was printed, which was enormously helpful.

Our "yellow pages" section was designed to connect neighbors to neighbors by listing folks who have a business or service to offer. We collected these names by publicizing the opportunity in our town newspaper, and putting up posters at school and around town. We were inspired by a business and service directory that Middletown Springs puts out annually; their volunteers actually phone every person in town to make sure everyone who wants to be listed gets in!

### *How was your Committee formed?*

At Middlesex's 2001 town meeting, residents considered doing away with town meeting altogether, and switching to the Australian ballot system. Concerned that by losing their Town Meeting, Middlesex would lose an important opportunity for face-to-face decision-making and local participation, voters ultimately decided to maintain the traditional town meeting format. However, citizens voiced their concern that many residents were not participating in the decision-making process. Since then, a group of volunteers, gathered at the request of the selectboard and dubbed the "Town Meeting Solutions Committee," has come together once a month to devise practical responses to this concern.

The *Middlesex Operator's Manual* is just one project of the Town Meeting Solutions Committee, which has also surveyed community residents; hosted discussions to explore ways to make Town Meeting voting available to those who can't physically attend the meeting; how to make Town Meeting more accessible and easier to attend; and how to make all local issues more interesting to all of the town's residents - young and old, commuters, busy parents, and anyone who may feel their vote doesn't make a difference.

### *How can people get a copy of the Manual?*

Central Vermonters can read a copy at the Kellogg-Hubbard Library in Montpelier, or the Rumney School and U-32 High School libraries. Towns that want their own copy can contact Susan Clark, 42 McCullough Hill Rd., Middlesex VT 05602. If possible, please include \$2.00 to cover postage.

*(VLCT extends its thanks to Susan Clark for taking the time to share the Middlesex Operator's Manual with VLCT members around the state.)*

## MIDDLESEX OPERATOR'S MANUAL

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## LEGAL CORNER



# IMPORTANCE OF TIMELY APPEAL; THE FEDERAL FALSE CLAIMS ACT

### LACK OF TIMELY APPEAL RESULTS IN DEEMED DISAPPROVAL OF PERMIT

The Vermont Supreme Court recently issued a decision upholding deemed *disapproval* of a zoning permit. *In Re Ashline*, Vt. S.Ct. No. 2002-062 (March 28, 2003).

The case began when the Ashlines expanded a building and then applied for a certificate of occupancy for the newly created duplex. They were notified that they needed to apply for a conditional-use permit or be cited for a violation. They applied for the permit, and six of the nine members of the zoning board of

The exclusive remedy for a person unhappy with a ZBA's "decision or act taken, or any failure to act" is an appeal to the Environmental Court *within 30 days of the decision*. 24 V.S.A. § 4472. Once the appeal period is over, the Environmental Court has no jurisdiction to hear the case, and the parties are "bound by decisions of the board." The Supreme Court reiterated that it *strictly construes the broad and unmistakable* language of § 4472 to prevent improper, outdated appeals of zoning matters.

In this case, the ZBA's written decision was issued in September 1999. The Ashlines acted as if there had never been a decision, so there

### LOCAL GOVERNMENTS CAN BE SUED UNDER FALSE CLAIMS ACT

The U.S. Supreme Court has ruled that a local government may be sued under the federal False Claims Act (FCA). *Cook County, Ill v. U.S. ex rel. Janet Chandler*. 538 U.S. \_\_\_, U.S. No. 01-1572 (March 10, 2003). An interesting wrinkle for Vermont municipalities is that this decision is the opposite of that same Court's decision in *Vermont Agency of Natural Resources (ANR) v. U.S. ex rel. Stevens*, 529 U.S. 765 (2000). In that case, the Court held that ANR could not be sued under the FCA because ANR was not a "person." In *Cook County*, the Court held that a local government is a "person" for purposes of the FCA.

The FCA was passed in 1863 to stop "the massive frauds perpetrated by large [private] contractors during the Civil War." The law has been amended but still provides that the government, or a private person acting on behalf of the government, may bring suit against a person who has knowingly presented false or fraudulent claims to the government for payment. If the plaintiff wins, the defendant may be liable for "treble" damages (triple the amount of a jury award), costs, fees and civil penalties up to \$10,000 per claim. The private

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*...while the non-existence of a permit in this case was upheld for failure to appeal, it is important to keep in mind the importance of full member attendance by your local boards. As this case highlights, a board cannot take binding action unless it acts with the concurrence of a quorum.*

adjustment (ZBA) met to consider the matter.

After the hearing, the ZBA voted 4-2 to issue the permit. Because there was not approval by a *majority of the entire board*, the Ashlines did not get a conditional-use permit, and the duplex was deemed to be in violation of the bylaws.

The ZBA's written decision was issued in September 1999. The Ashlines did not appeal. In August 2000, the zoning administrator (ZA) issued a notice of violation, and the Ashlines appealed that notice of violation to the development review board (DRB). (The town had replaced its ZBA with a DRB by that time.) The DRB ruled that the notice of violation was proper because the ZBA had not issued a conditional-use permit for the duplex. Therefore, it was in violation.

The Ashlines then appealed the DRB decision to the Environmental Court. The court held that the Ashlines could not, at this late date, appeal the 1999 decision, and so granted summary judgment in favor of the town. The appeal to the Supreme Court followed. The central issue was the status of the 1999 ZBA decision. The Ashlines argued that, because there was not a majority vote either way, the ZBA had failed to act, resulting in a deemed approval of their application. The Court rejected that argument.

was nothing to appeal. They apparently, on their own, deemed that their application had been approved because the ZBA took no action. In fact, the ZBA's "failure to act" meant that the original denial by the ZA remained in effect.

The Court refused to allow an end-run around the limited appeal period based on the deemed approval challenge. It cited a number of prior cases in which it had upheld the exclusivity of the appeal process provided in § 4472, even when the zoning decision was erroneous or when the ZA or ZBA had acted outside their authority. Section 4472 "implements a policy of repose," whereby the parties know they can rely upon a decision after the appeal period has expired. This ensures finality of decision-making, orderly governance in development and reasonable reliance on the statutory process.

In conclusion, while the non-existence of a permit in this case was upheld for failure to appeal, it is important to keep in mind the importance of full member attendance by your local boards. As this case highlights, a board cannot take binding action unless it acts with the concurrence of a quorum.

*- Libby Turner, VLCT Staff Attorney*

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## LEGAL CORNER -

(Continued from previous page)

person suing on behalf of the government may be awarded up to 30 percent of the amount awarded, plus fees and costs.

The argument in *Vermont ANR* was that the state agency was not a person who could be sued because the agency was part of the sovereign, who presumably could not be sued under English common law. The Court found that the original language of the FCA allowed for fines and imprisonment against "persons" who attempted to defraud. Obviously, the Court said, such punishments were not meant to be assessed against the sovereign. In addition, although Congress had plenty of time to change the language to provide for suing the sovereign, if that was its intent, it had never done so. Therefore, the presumption that a state agency is still part of the sovereign and cannot be sued still applies.

So, what happened in *Cook County* to change the Court's mind? Well, said Justice Souter, long before passage of the FCA, the law recognized that "person" includes "persons politic and incorporate." Corporations can enjoy "the capacity to sue and be sued" just as other persons can. English common law

recognized both municipal and private corporations as persons. In U.S. law, the municipal corporation was the "archetypal American corporation" before private corporations became widespread.

Cook County argued that FCA references to persons as members of the military certainly excluded corporations and that penalties such as imprisonment could not apply to corporations. The Court replied that only the appropriate penalty need be applied, depending on the type of "person" found guilty. Local governments could not be imprisoned, but they could be fined. The next argument was that the FCA was aimed at private contractors, not local governments. The Court said the law was written expansively "to reach all types of fraud." It then noted that "Whatever municipal corporations may have been doing in 1863, in 2003 local governments are commonly at the receiving end of all sorts of federal funding schemes and thus no less able than individuals or private corporations to impose on the federal fisc and exploit the exercise of the federal spending power."

Finally, Cook County argued that a municipal corporation should not be subject to punitive or exemplary damages. The Court explained that the relationship between compensatory, remedial and punitive damages is

complex. Under the FCA, it is necessary to compensate the federal government for costs, delays and inconveniences suffered in addition to recouping the money originally paid out. Also, when a private person sues and wins on behalf of the government, that person takes home up to 30 percent or more of the awarded amount. Therefore, the treble damages do not constitute a windfall for the government.

There is a concern that when a local government is sued and loses, the local "blameless and unknowing taxpayers" must provide the money to pay the penalties, even if they were unaware of the fraudulent acts committed by their nefarious officials. The answer to this is a question: Why shouldn't the local taxpayers who have benefited to some extent from the fraud pay, rather than leaving all federal taxpayers permanently out of pocket?

Finally, the Court said, "It is simply not plausible that Congress intended to repeal municipal liability ... by the very Act it passed to strengthen the Government's hand in fighting false claims." The application of this case to local government is simple. A fraudulent claim for money from the federal government is a crime. False dealing when applying for grants, FEMA money or other federal dollars could turn out to be very expensive.

- Libby Turner, VLCT Staff Attorney



## Municipal Assistance Center

VLCT's Municipal Assistance Center specializes in the issues confronting Vermont municipalities today. Please give us a call if we can provide your municipality with any of the following services:

- ☐ *Counsel by municipal attorneys and VLCT staff.*
- ☐ *Review of proposed ordinances, policies, and contracts.*
- ☐ *Onsite workshops on topics such as financial management, land-use planning, and the proper functioning of municipal boards and commissions.*
- ☐ *Consulting services such as meeting facilitation, mediation, and personnel recruitment.*
- ☐ *Manuals and handbooks which provide a plain-English guide to state and federal laws.*
- ☐ *Regular surveys on salaries and benefits, municipal practices, rates and fees, etc.*
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# ASK THE LEAGUE OVERWEIGHT TRUCK PERMITS; CONSTABLE/POLICE

## Can a town raise the fee it charges to issue overweight truck permits?

The short answer is no; towns may only charge the "administrative" fee for issuing the permit. According to 23 V.S.A. §1400a(d), towns may charge \$5.00 for an individual truck permit, or \$10.00 for a "fleet permit." Upon payment of \$10.00, "an applicant may obtain a permit to operate all of his or her registered vehicles in that municipality, under the conditions of the permit, for the period of the permit." If a fleet permit is obtained, individual permits do not have to be carried in each vehicle permitted. 23 V.S.A. §1400a(d).

However, towns *are* authorized to accept "additional compensation commensurate with the extra wear or maintenance required on the highway traveled over or on any bridge by reason of the overweight allowed by any permit approved by them..." 23 V.S.A. §1400a(c). To calculate the compensation due, the statute requires consideration of the following factors:

1. The amount of weight permitted in excess of the normal limit.
2. The configuration and number of axles of the vehicle involved.
3. The number and length of trips the vehicle will be making.
4. The condition of the highway before and after use by the vehicle, and costs associated with any repair.

The statute continues to specify that, "if the agreement for the compensation to be paid is in writing, failure on the part of the applicant to pay the sum or sums agreed upon shall be sufficient cause to withdraw the permit."

Thus, while towns *cannot* unilaterally raise the fees for overweight permits from the five and ten dollars provided by statute, we believe they *can* develop an overweight permitting process to recoup some of the costs incurred by virtue of the overweight permits they issue. Such a process, however, must involve consideration of the four items listed above. For more information on how to develop such a process, please contact the VLCT Municipal Assistance Center.

- Dominic Cloud, Manager, VLCT MAC

## Does the town constable have any authority over municipal police officers?

The general answer is no. In cases where there is a municipal police department, the officers of that department are supervised by the chief of police. 24 V.S.A. §1931. The selectboard (or other municipal legislative body), in turn, supervises the chief of police. This general rule is followed in those towns that have chosen to establish a municipal police department.

The exception to this rule exists in those towns which do not have a local police department, yet have chosen to hire a "special

police officer" on a temporary basis: in such cases, the town constable has supervisory authority over this police officer. 24 V.S.A. §1936 (a). This may present special issues in those towns wishing to supervise local law enforcement activities; in order to do so, your town must establish a police department, or contract with your county sheriff or with the state police. Municipalities may also enter into an interlocal contract for provision of law enforcement services between municipalities; however, such a contract must be recommended by a joint survey committee, approved by the attorney general, and by the voters of the town. 24 V.S.A. §4901.

- Brian Monaghan, Staff Attorney

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# VLCT STAFF GROWS BY TWO

The VLCT Municipal Assistance Center (MAC) is pleased to announce that **Julie Fothergill** has joined the Center as its new Staff Attorney. Julie takes the place of **Sue Ritter**, who left the League last fall.

Julie received her law degree *cum laude* from the Suffolk University Law School in Boston, Massachusetts and is currently a candidate for a Masters in Environmental Law at Vermont Law School.

Prior to her move to Vermont, Julie was the Policy Director for the City of Boston's Environmental Strike Team from 1998 to 2001. There, she worked with environmental inspectors from six city departments to enforce

Department. From 2001 –2002 Julie was in private practice with the law office of Charles F. Houghton, Esq., in Stoneham, Massachusetts.

Julie joins Staff Attorney **Brian Monaghan**, Legal and Membership Services Associate **Gail Lawson** and Municipal Assistance Center Manager **Dominic Cloud** to round out the MAC team. Many members have probably already spoken with Julie on the telephone. Please join us in welcoming her aboard!

New Member Relations Representative **Rikk Taft** has also already met a fair number of VLCT members. Rikk, who is filling a new position with the Group Services Department,

Relations Manager **Suzanne Schittina** in being available to all members of the VLCT insurance trust programs to explain the trusts' programs and services.

Rikk comes to VLCT from CK Interactive/Level 9, a web design and advertising firm in Montpelier, where he was an Account Manager/Project Manager. Prior to his work with Level 9, Rikk worked in a similar capacity for the Vertek Corporation in Williston. Rikk also has municipal experience, as an Assistant Crew Supervisor for the City of Barre's Cemetery Department.

Rikk has a BS from Johnson State College in Environmental Science and lives with his family in Barre. Welcome, Rikk!

## AND TWO MORE!

Next month, we will introduce two more new VLCT staff members – Senior Loss Control Consultant **Wade Masure** and Loss Control Consultant **Chris LaBerge**. Wade and Chris recently joined the VLCT Group Services Department and, after a period of training, will also be on the road serving the VLCT insurance trusts' growing membership.

## SHARE THE VLCT NEWS-

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*Julie Fothergill, Esq.*



*Rikk Taft*

a wide variety of environmental laws. During this time Julie also served as the Assistant Commissioner of Legal Affairs, the Director of Policy and Planning, and Director of Special Operations for Boston's Inspectional Services

immediately hit the road to conduct workers' compensation payroll audits for VLCT PACIF's growing membership. In addition to conducting the audits, Rikk joins Member Relations Representative **Kim Gauthier** and Member

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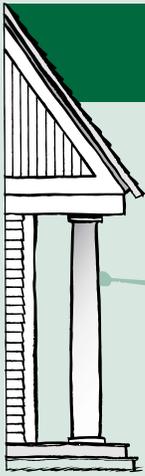
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## Directory

Membership in VLCT PACIF has grown dramatically in the last 18 months. Group Services has added several new staff members to keep up with the growth, and is pleased to introduce our now complete department.

### David Sichel

*Director*

Overall management of Health, PACIF and Unemployment Insurance Trusts.

### Patrick Williams

*Deputy Director*

Assists in overall management of Health, PACIF and Unemployment Insurance Trusts. Safety & Health Promotion and Claims supervision.

### Suzanne Schittina

*Manager, Member Relations*

Develops and oversees the marketing program for the League's three insurance trusts. Assists members in understanding and using League services.

### Kim Gauthier

*Member Relations Representative*

Assists members in understanding and using League services.

### Rikk Taft

*Member Relations Representative*

Assists members in understanding and using League services.

### Nicolette White

*Administrative Assistant, Member Relations*

Administrative assistance to the Director of Group Services and Manager of Member Relations. Responds to membership inquiries.

### Brian FitzPatrick

*Manager, Safety & Health Promotion*

Oversees Loss Control & Wellness efforts for PACIF and Health Trusts.

### Rodney Bora

*Senior Loss Control Consultant*

PACIF-Provides Loss Control service to

## CUTS (COMMUNICATIONS UNDER TEN SENTENCES)

### WELCOME TO VLCT PACIF

Grand Isle Fire District #4

Town of Pomfret

Town of West Fairlee

### NEW BOARD MEMBERS

The VLCT Unemployment Insurance Trust recently appointed **Kathleen Ramsay** to its Board of Directors. Kathleen is Business Manager for the Town of Middlebury and former Administrator for the Town of Hinesburg. She takes the place of **Judith Feldman**, who recently resigned from the Board. Welcome, Kathleen!

The VLCT PACIF Board of Directors has also added a new alternate member: **Walker James**, Selectperson from Orwell. Walker is the owner-operator of a 200-head dairy farm in Orwell, and a past Orwell Moderator and Union High School District Board member. Walker takes the place of alternate board member **Dan Hill**, who filled the Director position created by the resignation of **Mel Adams**. Welcome, Walker!

members in Northern Vermont.

### Arthur LaPierre

*Senior Loss Control Consultant*

PACIF-Provides Loss Control service to members in Mid Vermont.

### Chris LaBerge

*Loss Control Consultant*

PACIF-Provides Loss Control service to members in Northwestern Vermont.

### Wade Masure

*Senior Loss Control Consultant*

PACIF-Provides Loss Control service to members in Southern Vermont.

### Heidi Joyce

*Senior Health Promotion Consultant*

On-site wellness programs and training.

### Maureen Turbitt

*Administrative Assistant, Safety & Health Promotion*

Administrative and clerical support for Loss Control and Wellness.

### Sandra Lockerby

*Underwriter*

Underwriter for PACIF program.

### Vicky Abare

*Group Services Assistant*

Administrative and clerical support for Underwriting and Group Services. Responds to membership inquiries.

### Darlene Bresett

*Claims Supervisor*

Supervises the PACIF in-house claims operation. Handles liability, auto, property and workers' compensation claims.

### Patricia Boyle

*Administrative Assistant-Claims Associate*

Administrative and clerical support for Claims. Also adjusts workers' compensation claims.

### Kathi Chaloux

*Senior Claims Representative*

Handles PACIF workers' compensation, auto, liability and property claims.

### Kelly Kindestin

*Senior Claims Representative*

Adjusts PACIF liability, auto, property and workers' compensation claims.

### Terri McAdams

*Claims Representative*

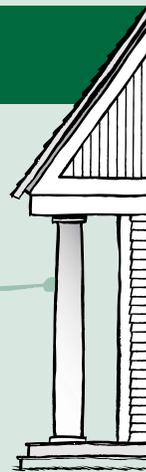
Adjusts PACIF liability, property auto and workers' compensation claims.

### Jennifer Patterson

*Senior Claims Representative*

Adjusts PACIF liability, property, auto and workers' compensation claims.

You may reach us at: tel., 800/649-7915; fax, 802/229-2211; mail, 89 Main Street, Ste. 4, Montpelier, VT 05602; and e-mail at [fristinitiallastname@vlct.org](mailto:fristinitiallastname@vlct.org).



## VLCT HEALTH TRUST AND PACIF MEMBERS PARTICIPATE IN WELLNESS WORKSHOPS

To assist members in making a "fresh start" this year, the VLCT Safety and Health Promotion Department recently offered wellness coordinator workshops in seven locations around the state.

Many thanks go to our hosts, the towns of Hartford, St. Johnsbury, Shelburne, St. Albans, Brattleboro, City of Rutland, and the Bennington Free Library. We greatly appreciated the opportunity to hold our workshops at these locations.

The workshops included a working session to create action plans for 2003 based on VLCT claims data and employee/dependent needs.

The sessions gave participants a chance to share ideas and brainstorm. Each participant will receive a compilation of action plans from their own session, as well as from the other six sessions. That is a lot of ideas!

Participants included: **Polly Gadbois** and **Susan Clark**, Town of Franklin; **Amy Lefebvre** and **Gary Champy**, Enosburg Village; **Brooke Tsounis**, St. Albans Town; **Alice Baker**, St. Albans City; **Dick Thompson** and **Doris Raleigh**, Town of Swanton; **Larry Kempton**, Town of Highgate; **Michael Kane** and **Deane Haskell**, Town of Rockingham; **Todd Rideout**, Town of Brattleboro; **Nona Monis**, Town of Dover; **Tracy Knights**, Town of Bennington; **Dennis McCarthy**, Town of Shaftsbury; **Barbara Cochran** and **Bruce Kelley**, Town of Morristown; and **Bethany Shub**, Burlington Electric Dept.

Also attending were: **Kate Charles** and **Stephanie Hanker**, City of Burlington; **Susan Hill**, Village of Essex Junction; **Judy Lance**, Town of Shelburne; **Sarah Spangler**, Chittenden County Transportation Authority; **Kathleen Ramsay**, Town of Middlebury; **Judy Kenison**, Town of Hartford; **Scott Tucker**, **Cindi Wight**, **Pamela Petrie**,

**Mary Jane McCormack**, **Jean Ross**, and **MaryAnne Corcelle**, City of Rutland; **David Norton**, Town of Ludlow; **Mike Barsalow**, Town of Fair Haven; **Donna Wesley**, Town of Manchester; and **Ida Rainville**, Town of St. Johnsbury. We appreciate all your efforts!

We plan on conducting similar half-day workshops annually to help set health promotion/wellness goals for the new year. We are also available throughout the year to assist members to meet their health promotion goals. Research shows that employees and dependents who participate in health promotion and wellness programs incur fewer medical care costs, workers' compensation costs, are absent less often, and are more productive.

It is our hope that all VLCT member municipalities will develop health promotion and wellness programs for their employees and dependents. As a pool, we need to work as a team to help employees and family members lead healthy lifestyles.

- Heidi Joyce, Senior Health Promotion Consultant

### Upcoming Dates

#### GROUP SERVICES DAY

The Second Annual Group Services Day will be held on **Thursday, June 5, 2003** at the Stoweflake Resort, Stowe, Vermont.

#### VLCT HEALTH TRUST ANNUAL MEETING

**Friday, November 14, 2003**  
Capitol Plaza Hotel, Montpelier

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# STORMWATER UPDATES

## MULTI-SECTOR GENERAL PERMIT

The Stormwater Section of the Vermont Department of Environmental Conservation has been, and continues to be, understaffed. As a result, some of the rules that were in the process of adoption have been delayed.

The Department recently sent a letter to municipalities to update them on the status of the Multi-Sector General Permit (MSGP) for discharges associated with industrial activities. The letter also clarifies concerns that have been raised with regard to regulating the uncovered storage of salted sand piles.

The letter notes that the schedule for implementation will be established by the issuance of the final permit, most likely beginning January 2004. Municipalities will be notified once the MSGP has been issued.

With regard to salted sand piles, the letter notes that Vermont is currently seeking a five-year extension from the federal regulation that would require regulated entities under the MSGP to cover or enclose salted sand piles to prevent exposure to precipitation. During this five-year time period, the Agency will be evaluating the effects of salted sand piles on water quality and developing appropriate best management practices. Municipalities that have uncovered salted sand piles that seek coverage under the MSGP will be required to register their pile on a form provided by the Agency.

Additional information on the MSGP and other stormwater permits can be found on the stormwater website, [www.vtwaterquality.org/stormwater.htm](http://www.vtwaterquality.org/stormwater.htm) or by calling 802/241-4320.

## SMALL CONSTRUCTION SITES EROSION CONTROL

The Department of Environmental Conservation recently announced that issuance of the Small Construction General Permit for projects that will disturb more than one-acre but less than five acres of land will be delayed.

Construction projects scheduled to begin before the final permit is issued may proceed as scheduled. Once the final permit is issued, municipalities will be notified so that they may seek coverage through submittal of a Notice of Intent (NOI).

Please note: For any project that will disturb more than five acres of land, a Notice of Intent needs to be filed under the existing Large Construction General Permit and approval granted before the project is initiated.

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# Tech Check

## EXCEL FUNCTIONS

### SUMIFs FOR THE FUNCTION CHALLENGED



A useful and versatile function, SUMIF allows you to summarize data in a format that best meets your needs. Excel's data subtotaling feature in the main menu works as well, but will simply insert subtotal rows into a table of data and hasn't the flexibility to work within a report format outside a table. This limits your ability

to design a more attractive report if you wish to use the feature.

Let's examine the components to the function before testing it. The function =SUMIF(Sheet1!A2:A30,Sheet2!A2,Sheet1!B2:B30) can be broken down into four parts:

- **=SUMIF()** This tells Excel which function is being applied. All functions begin with an "=" and the term following it is the specific function. The information the function requires in order to obtain the appropriate result is enclosed in parentheses immediately following the function itself.
- **Sheet1!A2:A30** The first piece of information required for this function is the range of cells that Excel needs to search in order to find the particular data it is looking for. It will choose all cells that match the criteria you set in the function. The range is followed by a comma preceding another piece of information necessary for the function.
- **Sheet2!A2** This is the criteria you set to determine which data is extracted from the cells you need searched. It will be tested against each cell in the range to come up with matches. Again, a comma follows.
- **Sheet1!B2:B30** Last, but certainly not least, is the sum range. This is the range of cells you wish totaled for the criteria you've set. Once Excel searches through the first range for matches to your criteria, the data in the sum range cells that are in the same row as the matches will be added up.

Let's try a simple example. Open Excel and be sure you have at least two worksheets available, Sheet1 and Sheet2. In Sheet1 type in the following information in the cells indicated:

- In cell A1, type the word "Name."
- In cell B1, type the word "Amount."

These will be the headings of the columns of your data table:

- In cell A2, type the name "Smith."
- In cells A3 through A10, type the following names: Jones, Roberts, Smith, Jones, Roberts, Smith, Jones, and Roberts. You should have a total of nine names listed in column A.
- In cells B2 through B10, type the numbers 500, 450, 620, 500, 450, 620, 500, 450, and 620.

(Continued on Page Fourteen)

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# GASB 34 COMPLIANCE GUIDE

## SERIES CONCLUSION: FINANCIAL REPORTING, PART 3

### REQUIRED SUPPLEMENTARY INFORMATION

GASB standards require certain additional information to enhance and clarify your financial statements. While your note disclosures (discussed last month) are comparable to literary footnotes, **Required Supplementary Information (RSI)** supplements financial data by providing greater detail as well as historical perspective. **Management's Discussion and Analysis (MD&A)** is an important piece of your RSI and is presented before your financial statements, while other RSI comes after your notes which are preceded by your financial statements. RSI includes four items: MD&A; budgetary comparisons; pension information (only applicable to governments with their own pension funds); and modified approach infrastructure information.

### MANAGEMENT'S DISCUSSION AND ANALYSIS

MD&A gives readers both a short-term and long-term analysis of the primary government's activities in a narrative form. More user-friendly to the layperson than financial statements, it provides an analysis of the results of your current-year activity and compares it with the prior year. Visual aids such as charts or graphs are encouraged, and the analysis must be based on current factual information.

Interestingly enough, the Securities Exchange Commission (SEC) has the same MD&A requirement for the financials of publicly-traded companies. It is important that users of financial statements who are not accountants are able to understand the results of a company's or government's activities in

order to make informed decisions about investing, in the case of a company, or voting for a budget in the case of a local government.

There are certain minimum requirements for the MD&A. Bill Hall, Finance Director of the Town of Hartford, put together the first MD&A for a Vermont town, and we use his format here to illustrate these requirements. (Editor's Note: You may find the Hartford MD&A in PDF format on the VLCT web site, in the *VLCT News* section.)

Bill introduces his analysis with a section called **Financial Highlights**, which is not required but is an effective preface to the overall discussion. In that paragraph, he bullets a summary of the bottom line, including net assets from his government-wide financial analysis and fund balances for his governmental funds obtained from the fund statement's analysis. There is also a bullet outlining the general fund results.

GASB 34 requires the following information in the MD&A:

- **Overview of Financial Statements** – (See last month's article for a description of the types of financial statements.) This is a brief overview of the two types of basic financials, and a discussion of their relationship to each other. There should also be an explanation of the differences in the type of information they provide the reader. This section acquaints the reader with the basic concept of government financial reporting by explaining what sort of information they provide and how the government-wide financials, the fund financials, the notes and the required supplementary information all tie in to give a complete picture of the municipality's financial condition. The Town of Hartford supplements this overview by including two short paragraphs explaining the notes to the financials as well as the RSI.
- **Government-wide Financial Analysis** – This analysis is in two parts. First, a condensed financial statement from the government-wide statements comparing current to prior should be presented. This gives the reader a summary financial report that is the basis for the next part of this section: analysis of the overall financial position. You want to show whether it has improved or deteriorated and give reasons for any significant changes in both governmental and business-type activities. The condensed financial statement should

include the following categories:

1. Total assets, capital and other.
  2. Total liabilities, long-term and other.
  3. Total net assets, invested in capital net of related debt, restricted and unrestricted.
  4. Program revenues and general revenues both by major source, as well as total revenues.
  5. Program expenses by function and total expenses.
  6. Excess/(Deficiency) before contributions, special and extraordinary items, and transfers.
  7. Contributions, special and extraordinary items, and transfers.
  8. Changes in net asset and ending net assets.
- **Financial Analysis of Government's Funds** – This is an analysis of fund balances for all of your governmental funds, and the net assets for your business type funds, with an explanation of any significant changes. This explanation must include a description of any commitments or restrictions that may affect the future use of these balances, an important piece of information for voters making decisions about the next budget.
  - **General Fund Budgetary Highlights** – This is probably familiar to many municipalities that already provide budget analyses. It is simply an analysis of the variances between your original and final budget (assuming there were adjustments made during the course of the fiscal year), as well as between your final budget and actual revenues and expenditures for general fund only.
  - **Capital Assets and Debt Administration** – This section provides an explanation of all significant capital assets and long-term debt activity. If you use the modified approach to report your infrastructure, you must include a discussion of the assessed condition changes, a comparison of current assessment to established condition level, and an explanation of any variances in the amount you estimated you would need with the actual expenses to preserve and maintain the assets.
  - **Economic Factors and Next Year's Budgets and Rates** – This is a description of any known facts, decisions or conditions as of the date of the auditor's report that are expected to significantly impact the government's financial condition or the results of operations. This includes economic factors such as grand list increases or inflation that affects benefits and other expenses. The Town of Hartford's description was tied directly to its proposed budget,

(Continued on next page)

## GUIDE TO THE GASB GUIDE

- Part 1, Overview, June 2002 *VLCT News*
- Part 2, Tracking and Reporting Capital Assets, July 2002 *VLCT News*
- Part 3, Tracking and Reporting Infrastructure, August 2002 *VLCT News*
- Part 4, Using the Modified Approach to Tracking and Reporting Infrastructure, September 2002 *VLCT News*
- Part 5, Financial Reports, 1&2, February and March 2003 *VLCT News*
- Part 6, Financial Reports, 3, April 2003 *VLCT News*



## GASB 34-

(Continued from previous page)

indicating that all of these factors were addressed in the preparation of the new budget.

### OTHER REQUIRED SUPPLEMENTARY INFORMATION

**Budgetary Comparison Schedules** should show the original budget compared to the final budget as well as the final budget compared to actuals. Unlike the General Fund Budgetary Highlights discussed above, this includes all governmental funds and is detailed according to the manner in which the town budget is normally prepared. If the budget is not constructed according to GAAP (generally accepted accounting principles), a reconciliation of the schedule should be presented, showing the adjustments necessary to bring it into compliance. Expenses that are over what was budgeted should be explained in a note following the schedule. This schedule may also be reported with the fund financial statements after the statement of revenues, expenditures and changes in fund balances.

### Modified Approach Infrastructure Information

- A schedule showing the assessed conditions of the infrastructure for the latest three years including the dates of assessment.
- A schedule showing the estimated annual amount calculated at the beginning of the fiscal year for preservation/maintenance of the infrastructure compared to the actual amounts spent.

Notes following these schedules should describe the basis for condition measurement as well as the scale used for assessment, the condition level you intend to maintain, and any factors contributing to trends seen in the assessed conditions in your schedule.

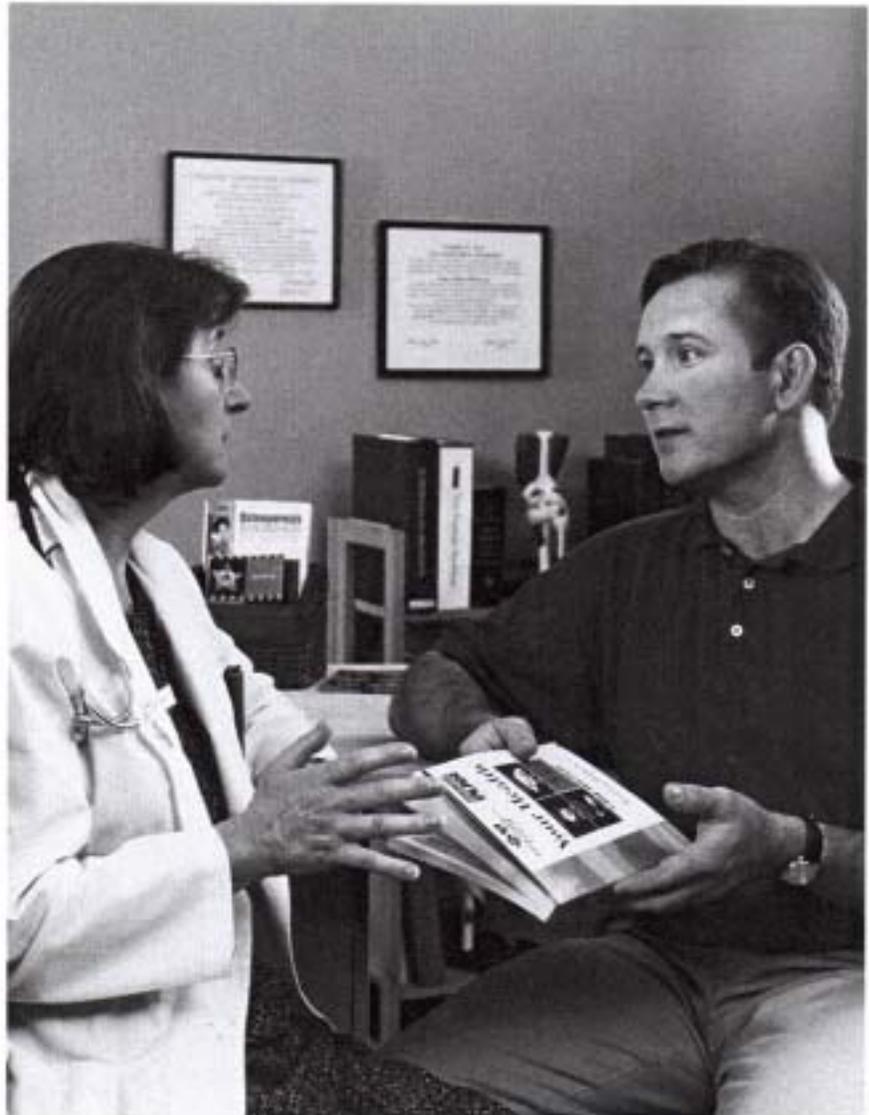
*-Michael Gilbar, Director, VLCT Administrative Services*

### 2004 LEGISLATIVE SESSION

Yes, you read that correctly! VLCT will start planning for the 2004 legislative session next month by mailing out nomination forms for the four committees that will draft the 2004 Municipal Policy.

The committees meet one or two times over the summer to draft their particular section of the Policy. If you would like to have input into VLCT's legislative platform next year, please consider joining a Municipal Policy Committee.

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**BlueCross BlueShield of Vermont**

Blue Cross and Blue Shield of Vermont is an independent licensee of the Blue Cross and Blue Shield Association.



## TECH CHECK -

(Continued from Page Eleven)

Let's assume this table is a list of employees with payments made to them over a period of three weeks. Smith receives a check for \$500 each week, Jones \$450, and Roberts \$620.

You've decided to design a report to show year-to-date totals that will automatically update each time you add new records to the table. Click on Sheet 2 and, for simplicity's sake, we'll just use columns A and B and the first three rows, only showing the basic information we need for now. Just keep in mind that you can be as creative as you desire, placing information anywhere in the worksheet and formatting it any way you see fit.

In cell A1, type "Name" and in cell B1, type "YTD Paid". In cells A2 through A4, type the names "Jones," "Roberts," and "Smith." We're going to link the cells to the right of each name to the data table in Sheet 1 so that we can extract the sum of the payments for that particular individual. The function will work this way:

- First, it looks at the name in Sheet 2, Column A.
- Then it searches through all the names in Column A in the table in Sheet 1 to locate matches to the name in Sheet 2, Column A.
- Finally, it adds up all the cells in Sheet 1, Column B in the same rows as the names that it finds matches for.

Position your cursor on cell B2 to the right of "Jones," and click on the Paste Function key (f) in the formula toolbar or click on the "=" just above the "C" in column C. Find the SUMIF function under the *All* category or

under *Math and Trig*. Once you find it, click OK and you'll be in the formula dialog box. You can then choose the range by clicking on the miniature worksheet icon at the right end of the *Range* edit box. Do so and click on the Sheet 1 tab, then highlight cells A1 through A30 and hit enter or click on the worksheet icon to get back to the function dialog box. You've now chosen the range of cells you wish to search to find matches for the criteria that you will now set.

Tab down to the *Criteria* edit box and click on the worksheet icon to choose the cell you wish to use as a match to search for the appropriate data, in this case all the records associated with the name "Jones." Click on the Sheet 2 tab and cell A2 (Jones) then click on the worksheet icon to return to the dialog box. You've now determined that you'll be searching the range for the name "Jones."

Tab down to the *Sum\_range* edit box and click on the worksheet icon, then in Sheet 1, highlight B1 through B30. Now you've chosen the range of data you wish to add up for each match you find. Click OK and the result should be 1,350, the total of 450 times 3. You can then copy the same formula into B3 and B4 to get the results for Roberts and Smith, 1,860 and 1,500. If you place the dollar sign (\$) in the formula before the row numbers in the range and sum range, they will stay the same as you copy them down. The function should look like this before you copy it:

=SUMIF(Sheet1!A\$2:A\$30,Sheet2!A2,Sheet1!B\$2:B\$30)

As you add new records, the results will change. Try it!

- Mike Gilbar, Director, VLCT Administrative Services

## NEW LAND USE WEB SITE

Vermont's local planning and zoning officials have a new web site to use for information and training. Dubbed the Vermont Planning Information Center, the new site is located at [www.vpic.info](http://www.vpic.info) and is chock full of resources for professional and citizen planners.

Sections on Community Planning and on Funding/Grant Resources will be particularly helpful to volunteer, citizen planners in Vermont's smaller municipalities. A training calendar is also provided which combines the land use training opportunities offered by a wide range of Vermont organizations.

The site was put together by the Land Use Education and Training Collaborative. Leading the effort were the UVM Center for Rural Studies; the Vermont Department of Housing and Community Affairs; the Vermont Forum on Sprawl; Vermont League of Cities and Towns; the Vermont Association of Planning and Development Agencies; the Vermont Planners Association; the Vermont Secretary of State's Office and the Vermont Agency of Transportation. Take a few minutes to explore this wealth of online land use planning information!

## VERMONT MUNICIPALITIES ON THE WEB WITH GOVOFFICE

The League's partnership with GovOffice is now just over a year old, and we can report 13 users of this web site development tool.

The latest addition is the Central Vermont Chamber of Commerce, which is using GovOffice as part of its main site to provide an agenda/minutes posting service for member towns that do not currently have websites. Other GovOffice sites are: **Dover** (under construction); **Essex Town** (<http://www.essex.org>); **Georgia** (<http://www.townofgeorgia.com>); **Greensboro** (<http://greensboro.govoffice.com>); **Hartland** (<http://www.hartland.govoffice.com>); **Jericho** (<http://www.jericho-underhill.com>); **Middlebury** (<http://www.middlebury.govoffice.com>); **Rutland City** (<http://www.rutlandcity.com>); **St. Johnsbury** (<http://www.town.st-johnsbury.vt.us>); **Westminster** (<http://westminster.govoffice.com>); **Wilmington** (<http://wilmingtonvermont.us>); **Weybridge** (<http://weybridge.govoffice.com>).

If you'd like to learn more about GovOffice, visit their website at [www.govoffice.com](http://www.govoffice.com) or call 877/564-4979.

### Celebrate Vermont Drinking Water Week May 4 - 10, 2003



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# Classifieds

## FOR SALE

**Truck.** The Town of Highgate is accepting bids on a 1995 International Model 2574 Single Axle Truck with 87,000 miles. The truck has a Cummins 330 HP diesel engine and a Fuller 9-speed transmission with overdrive and air shift. The truck comes equipped with a 7-yard Iroquois dump body, Everest snow plow and wing and a Flink double auger sander. The truck will be sold "as is" and will be available after June 5,

2003. Interested persons may schedule an appointment for inspection by contacting Highway Foreman Steve Ploof at 802/868-5002 or Town Administrator Larry Kempton at 802/868-4922. Written bids will be accepted until 4:30 p.m. on Thursday, June 5, 2003. Bids may be forwarded to: Town Administrator, Municipal Office Building, 2996 VT Rte 78, P.O. Box 67, Highgate, VT 05459. Bid opening is scheduled for 6:30 p.m. on June 5, 2003 at the regular

meeting of the Highgate selectboard. The selectboard reserves the right to accept or reject any and all bids.

**Backhoe.** The Town of Mendon offers for sale a 1989 John Deere Backhoe 510C. Price: \$20,900. Equipped with ditching bucket and clean out bucket, 1.3-yard front bucket, Wain Roy Wrist, regular dipper stick, 4-wheel drive, 4-speed manual transmission, approximately 5,000 hours. Contact Bill at 802/773-4402.

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## VLCT NEWS CLASSIFIED ADVERTISING POLICY

The *VLCT News* welcomes classified advertisements from municipal entities, public agencies, businesses and individuals. This service is free for VLCT members (regular, contributing and associate); the non-member rate is \$37.00 per ad.

For more information on classified and display advertising, please contact Katherine Roe, Editor, *VLCT News*, 89 Main Street, Suite 4, Montpelier, VT 05602, tel. 800/649-7915, fax 802/229-2211, e-mail [kroe@vlct.org](mailto:kroe@vlct.org) or visit [www.vlct.org/news.cfm](http://www.vlct.org/news.cfm).

## TRIVIAL PURSUIT

Congratulations to **Linda Knipes**, Assistant Treasurer and Administrative Assistant for the Town of Wells, who was the first (of many!) to submit the correct answer to last month's trivial pursuit question. Linda knew that in 1940 Ida May Fuller, born in Ludlow, was the recipient of the first ever social security check.

Here is this month's query:

**Vermont contains 365.7 square miles of water, a bit over 3.95 percent of our total surface area. Which county has the smallest percentage of water area and which the largest?**

Contact us with your answer: VLCT, 89 Main Street, Ste. 4, Montpelier, VT 05602; 800/649-7915; fax, 802/229-2211, e-mail, [kroe@vlct.org](mailto:kroe@vlct.org).



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## Calendar

**GASB 34.** Friday, May 2, 2003, Steak House Restaurant, Berlin. Presented by VLCT and the Vermont Government Finance Officers Association, this workshop brings Governmental Accounting Standards Board Project Manager Wesley Galloway to Vermont to speak about the implementation of GASB 34. For more information on the workshop, call Jessica Hill, VLCT Conference Coordinator, 800/649-7915, e-mail, [jhill@vlct.org](mailto:jhill@vlct.org). To register online, visit [www.vlct.org/calendar/](http://www.vlct.org/calendar/).

**Workshop for Municipal Clerks and Treasurers.** Thursday, May 8, 2003, Capitol Plaza Hotel, Montpelier. Presented by the VLCT Municipal Assistance Center, this popular annual workshop features sessions on the federal Help America Vote Act and E-government, as well as a roundtable discussion and a legislative update. For more information on the workshop, call Jessica Hill, VLCT Conference Coordinator, 800/649-7915, e-mail,

[jhill@vlct.org](mailto:jhill@vlct.org). To register online, visit [www.vlct.org/calendar/](http://www.vlct.org/calendar/).

**VRPA Annual Meeting.** Friday, May 9, 2003, Grand Resort Hotel, Killington. The Vermont Recreation and Parks Association 2003 Annual Meeting features some work and, of course, some play. After the morning meeting and luncheon, there will be opportunities for member to hike, indoor rock climb, fly fish and golf. For more information, contact VRPA at 802/878-2077; e-mail, [orsetel@adelphia.net](mailto:orsetel@adelphia.net).

**VTCTMA Spring Conference.** Thursday, May 15 and Friday, May 16, 2003, Radisson Hotel, Burlington. The Vermont Town and City Management Association invites all Vermont municipal managers and administrators to attend its annual spring meeting. For more information on the conference, call Jessica Hill, VLCT Conference Coordinator, 800/649-7915, e-mail, [jhill@vlct.org](mailto:jhill@vlct.org). To register online, visit [www.vlct.org/calendar/](http://www.vlct.org/calendar/).

**Training for Municipal Legislative Bodies.** Thursday, May 22, 2003, Suzanna's Restaurant, LaGue Inn, Berlin. Sponsored by the VLCT Municipal Assistance Center, this annual seminar is designed for selectboards, city councils and village trustees. For more information on the workshop, call Jessica Hill, VLCT Conference Coordinator, 800/649-7915, e-mail, [jhill@vlct.org](mailto:jhill@vlct.org). To register online, visit [www.vlct.org/calendar/](http://www.vlct.org/calendar/).

**GMWEA Spring Meeting.** Thursday, May 29, 2003, Grand Resort Hotel, Killington. The Spring Meeting of the Green Mountain Water Environment Association features eight training sessions, a luncheon and GMWEA's Business Meeting. For more information on the meeting, call Jessica Hill, VLCT Conference Coordinator, 800/649-7915, e-mail, [jhill@vlct.org](mailto:jhill@vlct.org). To register online, visit [www.vlct.org/calendar/](http://www.vlct.org/calendar/).