

VLCT NEWS



A PUBLICATION OF THE VERMONT LEAGUE OF CITIES & TOWNS

SERVING AND STRENGTHENING VERMONT LOCAL GOVERNMENTS

July 2004

ON THE ROAD WITH ART

VLCT'S SAFETY PROGRAM IN ACTION

As a homeowner, I can tell you that a recent visit from my insurance company's inspector did not qualify as one of my more pleasant experiences. He was polite enough, and made a wiring suggestion for the house, but the letter that came a few weeks later canceling certain coverages on the garage and barn confirmed my suspicions about the reason for his visit.

So, I became curious. What is it like for a VLCT PACIF member municipality to have one of our Loss Control Consultants show up on their doorstep?

From the start, when I approached Brian FitzPatrick, VLCT Safety and Health Promotion Manager, about spending the day with one of his field staff, I could tell the VLCT PACIF member's experience would differ from my own (admittedly limited) experience with my private sector insurance company. "We try to form long-term, working relationships with our members," FitzPatrick said, adding, "Our ultimate goal is to change people's behavior, not just fix the things they work with or the buildings they work in."

Changing behavior, as we all know, takes time. But the end result – a reduction in the severity and frequency of VLCT PACIF losses – is worth the wait and is key to the mission of FitzPatrick's department. Fewer accidents translate into savings for VLCT PACIF members, and, most importantly, result in a workplace that is safer for employees.

(Continued on Page Eight)

STRATTON ENACTS LOCAL SALES, ROOMS AND MEALS TAXES

On July 1, businesses in Stratton began collecting a one-percent local sales and rooms and meals tax approved by the voters at March Town Meeting. The town is one of 76 Vermont cities and towns to which the Legislature granted such authority under Act 60.

Act 60 includes a section (24 V.S.A. § 138) that allowed cities and towns that met certain requirements to adopt either or both of these local taxes for several years. Prior to Stratton's entry, only Manchester (sales) and Williston (both sales and rooms and meals) have taken advantage of this option. The State Department of Taxes administers and collects the tax, with the host town reimbursing the Department 70% of the cost of administration. The towns are required to share 30% of the taxes generated with communities statewide through the payments-in-lieu-of-taxes (PILOT) for state buildings.

Additionally, the cities of Burlington and Rutland both impose local rooms and meals

(Continued on Page Two)

VLCT NEWS SPECIAL SECTION INSIDE

The VLCT Municipal Assistance Center has prepared a Special Section for the *VLCT News*, which you will find inserted in the middle of this issue. This Special Section focuses on the extensive changes to Vermont's local planning and zoning laws that resulted from the recent enactment of Act 115 by the Legislature. Part I of the Special Section appears this month; look for Part II in the August/September issue of the newsletter.

2004-5 MUNICIPAL CALENDAR AVAILABLE

Thanks to the financial support of the Chittenden Bank and the work of the VLCT Municipal Assistance Center, the *2004-5 Municipal Calendar* was completed and mailed last month. All VLCT member clerks, treasurers, managers, administrators, and administrative assistants, as well as associate and contributing members, received a complimentary copy in the mail in late June.

The *Calendar* is a July 1-June 30 list of important municipal administrative and election-related deadlines. In a poster

format, it also provides a convenient year-at-a-glance calendar for municipal offices.

After a decade-plus of keeping the *Calendar* to the same size, members may have noticed this year that it is slightly wider than in previous years. You might consider this tangible evidence that local officials have more to do, especially in an election year!

Extra copies of the *Calendar* are available at a very reasonable cost. Please contact VLCT (800/649-7915 or info@vlct.org) or visit the VLCT Web site Bookstore (www.vlct.org) to order a copy.

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STRATTON -

(Continued from Page One)

taxes, retaining all the revenues. Their authority to do so comes not from Act 60 but from their municipal charter provisions enacted decades ago.

According to FY03 State Tax Department figures, Stratton should retain locally \$160,013 in local sales tax revenue and \$53,987 in rooms and meals tax proceeds. As importantly, town hosting state buildings will benefit from \$91,715 in additional resources to fund PILOT.

Stratton Town Clerk Kent Young says the Town Meeting vote was during the open town meeting (not Australian Ballot) and was unanimous save one voice in opposition. Stratton collected \$781,976 in municipal property taxes last year, so they should be able to reduce their town tax rate by approximately 27%.

VLCT will continue its effort to allow all Vermont cities and towns to have greater authority to determine how they raise revenues for local services in the 2005 legislative session.

- Steve Jeffrey, VLCT Executive Director

HOW DO YOU MAKE TOWN MEETING GREAT?

Town Meeting Day in each Vermont community has its own unique flavor, and some towns have traditions and techniques that really make their gathering bloom. How about your town?

In Greensboro, town meeting is where the secret of who will receive the annual "Greensboro Award" is revealed. In Middlesex, a "Middlesex Operator's Manual" (see April 2003 VLCT News) outlines how to participate in town meeting and other community affairs. In Tinmouth, the town moderator composes an original poem to begin each year's gathering!

What makes your town meeting work? Whether the ideas are process-oriented or playful, we'd like to hear them! Please send them by September 1, 2004 to Susan Clark, 42 McCullough Hill Rd., Middlesex VT 05602, e-mail, sclark@sover.net, or tel., 802/223-5824. The best ideas will be featured in an upcoming book by Frank Bryan and Susan Clark on rediscovering the secrets of town meeting and community.

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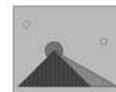
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LEGAL CORNER



PROPERTY APPRAISAL; ZONING PERMIT DEADLINES; BUSINESS PERSONAL PROPERTY TAX

STATE SUPREME COURT RULES METHOD OF APPRAISAL INEQUITABLE

The Vermont Supreme Court recently upheld the state appraiser's decision to reduce the listed values of five properties assessed by the Town of West Windsor in order to achieve tax uniformity. The case arose when the five property owners challenged the Town's 2001 assessment of their properties. *Allen, et al. v.*

not apply the upward adjustment to the quality level input uniformly, and only applied it to recently purchased residential properties. The Court also found that the listers did not apply a depreciation adjustment to the improvements on the subject properties, but did on other residential properties. As a result of its findings, the Court stated "[I]t is apparent...that the Town used inputs

ratio between them is consistent among properties; and 3) taxes on comparable properties must be uniformly and equitably assessed. These requirements are based on what the Court has termed the "constitutional command" of uniformity, which comes from Chapter I, Article 9 of the Vermont Constitution: "That every member of society hath a right to be protected in the enjoyment of life, liberty, and property, and therefore is bound to contribute the member's proportion towards the expense of that protection . . ."

- Julie Fothergill, Attorney, VLCT Municipal Assistance Center

This case is important because it emphasizes the importance of the general principles governing property tax assessments, including: 1) property appraisals for tax purposes must reflect a property's fair market value; 2) where the listing of properties at fair market value is not practical, a difference between listed and fair market values is permissible so long as the ratio between them is consistent among properties; and 3) taxes on comparable properties must be uniformly and equitably assessed.

DEEMED APPROVAL

In the law of zoning, the applicant's remedy of deemed approval has been strengthened by the Vermont Supreme Court's decision in *In re Appeal of McEwing Services, LLC*, 2004 VT 53. In the decision, the Court granted the deemed approval remedy to the applicant because the case involved an "untimely decision that resulted from protracted deliberations." *Id.* at 21.

Municipal zoning boards constantly face the specter of deemed approval, and hurry to avoid that result by issuing decisions within the statutorily prescribed time periods. In this case, the application was for a telecommunications tower, which was a conditional use under the Town of Moretown's Zoning Regulations. The law that governed conditional uses at the time, 24 V.S.A. § 4407 (5), required that decisions in conditional uses be issued within 60 days of the close of the final public hearing (*Editor's Note: Decisions in development review proceedings will now be required to be issued within 45 days of adjournment of the final public hearing, based on the new 24 V.S.A. § 4464 (b).*)

Here, the Development Review Board (DRB) issued a decision within 60 days of what it considered to be the "close of evidence," which was when it was satisfied that it had received the information it needed to make a decision. However, the decision

(Continued on next page)

Town of West Windsor, 2004 Vt. 51 (May 28, 2004).

The property owners appealed the listed values of their homes to the state appraiser, alleging they did not correspond to the listed values of comparable properties in town and were therefore not equitable. In response to this challenge, the Town argued it properly assessed the taxpayers' properties at 100% of their fair market value just as it did for all other properties in town. The state appraiser and the Court, however, found "ample evidence ...to conclude that the Town did not, in fact, list other properties...at 100% of their fair market value..."

The Court determined the source of the valuation discrepancies arose from the manner in which the listers used the Town's software program, which used the cost-based appraisal method. For example, the software allowed the listers to increase the appraised value of a property by increasing the quality-level input the software required. By doing so, the listers were able to arrive at an appraised value that approximated the price the taxpayers paid for their property. However, the listers failed to present any evidence that the properties in question had actually experienced a physical change using high-quality components. Moreover, the Court found that the listers did

for taxpayers' properties that increased the value resulting from the software computation, and that value was equivalent to the sales price taxpayers paid when they bought their properties. In contrast, properties that had not been the subject of recent sales were not treated in a similar manner."

The Court also emphasized that "the overriding goal is to ensure that, whatever the fair market value of a property might be, its listed value corresponds with the listed value of comparable properties so that no taxpayer pays more than his or her fair share of the property tax burden." The Town, however, failed to achieve this goal and the state appraisers found "an enormous disparity in listed values of comparable properties used for equalization purposes." The Vermont Supreme Court upheld the state appraiser's decision, ruling, "the Town did not treat all residential properties the same when it assigned values for listing purposes."

This case is important because it emphasizes the importance of the general principles governing property tax assessments, including: 1) property appraisals for tax purposes must reflect a property's fair market value; 2) where the listing of properties at fair market value is not practical, a difference between listed and fair market values is permissible so long as the



LEGAL CORNER -

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was *not* issued within 60 days of the final public hearing. This is a subtle but necessary line of demarcation that zoning boards must be aware of. If your board believes it will need more information in order to render a proper decision, you should *adjourn the hearing and continue it to a time and date certain*. The board should then have sufficient time to issue a timely decision after the final public hearing. The law allows a board to do this where it believes that it will need more evidence before issuing a decision.

Finally, please note that this case was decided under the former 24 V.S.A. § 4467, which is now § 4468.

- Brian Monaghan, Attorney, VLCT
Municipal Assistance Center

NONPROFITS AND THE BUSINESS PERSONAL PROPERTY TAX

Vermont municipalities cannot impose a tax on the business personal property of nonprofit organizations, according to the Vermont Supreme Court. In *VT Alliance of Nonprofit Organizations v. City of Burlington*, 2004 VT 57, the Court stated that the law “limits the City’s ability to tax business personal property to those of businesses conducted *for profit* (emphasis added).” *Id* at 1.

While there are not many municipalities that impose a business personal property tax, this case is important to be aware of because it appears to be a shift in the Court’s thinking as to tax exemptions. Over the years, the jurisprudence of the Vermont Supreme Court has developed to “strictly construe tax exemptions against the taxpayer,” and in favor of the municipality’s ability to tax. In this case, the Court made strong attempts to show that it was still espousing this theory. However, the decision in the case is more of a judicially-imposed tax exemption than a legislatively-mandated one.

What this case means for municipalities is that your ability to impose business personal property taxes has been diminished, and the Court’s jurisprudence establishes a clear exemption from taxation for nonprofit corporations.

- Brian Monaghan, Attorney, VLCT
Municipal Assistance Center

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ASK THE LEAGUE

LIABILITY FOR CONTAMINATED PROPERTY; LONG-TERM CONTRACTS; DESTROYING DOGS

Is a municipality liable for cleanup costs on a contaminated property it purchases, if it didn't cause the contamination?

Last month we dealt with whether a municipality is liable for the cleanup costs on a contaminated property that is sold through a municipally-conducted tax sale. This month, we look at liability issues when a municipality voluntarily acquires a contaminated property.

Under Vermont's hazardous waste liability statute (10 V.S.A. § 6615), a municipality is liable for the costs incurred in cleaning up a contaminated property (Brownfield) if it knew or had reason to know that the property was contaminated prior to purchasing the property, even if it was not responsible for causing the contamination.

Unlike federal law, which affords liability protection to both those with and without knowledge of contamination, Vermont law only protects the truly innocent purchasers - those who buy without knowledge that a property is contaminated. Under both laws, protection is dependent upon a pre-purchase inquiry into whether or not the property is contaminated. A likely dilemma created by this dual liability is that a municipality may be liable under state law for the costs associated with cleaning up a Brownfield even though it is not liable under federal law.

If a municipality has no knowledge of contamination and its liability under state law hinges solely on the fact that it is the owner or operator of a Brownfield, then it may be eligible for Vermont's Redevelopment of Contaminated Properties Program. 10 V.S.A. § 6615(a). This program, which is managed by the Agency of Natural Resources' (ANR) Waste Management Division, details the process through which a municipality may cleanup a Brownfield without incurring liability.

Municipalities, however, must keep in mind that this program is only open to those parties who are "not otherwise liable under

section 6615 for releases or threatened releases of hazardous materials at a property." 10 V.S.A. § 6615a(c)1. At this time, that does not include those who know or have reason to know that a property is contaminated.

- *Garrett Baxter, Associate, VLCT Municipal Assistance Center*

Can a town enter into a long-term contract?

Yes. The town's budget belongs to its voters and as such only they can authorize the expenditure of town funds. "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. Therefore, under this statutory grant of authority, there doesn't appear to be any prohibition against a town entering into a long-term contract so long as the voters approve the funds necessary to comply with its terms.

However, the problem arises in paying for the contract over a period of years. The Vermont Supreme Court has refused to bind voters at a future Town Meeting to the actions taken by the previous year's voters. "It is impossible, then, to conclude that the Legislature could have intended to give any such discretion to towns, as to put the tax forward upon a future list. That would be for one set of men to vote a tax upon the list of others." *Collamer v. Drury, 16 Vt. 574 (1844)*. Consequently, voters may only vote for a tax on the grand list for the year in which the budget is to be approved. In order for a town to enter into a long-term contract it would have to approve the funds to pay for the contract for each year of its life. Under this scenario, if a town's voters refuse to authorize the expenditure necessary to satisfy the contract, then the town will be liable for breach.

One way for a town to protect itself against this occurrence is to include a non-appropriation clause in its contract. Basically, this clause sets out that a town will not be under any further obligation to make

payments on the contract if its voters don't appropriate the necessary funds. Although a non-appropriation clause provides towns with a way out of a long-term contract, it also loses whatever service it contracted for. Another option a town may employ is for its voters to establish a reserve fund in which they would appropriate the entire amount of the contract so its funds may be carried forward from year to year. For example, if a town entered into a five-year contract for \$10,000 a year, its voters could appropriate the entire \$50,000 into a special account to be administered by the selectboard for that purpose.

- *Garrett Baxter, Associate, VLCT Municipal Assistance Center*

What procedures must a town follow when considering whether a licensed dog needs to be destroyed?

A town may only humanely destroy a licensed dog or wolf-hybrid when it has bitten a person off of its owner's premises and the

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ASK THE LEAGUE-

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person requires medical attention. Even then a town must adhere to state prescribed procedures before ordering the dog or wolf-hybrid to be destroyed.

The procedure that must be followed for a licensed dog or wolf-hybrid to be humanely destroyed is laid out in 20 V.S.A. § 3546. First, the victim must file a complaint with the selectboard. The complaint must include the time, date and place of the attack, name and address of the victim(s), and other facts to aid the selectboard in carrying out its investigation. Next, the selectboard must investigate the charges and hold a hearing on the matter. Before doing so, however, the selectboard must first provide the dog or wolf-hybrid's owner with the requisite notice. The notice must be written and apprise the owner of the "time, date and place of hearing and the facts of the complaint." 20 V.S.A. § 3546(b).

If the selectboard finds that the dog or wolf-hybrid bit the person without provocation, it may issue an order for that person's protection as the facts of the case require. Protection may take the form of ordering the dog or wolf-hybrid be muzzled, chained, confined, or humanely destroyed. 20 V.S.A. § 3546(c). Finally, the selectboard's order must be sent by certified mail, return receipt requested.

- Garrett Baxter, Associate, VLCT
Municipal Assistance Center

(Editor's Note: Please see next month's Ask the League for procedures to follow in the case of an unlicensed dog.)

RABIES VACCINATION LAW IS CHANGED

THE SCIENCE BEHIND THE CHANGE

By now, most town clerks are well aware that the law regulating rabies vaccinations for dogs and wolf hybrids has changed. This amendment was put in the Executive Fee Bill, H. 772, without any discussion in committee about the implications. Thus, some of the questions being asked about how and when to begin requiring three-year vaccinations were not discussed at any time in the State House.

The revised statute reads:

For the purpose of licensing a dog or wolf-hybrid, a current vaccination against rabies means that:

- 1) *All dog and wolf-hybrid vaccinations recognized by state and local authorities shall be administered by a licensed veterinarian or under the supervision of a licensed veterinarian.*
- 2) *All dogs and wolf-hybrids over three months of age shall be vaccinated against rabies. The initial vaccination shall be valid for 12 months. Within 9 to 12 months of the initial vaccination, the animal must receive a booster vaccination.*
- 3) *All subsequent vaccinations following the initial vaccination shall be valid for 36 months. 20 V.S.A. § 3581 (c)*

This section took effect July 1, 2004.

Local officials have asked many questions about how long rabies vaccinations are effective and whether a dog would be immunized if it had an old vaccination and was not re-vaccinated exactly at three years. It turns out that much research has been conducted on the question of how long rabies vaccinations might remain effective. The following information was graciously provided by Central Vermont veterinarians Drs. Karen Bradley and Erika Bruner to answer local officials' questions about effectiveness of rabies vaccines.

Vermont was one of only a handful of states that still required rabies booster vaccinations to be given to pets more frequently than every three years. Changing Vermont law to allow rabies booster vaccines to be given every three years, not every two years, will improve our pets' health while still safeguarding the health of the human public.

Vaccine manufacturers have to prove their products are effective using a "challenge

study." They vaccinate a group of test animals, wait three years, and then try to directly infect the animals with rabies. If the vaccine passes this test, the U.S. Department of Agriculture approves it as a three-year vaccine. This does not mean that the immunity from the vaccine stops working at the three-year point. Blood tests done on vaccinated animals show that immunity from rabies vaccines lasts much longer - usually about seven years, and sometimes even for life.

Animals who already have immunity from a previous vaccine are not "more immune" after a booster vaccine. In fact, the immunity they already have blocks any new immunity from forming. Giving rabies vaccines to pets more often than every three years does not improve their ability to fight off the disease - they are already as good at that as they can be. However, immunizing them more often than needed can actually be harmful to pets' health. In rare cases, vaccine reactions can even be life-threatening. Autoimmune diseases and specific cancers have also been directly linked to vaccinations. Authorities in the field, including all U.S. veterinary schools, the American Animal Hospital Association (AAHA), the American Veterinary Medical Association (AVMA) and the National Association of State Public Health Veterinarians (NASPHV), strongly recommend that all pets be vaccinated for rabies at three months of age, revaccinated one year later, and then every three years thereafter.

Obviously, the primary concern in our rabies vaccination laws must be the public health of the people of Vermont. We should require that veterinarians use USDA-approved three-year products in conformance with recommended schedules. But we should not risk endangering the health of our pets by giving them vaccines that they do not need, and that serve no purpose to the public good. Veterinarians around the state, as well as our state veterinarian (Dr. Kerry Rood) and state public health veterinarian (Dr. Bob Johnson), agree. Our pets should be boosted for rabies no more than every three years.

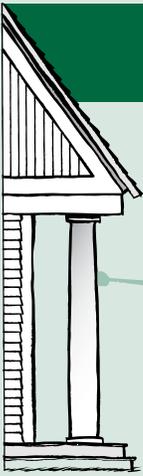
- Karen Horn, VLCT Director, Legislative and Membership Services, Karen Bradley, DVM, and Erika Bruner, DVM

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ON THE ROAD -

(Continued from Page One)

While changing behavior is the ultimate goal, when a member first joins PACIF, there is a lot of discussion about things. I found that out when I toured Barre City's City Hall, Police, Street, and Water Departments recently with PACIF Loss Control Consultant Art LaPierre, Barre City Director of Facilities Gary Delphia and City Hall Maintenance staff member Sylvia Dubois. Barre City joined PACIF in January 2004, and Gary is currently working with Art, VLCT PACIF's Consultant assigned to central Vermont, to complete PACIF's initial Loss Control Hazard Identification Surveys (HIS) of Barre City's many different facilities.

Barre City has all the usual municipal facilities, and then some. A municipal civic center, with auditorium and ice hockey arena, a pool, playground, water and wastewater facilities (including a reservoir for water), the street department, a large, old Main Street City Hall that incorporates the Barre Opera House performing arts center, Hope Cemetery, known nationally for its granite carvings, police, fire, and emergency medical services – you name it and Barre City has it. With several big facilities still to go (the fire department and water reservoir among them), Art and Gary still had a lot of work to do after the day I spent with them. But once they are done, Art will have walked through every one of Barre City's facilities with Gary, clipboard in hand.

I can attest to the thoroughness of the Hazard Identification Survey. Closets are opened, containers are sniffed to see if they contain gas or oil, extension cords are followed from one end to the other, electrical panels are studied, and trucks opened to check if there are loose objects on the floor that could injure the driver if the vehicle were to

(Continued on Page Ten)

CUTS

(COMMUNICATIONS UNDER TEN SENTENCES)

HEALTH TRUST TO SOLICIT RFP FOR NEW HEALTH SAVINGS ACCOUNT PLAN

As a special item of interest to Health Trust members, the Health Trust Board recently directed VLCT staff to solicit requests for proposals on a high deductible health plan product (HDHP) combined with a Health Savings Account (HSA). HSAs are tax-favored plans offered in conjunction with existing health insurance coverage that may be used to pay certain medical expenses. With an HSA, any money withdrawn from the account for medical expenses is tax-exempt, and any contributions into the account are also tax-exempt. Additionally, money remaining in an HSA account at the end of the year automatically rolls over into the next year, enabling the HSA to grow. Ultimately, VLCT hopes to have a product chosen that will be ready for the January 1, 2005 renewal period. Please stay tuned for further details in upcoming newsletters and through direct correspondence from Group Services on this new product availability.

WELCOME

The **Hardwick Electric Department** recently joined VLCT PACIF, bringing total membership up to 336.

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- Everybody knew about that problem.
- That's a bad corner. Forklift operators

never come to a full stop there.

- She should have been wearing her safety glasses.
- He should have been using safe lifting techniques.

Unfortunately, the tendency is to investigate accidents *after* they happen. Why not investigate *before* they happen? Ask yourself questions like these:

- Are there physical hazards that could cause an accident in my work area?
- Are there possible health hazards in the job environment?
- Am I following required safety procedures?
- Am I using the information and techniques I learned in safety training to protect myself and prevent accidents?
- Am I using assigned personal protective equipment?
- Is my PPE in good condition, and does it fit properly?
- Do I report any unsafe conditions I can't correct myself?
- Do I report and investigate near misses?

The answers to these questions and similar ones provide the tools to analyze the risks, make improvements to reduce the risks, cut the number of near misses, and prevent accidents and injuries.

For more information about VLCT Group Services' health and safety programs, contact Brian FitzPatrick, Manager, Safety and Health Promotion, at 800/649-7915 or bfitzpatrick@vlct.org.



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TRIVIA

Last month we asked what we thought was a question with just one answer. But, in a Trivia Column's "worst case scenario," we got several answers, none of which matched ours. Turns out, the fault was ours. We should have associated a date with our question, which was: **What were the names of the original counties of Vermont?** Our answer, based on a replication of a 1796 map, is Addison, Bennington, Caledonia, Chittenden, Essex, Franklin, Orange, Orleans, Rutland, Windham and Windsor.

We would like to thank Windsor Superior Court Officer, and local historian, **Richard Rogers**, who was first in with his answer, based on pre-1796 counties: Cumberland County, Gloucester County, Charlotte County and Albany County.

Here is July's trivia question:

What was the motto of the first Vermont colonial copper coins and why was it used?

Contact us with your answer: VLCT, 89 Main Street, Suite 4, Montpelier, VT 05602, tel. 800/649-7915, fax, 802/229-2211, e-mail, kroe@vlct.org.



ON THE ROAD -

(Continued from Page Eight)

roll. The inspection stickers on fire extinguishers and emergency generators are themselves inspected. Ground fault current interceptors are all checked and sprinkler system heads are scrutinized.

Though he carries a clipboard, and makes notes as he goes, Art doesn't use a checklist. He finds them limiting and prefers to look, and look again, for situations that might pose a safety risk. "What I'm trying to do," he noted, "is see what grabs my attention." The only list he has is the one he makes of suggestions for changes, which he'll later form into a report for the member municipality. He is very aware that this list can seem daunting and noted, "We try to give our members simple, cheap solutions if we can."

you, or other municipalities that you know of, have Safety Officers devoted to keeping up with all of this?

Both laughed and Art volunteered that he was it, and that such a position was more common in the private sector than in Vermont's municipalities. In fact, Gary said, his biggest challenge in overseeing Barre City's facilities is "keeping up with codes so that the public is secure visiting our buildings, and so that our buildings are accessible." His second challenge, he added, is keeping on top of preventive maintenance, to avoid accidents and more costly repairs in the future. Speaking for both, Art commented, "We're paid to know a little bit about a lot of stuff, but now there is a lot to know about a lot of stuff!"

While the VLCT PACIF Safety and Health Promotion staff works to bring Barre City fully into its program, Gary is spending a

categorized as Class A, and if any are found in Barre City, Art will check in with Gary 30 days from the date of his report to see how the City is faring in addressing them.

No letter will arrive in the mail, suddenly dropping parts of Barre City's VLCT PACIF coverage. "It is a team approach," FitzPatrick commented, adding, "the VLCT Safety and Health Promotion Program is a team of problem solvers, not just service providers. We want to help our members safely and successfully provide municipal services to the citizens of Vermont."

- Katherine Roe, VLCT Communications Coordinator

ON THE LOOKOUT

Here is just a sampling of the items VLCT PACIF Loss Control Consultants are on the lookout for as they tour member municipalities' facilities. If you are a member of VLCT PACIF, please contact the Safety and Health Promotion Program to review any of these items with a Loss Control Consultant. We look forward to working with you!

- Extension cords – don't let them be a substitute for necessary permanent wiring
- Power strips – not overloaded, safely grounded
- Emergency lights, fire extinguishers and exits signs – in good working order
- Ground fault current interceptors – necessary around sinks, other sources of water
- Emergency generators, steam boilers, elevators – recently inspected
- Radiators – no flammable material stacked on them
- Sprinkler heads – shielded if could be knocked accidentally by person or thing
- Clearance from ceilings – Keep 18" below ceiling clear of materials so sprinklers can work
- Label all electrical breakers
- Gasoline containers – have flash arrestor
- Heavy chains – have safety clip
- Hoists – labeled with weight capacity
- Large underground fuel tanks – age and testing for leakage
- Hazardous materials safety sheets
- Plans in place: Bloodborne Pathogen; Emergency Action; and Hazardous Materials

To help plan participants control their costs (direct and indirect) due to accidents and illness. This will be achieved by providing effective, timely and professional consultative loss control and health promotion services. When executed properly, our efforts will have the following outcomes:

- Reduce the frequency and severity of losses
 - Influence members to become more self-reliant in their safety and wellness efforts
- VLCT Group Services Safety and Health Promotion Mission Statement

It is the breadth of safety regulations and guidelines that Gary and Art have to keep up with that is most striking to a loss control/prevention neophyte such as myself. By late in the day, after a walk through the maintenance section of the Street Department, where everything from the floor drain ("Where does that lead to?" Art asked) to the ratings for the hoists on the ceiling 30 feet overhead came under discussion, my head was spinning. I had to pose the question to Gary and Art: Do

fair amount of time with Art. Between PACIF's efforts, and inspections by the Vermont Occupational Safety and Health Administration (two entirely separate programs), the hours Gary spends on safety can add up. "But," he said, "I learn something every time I go around with Art. A lot of [these] regulations change, and one might slip by me."

Art will continue to work with Gary and the City of Barre for as long as the City is a member of VLCT PACIF. He is quite happy to hear that Gary has started a safety committee with a representative from each of the City's departments, and offers to attend any meetings he can to help Gary get the committee up and running effectively. After Art's initial work of surveying buildings and contents, he will write up a report for Gary and the City, identifying his safety concerns. A recently adopted system at VLCT PACIF will categorize those concerns into different classes of "violations." The more worrisome ones are



Barre City Director of Facilities Gary Delphia and VLCT Loss Control Consultant Art LaPierre talk shop, literally, at the City's highway maintenance facility.



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Tech Check



IN THE BEGINNING...

ROCKINGHAM/BELLOWS FALLS CREATE A WEB SITE

Visit us on the Web at _____ .gov or _____ .org or _____ .com or any other Web site name has become almost as common on business cards, letterheads and e-mails as a telephone or FAX number. Web site addresses are everywhere you look, including on almost every television

ad these days.

We all enjoy surfing the Web at times to find information about a new product, to get maps of places we are about to visit, to spend time at a hobby such as genealogy, or even to get the latest news and weather. However, I think most of us either have no clue about

what is involved in creating and maintaining a Web site, or if we do, we cringe when we think of setting one up.

But the Web is the communications medium of the 21st century, and any organization, be it a business, a non-profit agency or a government agency, which does not establish a presence on the Internet is missing out on opportunities to converse with its clients and constituents. It could almost be compared to running a business with no telephone or mailing address with a "don't call us, we'll call you" attitude. It most certainly can be done, but would it be effective, efficient and successful? Probably not!

With all that said, however, the effort and cost of getting up on the Web can be a daunting task. We here at the Town of Rockingham and the Village of Bellows Falls had been discussing for some time the establishment of a municipal Web site. Because of our somewhat unusual municipal organization with a Town and two incorporated Villages (all three have their own governance structure and responsibilities), and with the Town and one of the Villages sharing most of the costs of the day-to-day governmental operation, including the municipal manager and financial operations, the design of the site needed to be a little more complex than the average town. At the same time, the site needed to be simple and understandable and useful to our average citizen.

As preparation for establishing our site, I visited at least 100 other municipal sites, both in Vermont and around the country. I also met with a number of Web site designers to discuss what our site should look like and how much it would cost to create. While I received a number of good ideas from the site visits and the discussions with designers, I got the feeling that establishing a site with some of the features the municipality wanted – primarily the ability to have input from our constituencies, and flexibility and ease of use for the staff – would be complicated and

(Continued on next page)

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TECH CHECK -

(Continued from previous page)

costly. The least expensive proposal we received would have cost us at least \$5,000 to implement, and that would have been for a bare bones structure with very few additional capabilities.

Then, a few months ago, our Municipal Manager, Shane O'Keefe, told me of the experience of the Town of Westminster in establishing a Web site. He said they went through a company called GovOffice, and believed from his discussions with the Town Manager of Westminster that the process had been simple and inexpensive.

As with anything that sounds too good to be true, I was skeptical. I visited the sites of a number of municipalities that used GovOffice (some of which I had actually visited before I knew they were "powered" by GovOffice) and I visited the GovOffice site. I also attended the e-government conference sponsored by VLCT, and found that GovOffice was one of the featured methods for getting up on the Web.

After signing up with GovOffice, the company provided us with a sample site which we began amending to create the site we wanted. Because the site design and the tools provided were so simple to use, the Manager's Administrative Assistant, Kerry Bennett, and I were able to begin the actual creation of our site before we had received any training from GovOffice. By the time we did get our training, we had a lot of good questions to ask, and received good answers to all of them.

Also, because everything was so easy to use, and because the program comes with so many

special features already built in, we were able to concentrate on designing and building the contents of the site and not the technical design of the site. Some of the special features built into the system include:

- **On-Line Polling.** This feature allows users, through a simple set-up screen, to create and then monitor a poll of the opinions of site visitors. While not a scientific poll, it can certainly provide a flavor of the public opinion about an issue. We are currently polling our readers about what to do with our Town Hall and Theater.
- **E-mail Updates.** This feature allows users to sign up for e-mail feedback from the municipality. We select the categories for feedback, and when people sign up, their e-mail names and addresses are captured in an e-mail database that allows us to communicate with them only on the subjects in which they have expressed an interest.
- **Built-In Events Calendar.** This feature lets people know what is going on when and automatically deletes events and meetings after they have occurred. Thus, there is no need to keep track of what is done, and the site is not cluttered with past activities.
- **Site Search.** The site comes with a built-in search engine that allows visitors to search within the site for a name or a key word of interest to them.

Other features built into the system include job postings, simple feedback forms for information and registration in programs, directories for officials, even audio and visual effects. All of these items come with the

package at no additional cost. Thus we feel we can provide a powerful and interesting site without having to search out and pay for all these special features.

The main objectives of our site are to enable direct communication with our citizens and taxpayers, and to foster a sense of one community comprised of many neighborhoods. To this end, we use the feedback forms, the e-mail updates, the on-line poll, and e-mail links to virtually every official and administrator in the municipal organization, and we show features of each village and hamlet while maintaining one uniform site with, hopefully, one unified message. In the one week we have been live, we have already had hundreds of visits, had a number of local people sign up for our e-mail list, and have even had comments from as far away as Florida and Nebraska.

We know our site is still a work in progress, and we also realize that it will probably never be "finished." However, we are pleased with what we have been able to accomplish for relatively little money. We have less than \$2,000 invested to date, including the entire first year's operation of the site. (Of course, we had to provide the staff time to gather and input the materials on the site.) We look forward to adding a section on our major accomplishments of recent years, as well as increasing and improving the sections on our departments and services and the FAQs. Meanwhile, we are providing information and services to our townspeople, and are actually enjoying the continual transformation and development of our site. Visit us at www.rockbf.org.

- Deane Haskell, Director of Finance and Administration, Town of Rockingham

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For more information, please e-mail info@govoffice.com or call Avenet Customer Service Center at 888/353-3221. You may also contact Michael Gilbar, VLCT Director of Administrative Services, about this VLCT-sponsored product.



SOCIAL SECURITY RETIREMENT BENEFITS (OR NOT?)

When the nation's Social Security system was established in 1935, governmental units, such as cities and towns, were precluded from participation. Congress changed the rules over the years and states received permission to set up voluntary (and irrevocable) agreements with the Social Security Administration (SSA) to provide Social Security coverage to state and local government employees.

These agreements, called Section 218 Agreements, cover positions, not individual employees. According to SSA rules, a referendum must be held under the "majority vote" process or under a "divided vote" process to institute a Section 218 Agreement. Under the former, all current and future

employees become Social Security covered if the majority of employees votes in favor of coverage; under the latter, only those employees who vote "yes" and *all* future employees become covered.

It is important for cities and towns to know whether or not they are operating under a Section 218 Agreement. Fran Reina, the Internal Revenue Service's (IRS) Vermont Federal, State and Local Government Specialist, is currently working with Cynthia Webster, the Social Security Administrator for the State of Vermont, to ascertain the Section 218 status of our member municipalities. Until they complete their work, VLCT is not able to advise members of their Section 218

status. However, a general workshop explaining Section 218 Agreements is planned for Town Fair on September 30, 2004.

The other scenario for a municipality is the lack of a Section 218 Agreement. In this case, employees covered under a government pension plan do not have Social Security taxes withheld. (It is important to note that even without a Section 218 Agreement, payment by employees and employers into the Social Security Medicare fund is *required* for all employees hired on or after April 1, 1986. Also, temporary or other employees, such as some part-timers, who are not eligible for the municipality's pension plan must have Social Security taxes withheld.)

Employees who have earned benefits elsewhere under the Social Security system (or who might in the future) need to understand the potential impact on their Social Security benefits of working for a municipality that does not have a Section 218 Agreement. Depending upon several factors, the negative impact on their eventual Social Security benefits can be substantial. It is thus ethically incumbent upon municipalities to educate their current employees, as well as those being recruited, about this situation. Further, under a bill signed into law earlier this year, government employers *will be required to notify non-covered employees hired January 1, 2005 or later in writing of the potential effect of non-covered work upon their Social Security benefits.* You should have these employees sign a statement indicating that they understand that by working for your municipality their Social Security benefits could be subject to penalties. Applicants can be provided, before or during the actual hiring process, with copies of fact sheets downloaded from the SSA's Web site (www.ssa.gov) to aid in their understanding of the possible impact.

How these penalties are applied is complicated. The following outline is intended only to alert employers and employees to their possible impacts. For more detailed information, please contact Cynthia Webster (Vermont's Social Security Administrator, tel. 802/828-2302), your town attorney or accountant.

There are two forms of potential penalties to a Social Security benefit when an individual works for an employer that does not withhold Social Security retirement taxes:

- The **Windfall Elimination Provision (WEP)** affects those who have earned a government pension and have also worked (or may in the future work) at a job(s) where they paid Social Security taxes long

(Continued on next page)



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SOCIAL SECURITY -

(Continued from previous page)

enough (40 quarters or ten years) to qualify for Social Security retirement or disability benefits. An exception is the case where an individual has 30 years or more of "substantial earnings" in a Social Security covered position(s.) To qualify as "substantial," earnings must meet a specific dollar amount as set out by the SSA based on the year in which earned. (For example, for 1970 the substantial earnings figure is \$1,950; for 1980 it is \$5,100 and for 2004 it is \$16,275.) Those with 30 or more years of substantial earnings in a covered position are unaffected by work they perform outside the system.

- The **Government Pension Offset (GPO)** applies to those who receive a government pension and are eligible for Social Security benefits as a spouse, widow or widower.

Under the **Windfall Elimination Provision**, a modified formula is used to calculate a person's benefit. As its name implies, the reasoning behind the modification is to prevent a windfall to those who might unfairly benefit from Social Security provisions that were established to assist low-income workers.

Generally, social security benefits are based on a worker's average monthly earnings adjusted for inflation and referred to as "substantial earnings." These dollar amounts are separated into three parts, each being multiplied by a different percentage factor. For example, for a person retiring at age 62 in 2004, the first \$612 is multiplied by 90%, the next \$3,077 by 32% and any remaining dollar amount is multiplied by 15%.

Under the WEP, however, the factor of 90% is reduced to 40% if you have between 10 and 20 years of substantial earnings. (The 32% and 15% remain the same.) If a person has between 21 and 30 years of substantial earnings, the factor increases with each year so that with 21 years it is 45%; 22 years, 50%; 23 years, 55 %, and so on, until at 30 years it reaches the 90% level (i.e. no penalty.) In other words, if you have fewer years of earning Social Security benefits because you worked for a municipality that did not have a Section 218 Agreement, your Social Security benefit will be lessened on the assumption that you have access to your municipal pension plan instead.

The **Government Pension Offset** affects the benefits of spouses, widows and widowers. These are "dependent's" benefits that were

initially created to compensate spouses who stayed home to raise families and were financially dependent upon their working spouses. When both spouses work the law has always required that a person's spousal benefit be offset dollar for dollar by the amount of his or her own non-government pension benefit. The GPO was put into place in order to treat government employees in a similar manner as those in the private sector.

Essentially, under the GPO a spouse, widow or widower's benefits are reduced by two-thirds of that of his or her spouse or deceased spouse's government pension. Keep in mind, however, that a person without a government pension has his or her social security benefit offset dollar for dollar (rather than just two-thirds) by his or her own social security benefit. So the GPO is actually

somewhat more favorable to those with government pensions than to those with social security benefits.

Further details are available on the Social Security Administrations Web site at www.ssa.gov. Click on Federal, State, & Local Government Employees in the lower right hand corner. Included are fact sheets on both the WEP (including a chart of "substantial earnings" and a chart of the incremental changes to the "90% factor") and the GPO. There is also a WEP Online Calculator available to help employees who are subject to the WEP estimate their future benefits. If you lack access to the Internet you may call your local Social Security Administration office, tel. 800/772-1213, for information and copies of fact sheets.

- Jill Muhr, VLCT Human Resources Administrator

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REQUEST FOR PROPOSALS

Central Vermont Solid Waste Management District seeks proposals from qualified computer systems professionals for the upgrading of the District network system. Copies of the Request for Proposals may be requested by e-mail (Director@cvswwd.com) or phone (802/229-9383). CVSWMD is located at 137 Barre Street, Montpelier, VT 05602.

HELP WANTED

Highway Foreman. The Town of Water-

bury, Vt. seeks to hire an experienced highway foreman to supervise the day-to-day operations of its highway department. Responsibilities include supervision of eight employees, maintenance of 50 miles of town highways and associated structures, maintenance of recreation fields and facilities, purchasing and maintenance of trucks and equipment. Responsible for a \$1 million budget. Reports directly to the Municipal Manager. Competitive pay and excellent benefits. Experience as a foreman or assistant foreman in state or municipal highway department is desired. Experience with a construction company that performs extensive highway work may be substituted. Residency in Waterbury or immediate area required. **Position open until filled.** Send resume and cover letter to: William Shepeluk, Municipal Manager, P.O. Box 9, Waterbury, VT 05676. Equal Opportunity Employer.

Superintendent of Highways. The Town of Morristown, Vt. seeks candidates for the position of Highway Superintendent. The Superintendent is responsible for budget development, implementing construction projects, repairs and maintenance of highways and related equipment.

The department has two highway facilities, which requires coordinating of operations. Applicants must be high school graduates and have five years of highway experience. Engineering training would be beneficial. A class B CDL is preferred, but not required. Salary is commensurate with education and/or experience. A detailed job description may be obtained by contacting the Administration Office at 802/888-5147, or write to Paul D. McGinley, Town Administrator, Town of Morristown, P.O. Box 748, Morrisville, VT 05661. The Town reserves the right to deny any and all applications. **Position open until filled.** Equal Opportunity Employer.

Property Valuation District Advisor. The Vermont Department of Taxes, Property Valuation and Review Division, is seeking an individual experienced in mass appraisal and town administration to serve towns in Northwestern Vermont. This position (Job Code 062300) is home-based, within assigned district, and consists of assisting local officials in maintenance of their Grand List, use of state CAMA system, and appraisal of difficult property. Salary range \$35,974 to \$54,850. Information and application: www.vtstatejobs.info, or tel., 802/828-2513.

Public Works Director. The Town of Brandon, Vt. seeks a Public Works Director. This position is responsible for management of all Public Works functions in the town, consisting of the Highway Department and the Wastewater Treatment Facility. The Public Works Director also administers all state grants related to highway infrastructure, the town public works capital plan, and acts as Municipal Project Manager for projects like the Route 7 realignment. Engineering degree and at least five years relevant experience required. PE a plus. Salary: mid-fifties with full municipal benefit package. The Town of Brandon is an equal opportunity employer. Interested candidates should forward their resumes to Keith O. Arlund, Town Manger, "Public Works Search," 49 Center Street, Brandon, VT 05733, or e-mail to karlund@sover.net. Deadline for submission is **July 30, 2004.**

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Calendar

For more information about VLCT-sponsored events, please contact Jessica Hill, VLCT Conference Coordinator, tel., 800/649-7915 or e-mail, jbill@vlct.org. You may also visit www.vlct.org, select the Calendar, and select a workshop for more information or to register on-line for VLCT events (on-line registration option available for VLCT-sponsored events only).

VLCT MAC ON THE ROAD

Call VLCT MAC today for an on-site training customized to fit your Town's needs. Topics offered include new selectboard orientation; retreats and goal setting; conducting effective meetings and hearings, etc. Call 800/649-7915 or e-mail info@vlct.org for pricing and availability information.

Green Mountain Payroll Conference.

Thursday, September 23, 2004, Capitol Plaza Hotel, Montpelier. Sponsored by the Green Mountain Payroll Association. Registration fee is \$75.00 (includes lunch). First come, first served, limited to 100 registrants. GMPA is celebrating its 10th Anniversary. The day will include educational sessions focusing on the payroll and human resource professions. Registration deadline is August 9, 2004. To register, please fill out the form inserted into this newsletter. For more information visit www.greenmountainpayroll.netfirms.com or contact Janis Blais at 802/229-3457.

VLCT Town Fair and Field Day. Wednesday, September 29 and Thursday, September 30, 2004, Barre Municipal Civic Center. Registration information was mailed in early July to all VLCT members and is also available on the VLCT Web site under Member Services, Town Fair. We look forward to seeing you at Town Fair.

Watch your mail in early August for the 2004-2005 VLCT Training Calendar brochure. Use the brochure to plan ahead for your municipality's training needs this year.



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